WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Accountancy TITLE-SERIES: 1-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 1-01 Board Rules and Rules of Professional Conduct

PRIMARY CONTACT

NAME: WV Board of Accountancy

ADDRESS: 405 Capitol Street Suite 908

Charleston, WV 25301

EMAIL: brenda.s.turley@wv.gov

PHONE NUMBER: 304-558-3557

CITE STATUTORY AUTHORITY: W. Va. Code § 30-9-5

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

Complying with HB 118, passed by the legislature on June 17, 2019, requiring boards and licensing authorities to regulate and make consistent the consideration of prior criminal convictions in initial licensure determinations.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 8/22/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 9/22/2019

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

No hearing, but the Board posted the 30-Day Comment Period on the website and emailed information to all licensees, CPA-Inactives, firms and exam candidates.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

With the passage of HB 118, boards and licensing authorities were required to promulgate legislation to regulate and make consistent the consideration of prior criminal convictions in initial licensure determinations. The agency approved rule requires a rational nexus between prior criminal convictions considered by the Board and the profession for which the initial licensure is sought, allows a potential applicant to petition the Board for a determination as to whether his or her criminal record precludes licensure, and requires the Board to provide the applicant with a determination within 60 days.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

With the passage of HB 118 on June 17, 2019, boards and licensing authorities were required to promulgate legislation to regulate and make consistent the consideration of prior criminal convictions in initial licensure determinations.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

This rule has no economic impact on revenues of State government.

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

This rule has no economic impact on the State or its residents.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The WV Board of Accountancy is a special revenue account existing solely to protect the public interest in receiving accurate and reliable financial information and assurance through the licensure of Certified Public Accountants and accounting firms. The Board receives no general revenue budget, but exists on the fees collected from licensees, firms and exam candidates. Therefore, there is no long-range effect to the State of West Virginia.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Brenda S Turley -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 1
LEGISLATIVE RULE
BOARD OF ACCOUNTANCY

SERIES 1
BOARD RULES AND RULES OF PROFESSIONAL CONDUCT

§1-1-1. General.

1.1. Scope. -- This Legislative rule establishes general rules for the regulation of certification, registration, authorization and licensure of certified public accountants, the registration, licensure, and authorization of public accountants, and for the authorization and permitting of firms.

1.2. Authority. -- W. Va. Code § 30-9-5.

1.3. Filing Date. -- ~~May 7, 2018~~

1.4. Effective Date. -- ~~July 1, 2018~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on ~~July 1, 2028~~.

1.6. Amendment. -- This Rule amends Title 1, Series 1 which was promulgated on ~~June 30, 2016~~ May 7, 2018, and became effective ~~July 1, 2016~~ July 1, 2018.

§1-1-2. Definitions.

As used in this Rule, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

2.1. "Accredited college or university" means any degree-granting institution accredited at the time of an applicant's degree or attendance by the:

2.1.a. Middle States Association of Colleges and Schools;

2.1.b. New England Association of Schools and Colleges;

2.1.c. North Central Association of Colleges and Schools;

2.1.d. Northwest Commission on Colleges and Universities;

2.1.e. Southern Association of Colleges and Schools; or

2.1.f. Western Association of Schools and Colleges.

2.2. "Act" means the provisions of W. Va. Code §30-9-1 et seq.

2.3. "AICPA" means the American Institute of Certified Public Accountants or any successor organization as determined by the Board.

2.4. "Audit" means expressing an opinion about the fairness of presentation of financial statements in accordance with the Statements on Auditing Standards published by the AICPA or any applicable successor statement on standards published by the AICPA.

2.5. "Board" means the West Virginia Board of Accountancy.

2.6. "Compilation services" means providing a service performed in accordance with the Statement on Standards for Accounting and Review Services published by the AICPA or any applicable successor statement on standards published by the AICPA, that presents, in the form of a financial statement, information that is the representation of management without an expression of assurance on the statement.

2.7. "Examination," when used with reference to prospective financial statements, means expressing an opinion about the fairness of presentation of financial information in accordance with the Statement on Standards for Attestation Engagements published by the AICPA or any applicable successor statement on standards published by the AICPA.

2.8. "Initial license" means obtaining a license in West Virginia for the profession sought for the first time.

2.9. "Low-Income Individuals" means individuals in the local labor market as defined in W. Va. Code § 21-1C-2 whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a state or federal public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program (TANFP), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP).

2.10. "Military Families" means any person who serves as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U.S.C. § 101, honorably discharged veterans of the forces, and their spouses. The term also includes surviving spouses of deceased services members who have not remarried.

2.~~8~~11. "NASBA" means the National Association of State Boards of Accountancy or any successor organization as determined by the Board.

2.~~9~~12. "NQAS" means the National Qualification Appraisal Service operated by NASBA or any successor or comparable service as determined by the Board.

2.~~10~~13. "Out-of-state certificate" means a valid certificate as a certified public accountant or equivalent designation issued or renewed under the laws of another state: Provided, That "out-of-state certificate" does not include any certificate as a certified public accountant or equivalent designation that was issued or renewed solely by virtue of a holder's prior status as a public accountant or its equivalent in the state of issuance and not by virtue of the holder's having met the certification requirements of the state of issuance.

2.~~11~~14. "Reciprocal substantial equivalency certificate" means a certificate issued under the provisions of W. Va. Code §30-9-9 or under Section 5 of this Rule to a certificate holder of another jurisdiction who is either a resident of this state, has an office in this state, or is an employee of a firm or business entity in this state.

2.~~12~~15. "Registrant" means a person registered pursuant to the Act and this Rule.

2.~~13~~16. "Review" means a review of a financial statement that is performed in accordance with the Standards for Accounting and Review Services published by the AICPA or any applicable successor statement on standards published by the AICPA.

2.~~14~~17. "Statements on Auditing Standards" means the standards as promulgated by the American Institute of Certified Public Accountants or any applicable successor statements issued.

2.~~15~~18. "Statements on Standards for Attestation Engagements" (SSAE) refers to the standards promulgated by the American Institute of Certified Public Accountants or any applicable successor statements issued.

2.~~16~~19. "Window" refers to a three-month period in which candidates have an opportunity to take the CPA examination during at least two of the three months and, during the remaining time in which the examination will not be offered ~~while~~ routine maintenance is performed and the item bank is refreshed. Thus, candidates will be able to test a minimum of two out of the three months within an examination window.

§1-1-3. Board Organization and Proceedings.

3.1. At its first meeting after July 1 of each year, the Board shall elect a president, a vice president, a secretary, and an assistant secretary from among its members. All officers shall be elected for a term of one (1) year and each shall continue in office until his or her successor has been elected and qualified or until his or her term as a member of the Board expires.

3.2. The Board shall meet in Charleston or elsewhere in West Virginia as it may elect, at least twice each year, and shall remain in session as long as necessary in order to transact its business. Meetings shall be held upon notice by the president of the Board or by joint call of any three (3) of its members and may be held at any reasonable time or place designated in the notice of the meeting.

3.3. A majority of the Board constitutes a quorum for the transaction of business.

3.4. The Board shall establish an office in West Virginia, if it is considered necessary and desirable, to transact the day-to-day business of the Board and for the maintenance of its files and records. The Board shall designate one (1) of its principal officers or any other person as the executive officer in charge of its office and shall arrange his or her compensation in the form of a per diem allowance or as a salary. The executive officer, with the approval of the Board, may employ such assistance as may be necessary for efficient performance of his or her duties.

3.5. The Board shall designate and cause to have prepared those forms it considers necessary or expedient to the discharge of its duties, the convenience of applicants for licensure, and the compilation of proper records. As soon as practicable after July 1 of each year the Board shall publish a roster showing the names and addresses of all holders of certificates, registrations, permits and authorizations during the fiscal year beginning on that date.

§1-1-4. Certification.

4.1. The Board shall issue a certificate to any applicant of good moral character who satisfies all of the education, examination, and experience requirements listed in this Section.

4.1.a. Education. -- The satisfactory completion of one hundred fifty semester hours or their equivalent conferred by an accredited college or university, the total education program to include an accounting concentration or its equivalent.

4.1.b. Examination. -- Passage of the uniform certified public accountant examination published by the American Institute of Certified Public Accountants or its successor and any additional examination required by the Board by rule that tests the applicant's knowledge of subjects related to the practice of accounting: Provided, That before applying for the examination required by this subsection, an applicant is required to have met the baccalaureate degree requirement and the specific course requirements, but not the one hundred fifty semester hour requirement of 4.1.a. of this Rule, or have attained a graduate degree in accounting as approved by the Board from an accredited college or university.

4.1.b.1. Specific course requirements. -- As part of the required hours to sit for the examination, an applicant shall have completed the following credit hours at the upper-division baccalaureate and/or graduate levels at an accredited college or university:

4.1.b.1.A. at least thirty (30) credit hours or equivalent quarter hours in accounting, excluding introductory accounting courses covering the principles of accounting components, including the minimum requirements in each of the following subject areas:

4.1.b.1.A.1. six (6) credit hours in financial or intermediate accounting;

4.1.b.1.A.2. six (6) credit hours in auditing or accounting information systems with a minimum of three (3) credit hours in auditing;

4.1.b.1.A.3. effective July 1, 2018, six (6) credit hours in taxation;

4.1.b.1.A.4. three (3) credit hours in cost accounting, managerial accounting, governmental accounting or not-for-profit accounting; and

4.1.b.1.A.5. nine (9) credit hours in accounting electives. Accounting internships or independent studies not exceeding three (3) credit hours may satisfy this accounting elective requirement;

4.1.b.1.B. effective July 1, 2016, three (3) credit hours in business law;

4.1.b.1.C. effective July 1, 2011, three (3) credit hours in ethics to be counted as part of the nine (9) hours of accounting electives or twelve (12) hours of business electives; and

4.1.b.1.D. a minimum of twenty-seven (27) credit hours in business courses, excluding required accounting and business law courses, with a minimum requirement in each of the following subject areas:

4.1.b.1.D.1. three (3) credit hours in economics;

4.1.b.1.D.2. three (3) credit hours in finance;

4.1.b.1.D.3. three (3) credit hours in marketing;

4.1.b.1.D.4. three (3) credit hours in statistics;

4.1.b.1.D.5. three (3) credit hours in management; and

4.1.b.1.D.6. twelve (12) credit hours in business-related electives, excluding the introductory principles of accounting components and the required three (3) credit hours in business law. Business-related courses include, but are not limited to, quantitative application in business, business ethics, business communication skills and organizational behavior.

4.1.b.2. Foreign academic credentials shall be accompanied by a written evaluation from an international credential evaluation service approved by the Board.

4.1.c. Experience. -- An applicant shall demonstrate at least one year of experience in the four-year period immediately preceding the application in providing any type of relevant service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills. The experience requirement may be satisfied by employment in private practice, government, industry, a not-for-profit organization, academia or public practice and must be verified by

the holder of an active West Virginia certificate, a West Virginia registered public accountant or a holder of an out-of-state certificate.

4.1.c.1. In evaluating the experience of the applicant, the Board shall consider the complexity and diversity of the work performed as well as any other factor the Board may consider relevant.

4.1.c.2. Any person who has been requested by the applicant to provide evidence of the applicant's experience shall comply with the request. Any person who refuses to provide evidence shall, upon request of the Board, explain in writing or in person the basis for his or her refusal.

4.1.c.3. The Board may require any licensee who has furnished evidence of an applicant's experience to substantiate the information. The Board may require the applicant and/or the licensee to provide documentation supporting the evidence of experience for review by the Board.

4.1.c.4. The Board may require any applicant to appear before it or its representative to supplement, explain, or verify the evidence of experience.

4.1.d. Criminal History Record Check

4.1.d.1. In addition to all of the requirements for licensure, all applicants for initial license to practice as a Certified Public Accountant in West Virginia shall request and submit to the Board the results of a state and national criminal history record check.

4.1.d.2. The purpose of the criminal history record check is to assist the Board in obtaining information that may relate to the applicant's fitness for licensure.

4.1.d.3. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history record check. Provided, that any such company must utilize protocols consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

4.1.d.4. The applicant shall furnish to the State Police or other organization duly designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

4.1.d.5. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

4.1.d.6. The Board may require the applicant to obtain a criminal history record check from a similar Board-approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

4.1.d.7. The applicant shall authorize the release of all records obtained by the criminal history record check to the Board.

4.1.d.8. A criminal history record check submitted in support of an application for licensure must have been requested by the applicant no earlier than three (3) months immediately prior to the Board's receipt of the applicant's paper or electronic application for licensure.

4.1.d.9. An initial licensure application is not complete until the Board receives the results of a state and a national criminal history record check conducted by the State Police or another entity duly

authorized by the Board. The Board shall not consider an application for licensure submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

4.1.d.10. ~~Should criminal offenses be reported on an applicant's criminal history record check, the Board will consider the nature, severity, and recency of offenses, as well as rehabilitation and other factors on a case-by-case basis for licensure.~~ The Board may not disqualify an applicant from initial licensure because of a prior criminal conviction unless that conviction bears a rational nexus to the accounting profession. In determining whether a criminal conviction bears a rational nexus to the accounting profession, the Board shall consider at a minimum:

4.1.d.10.a. The nature and seriousness of the crime;

4.1.d.10.b. The passage of time since the commission of the crime;

4.1.d.10.c. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the accounting profession; and

4.1.d.10.d. Any evidence of rehabilitation or treatment undertaken by the applicant.

4.1.d.11. An individual with a criminal record who has not previously applied for licensure may petition the Board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license.

4.1.d.11.a. The petition shall be submitted on an application form prescribed by the Board and shall include sufficient details about the individual's criminal record to enable the Board to identify the jurisdiction where the conviction occurred, the date of the conviction, the date of the release from incarceration if applicable, and the specific nature of the conviction. Where the records are sealed, the applicant shall sign a waiver authorizing the Board to access the criminal records of the applicant in order for the Board to make the eligibility determination.

4.1.d.11.b. The applicant may submit with the petition evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice as a Certified Public Accountant.

4.1.d.11.c. The Board shall provide the determination within 60 days of receiving the petition and the applicable fee from the applicant.

4.1.d.11.d. The fee for an applicant petitioning for a licensure eligibility determination is specified in the Schedule of Fees and upon acknowledgment of eligibility by the Board and upon the submission of an application for licensure, the eligibility fee shall be deducted from the applicable initial licensure application fee.

4.1.d.1~~1~~2. An applicant is solely responsible for challenging the accuracy and completeness of information provided by the West Virginia State Police, the Federal Bureau of Investigation or other agencies and must reconcile the record directly with those reporting agencies. The Board must receive notification directly from the reporting agency regarding any changes or corrections to an applicant's record.

4.1.d.1~~2~~3. If the applicant provides adequate proof of any error and correction thereof by any reporting agency, the Board shall reconsider the application of that applicant.

4.1.d.1~~3~~4. The results of the state and national criminal history record check may not be released to or by a private entity except:

4.1.d.1~~3~~4.a. To the individual who is the subject of the criminal history record check;

4.1.d.1~~3~~4.b. With the written authorization of the individual who is the subject of the criminal history record check; or

4.1.d.1~~3~~4.c. Pursuant to court order.

4.1.d.1~~4~~5. The Board shall maintain confidential records and reports pertaining to criminal history record checks in a separate file which is only accessible to personnel authorized by the State Police to receive such records and reports.

4.1.d.1~~5~~6. Records received as part of the criminal history record check shall be maintained for a period of two years subsequent to the Board's final action on the application, and then disposed of by crosscut shredding.

4.1.d.1~~6~~7. A criminal history record check and related records are not public records for the purpose of chapter twenty-nine-b of the West Virginia Code.

4.1.e. Pays to the Board the appropriate application and license fees as required by Section 18; or

4.1.e.1. Applies for a waiver of initial licensing fees as an active member of the armed forces of the United States, the National Guard, or a reserve component, as an honorably discharged veteran of the same, as a spouse if such active member or honorably discharged veteran, or as a surviving spouse of a deceased service member who has not remarried. The military service verification form, provided by the Board, and all required verification documents must be submitted with the application for licensure.

4.1.e.2. Applies for a waiver of initial licensing fees as a low-income individual. A low-income individual is defined as an individual in the local labor market whose household adjusted gross income is below 130 percent of the federal poverty line. The term low-income individual also includes any person enrolled in a state or federal public assistance program including, but not limited to, Temporary Assistance for Needy Families Program (TANFP), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP). The Low-Income Waiver of Initial Licensing Fees form, provided by the Board, shall be submitted with the application for licensure. The applicant shall attest to the validity of the information provided by signing, under penalty of perjury, the Written Declaration.

4.2. Prior Certificants. -- No person who, on July 1, 1989, held a license as a certified public accountant previously issued by the Board shall be required to obtain an additional or substitute certificate or to fulfill an experience requirement in order to renew a certificate.

§1-1-5. Reciprocal Substantial Equivalency Certificate Requirements.

5.1. Certified public accountants or their equivalent from other jurisdictions who intend to perform accounting services in this state and are either (1) a resident of this state, (2) have established a business in this state, or (3) are an employee of a firm or business entity in this state shall first make application for a reciprocal substantial equivalency certificate and meet the applicable qualifications below:

5.1.a. Reciprocal Substantially Equivalent Certificate Requirements for Substantial Equivalency Practitioners. The Board shall issue a reciprocal substantially equivalent certificate to an applicant of good moral character who holds a valid out-of-state certificate if the state of issuance has certified public accountant certification requirements that are substantially equivalent or the individual has qualifications substantially equivalent to the certified public accountant certification requirements of the Uniform Accountancy Act.

5.1.b. Reciprocal Substantially Equivalent Certificate Requirements for Not Substantially Equivalent Practitioners. The Board shall issue a reciprocal substantially equivalent certificate to an applicant of good moral character who holds a valid out-of-state certificate but who does not qualify for a certificate under the provision of W. Va. Code §30-9-9, if the applicant meets the following education, experience, examination and continuing education requirements:

5.1.b.1. The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

5.1.b.2. Within the ten year period immediately preceding the application and after passing the examination upon which the applicant's certificate in the other state was based, the applicant has had one year of experience outside of this state of the type described in W. Va. Code §30-9-8(3) and/or subdivision 4.1.c. of this Rule; and

5.1.b.3. If the applicant's out-of-state certificate was issued more than four years prior to the application for issuance of a certificate under this Section, that the applicant has fulfilled the continuing professional education requirements that would have been applicable under W. Va. Code §30-9-12(b) and subsection 7.3. of this Rule.

5.1.c. Reciprocal Substantially Equivalent Certificate Requirements for Foreign Designations. The Board shall issue a reciprocal substantially equivalent certificate to an applicant of good moral character who holds a foreign designation in public accountancy if:

5.1.c.1. the foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this State to obtain such foreign authority's comparable designation;

5.1.c.2. the foreign designation:

5.1.c.2.A. was duly issued by a foreign authority that regulates the practice of public accountancy and has not expired or been revoked or suspended;

5.1.c.2.B. entitles the holder to issue reports upon financial statements; and

5.1.c.2.C. was issued upon the basis of educational, examination, and experience requirements established by the foreign authority or by law that are substantially equivalent to those contained in the Uniform Accountancy Act; and

5.1.c.3. the applicant:

5.1.c.3.A. received the designation, based on educational and examination standards substantially equivalent to those in effect in this State at the time the foreign designation was granted;

5.1.c.3.B. completed an experience requirement, substantially equivalent to the requirement set out in subdivision 4.1.c. of this Rule, in the jurisdiction which granted the foreign designation; or meets equivalent requirements prescribed by the Board by rule, within the ten years immediately preceding the application; and

5.1.c.3.C. passed a uniform qualifying examination in national standards and an examination on the laws, rules and code of ethical conduct in effect in this state acceptable to the Board.

5.1.c.4. An applicant under this Section shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy, and each holder of a certificate issued under this subsection shall notify the Board in

writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

5.1.d. Reciprocal Substantial Equivalency Certificate Requirements for a Holder of an Out-of-State Certificate Establishing a Place of Business in this State.

5.1.d.1. A holder of an out-of-state certificate who intends to establish an office in this state shall first apply to the Board for the issuance of a reciprocal substantial equivalency certificate.

5.1.d.2. Until the applicant has applied for and received a certificate, he or she may not establish a place of business in this state.

§1-1-6. Examination for Certificate.

6.1. Administration of the Examination. The Board may make use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the AICPA and may contract with third parties to perform any administrative services with respect to the examination that it considers appropriate to assist it in performing its duties hereunder.

6.2. Application for Examination.

6.2.a. An applicant for examination shall meet the requirements of 6.2. and shall complete the application form prescribed by the Board and furnish all information, documentation, references, and fees required in Section 18 of this Rule. Applications shall be filed in the Board office no later than 30 days prior to the ~~first testing window for~~ date on which the candidate intends to sit <u>for his/her first testing section</u>.

6.2.b. An application will not be considered filed until the application fee and examination fee required by these Rules and all required supporting documents have been received, including proof of identity as determined by the Board and specified on the application form, official transcripts and proof that candidate has satisfied the education requirement.

6.2.c. Any candidate who fails to appear for the examination shall forfeit all fees charged for both the application and the examination.

6.2.d. The Board or its designee will forward notification of eligibility for the computer-based examination to NASBA's National Candidate Database.

6.2.e. If the candidate fails to take any part of the examination in ~~six consecutive windows~~ <u>eighteen (18) months</u> from the time the application is filed with the Board, the applicant shall complete a new application for certification examination under the requirements existing at the time the new application is completed.

6.3. Time and Place of Examination. Eligible candidates shall independently contact a test center identified by the Board to schedule the time and place for the examination at an approved test site. Scheduling reexaminations must be made in accordance with subdivision 6.6.a. of this Rule.

6.4. Examination Content. The examination required by section eight, article nine, chapter thirty of the Act shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall consist of the sections and structure established by the AICPA or its successor organization.

6.5. Determining and Reporting Examination Grades. A candidate shall pass each of the four test sections of the examination provided for in 8.(2) of the Act with a minimum score of 75 to meet the certification requirement in subsection 4.1 of this Rule. Upon receipt of advisory grades from the

examination provider, the Board will review and may adopt the examination grades and will report the official results to the candidate.

6.6. Retake and Granting of Credit Requirements.

6.6.a. A candidate may take the required test sections individually and in any order. Credit for any test sections passed are valid for eighteen months from the actual date the candidate took that test section, without having to attain a minimum score on any failed test sections and without regard to whether the candidate has taken other test sections.

6.6.a.1. Candidates must pass all four test sections of the Uniform CPA Examination within a rolling eighteen-month period, which begins on the date that the first test section passed is taken.

6.6.a.2. Unless otherwise provided for by the AICPA or its successor, ~~C~~candidates cannot retake a failed test section in the same examination window. ~~unless provisioned by AICPA or its successor guidelines.~~

6.6.a.3. In the event the required four test sections of the Uniform CPA Examination are not passed within the rolling eighteen-month period, credit for any test section(s) passed prior to the eighteen-month period will expire and that test section(s) must be retaken.

6.6.a.4. A candidate shall retain credit for any and all test sections of an examination passed in another state if such credit would have been given, under then applicable requirements, if the candidate had taken the examination in this State.

6.6.a.5. The Board may, in particular cases, extend the term of conditional credit validity notwithstanding the requirements of paragraphs 1., 2., 3. and 4., upon a showing that the credit was lost by reason of circumstances beyond the candidate's control.

6.6.a.6. A candidate shall be deemed to have passed the Uniform CPA Examination once the candidate holds at the same time valid credit for passing each of the four test sections of the examination. For purposes of this Section, credit for passing a test section of the examination is valid from the actual date of the testing event for that test section, regardless of the date the candidate actually receives notice of the passing grade.

6.7. Candidate Testing Fee. The candidate shall, for each test section scheduled by the candidate to the Board or its designee, pay a fee that includes the actual fees charged by the AICPA, NASBA, and the test delivery service provider, as well as reasonable application fees established by the State Board.

6.8. Cheating.

6.8.a. Cheating by an applicant in applying for or taking the examination shall be considered to invalidate any grade otherwise earned by a candidate on any part of the examination, and may warrant summary expulsion from the examination room and disqualification from taking the examination for a specified number of subsequent sittings.

6.8.b. For purposes of this Rule, the following actions, among others, may be considered cheating:

6.8.b.1. Falsifying or misrepresenting educational credentials or other information required for admission to the examination;

6.8.b.2. Communication between candidates inside or outside the examination room or copying another candidate's answers while the examination is in progress;

6.8.b.3. Communication with others outside the examination room while the examination is in progress;

6.8.b.4. Substitution of another person to sit in the examination room in the stead of a candidate;

6.8.b.5. Reference to crib sheets, text books or other material inside or outside the examination room while the examination is in progress;

6.8.b.6. Violating the nondisclosure prohibitions of the examination or aiding or abetting another person in doing so; or

6.8.b.7. Retaking or attempting to retake a test section by an individual holding a valid certificate or by a candidate who has unexpired credit for having already passed the same test section, unless the individual has been directed to retake a test section pursuant to Board order or unless the individual has been expressly authorized by the Board to participate in a "secret shopper" program.

6.8.c. In any case where it appears that cheating has occurred or is occurring while the examination is in progress, the Board or its representatives may either summarily expel the candidate involved from the examination or move the candidate to a position in the test center away from other examinees where the candidate can be watched more closely.

6.8.d. In any case where the Board believes that it has evidence that a candidate has cheated on the examination, including those cases where the candidate has been expelled from the examination, the Board shall conduct an investigation and may conduct a hearing consistent with the requirements of 1CSR2, Contested Case Hearing Procedure, for the purpose of determining whether or not there was cheating, and if so what remedy should be applied.

6.8.e. After a hearing in any case where a candidate is refused credit for parts of the examination taken, or is disqualified from taking other parts, the Board shall give the candidate a statement containing its findings, the evidence upon which the findings are based, and a notice of the right of the candidate to a formal rehearing by the Board, with right of appeal, pursuant to West Virginia Board of Accountancy Rule, 1CSR2, Contested Case Hearing Procedure. The Board will also provide to the board of accountancy of any other state to which the candidate may apply for the examination, a copy of the final order containing findings of fact and conclusions of law.

6.9. Security and Irregularities. Notwithstanding any other provisions under these Rules, the Board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of examination security; unauthorized acquisition or disclosure of the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or for any other reasonable cause or unforeseen circumstance.

§1-1-7. Certificate Renewal; Condition of Renewal.

7.1. All registrants and certificants shall annually renew their certificates from the Board in order to offer professional services to the public. Licenses are valid for a period of one (1) year (or portion thereof) ending on June 30 of each year. All registrants and certificants shall file with the Board a written notification of any change of home or employment address within thirty (30) days after its occurrence.

7.2. Applicants for renewal of a certificate shall complete the forms prescribed by the Board and furnish all information and documentation required in the form, as well as the license fee provided for in Section 18 of this Rule.

7.2.a. An applicant shall list all states in which he or she has applied for or holds an out-of-state certificate and any past denial, revocation or suspension of an out-of-state certificate.

7.2.b. The Board shall not consider an application unless the fee provided by this Rule accompanies the application.

7.3. Continuing education. -- Certificate holders applying for annual licensure renewal shall have completed 120 hours of continuing education as provided for in this subsection within the three ~~preceding~~ preceding calendar years, with at least 20 hours in each calendar year: Provided, That the new certificate holder completes 40 hours of continuing education during the subsequent calendar year and thereafter satisfies all otherwise applicable provisions of this subsection. Included in the 120 hours shall be a minimum of four (4) hours of ethics. A program in ethics includes topics such as ethical reasoning, state-specific statutes and rules, and standards of professional conduct, including those of other applicable regulatory bodies.

7.3.a. Continuing education program guidelines. The Board shall determine if a continuing education program satisfies the requirements of this subsection. In its evaluation of continuing education programs, the Board shall consider whether:

7.3.a.1. The program contributes directly to the professional competence of the individual;

7.3.a.2. The stated objectives of a program include the enhancement of the ability of the participant which the program is intended to accomplish;

7.3.a.3. The education and/or experience prerequisites for the program are stated with specificity;

7.3.a.4. Materials used in programs are developed by qualified individuals for use with specified teaching methods;

7.3.a.5. Program content is current;

7.3.a.6. Programs are reviewed by persons other than the preparer to ensure compliance with this subdivision; and

7.3.a.7. Programs meet the Statement on Standards for Continuing Professional Education (CPE) Programs issued jointly by AICPA and NASBA.

7.3.b. Qualifying programs include, but are not necessarily limited to:

7.3.b.1. Courses and mini-courses sponsored by national or state professional accounting organizations. The Board may approve programs sponsored by other groups if they meet the same educational objectives;

7.3.b.2. University and college courses (other than courses in principles of accounting) which contribute to the professional competence of the individual;

7.3.b.3. Formal home study courses;

7.3.b.4. Firm "in house" programs sponsored by accounting firms, other than basic, "on-the-job" training;

7.3.b.5. Published books and articles, to a maximum of 60 hours credit per publication; and

7.3.b.6. Technical sessions at meetings of professional organizations or other organizations of direct interest and application to the practice of public accountancy, such as the West Virginia Tax Institute;

7.3.b.7. Program sponsors listed on the NASBA's National Registry of CPE Sponsors.

7.3.c. Qualifying programs do not include, for example, time spent in:

7.3.c.1. Providing services to clients;

7.3.c.2. Presentations to nonprofessional groups such as schools, civic, religious, or community organizations; and

7.3.c.3. Informal review of professional journals.

7.3.d. Continuing education program preapproval, credits and administration; additional credit for instruction.

7.3.d.1. The Board encourages licensees, program sponsors, and other interested persons to seek prior approval of continuing education programs in order to facilitate the administration of and compliance with this subsection.

7.3.d.2. The Board shall award one hour of credit for the completion of each 50 minutes of actual participation in the program, or its lesson equivalent in a home study course, as indicated on the certificate of completion. The Board shall not award credit for programs less than 50 minutes in length.

7.3.d.3. The Board shall grant credit for university or college courses at accredited schools as follows:

7.3.d.3.A. Applicants shall receive 15 hours credit for each semester credit hour earned and ten hours credit for each quarter credit hour earned; and

7.3.d.3.B. Applicants attending non-credit courses shall receive credit at the rate of one hour of credit for each 50 minutes in-class participation.

7.3.d.4. An applicant may claim credit only for programs completed during the relevant calendar years, except for good cause shown.

7.3.d.5. Instructors in an approved program shall receive three hours credit for each hour taught for the first time they teach a course, to a maximum of 60 hours credit per course per year. The Board shall not give credit for subsequent teaching of the same course, unless the course has been substantially updated. If the same course is taught again in less than three years, the instructor must receive prior approval from the Board for additional credit.

7.3.e. Compliance monitoring.

7.3.e.1. The Board shall measure compliance with this subsection by the calendar year. All certificate holders shall return an annual continuing education reporting form to the Board by January 31 of the following year.

7.3.e.2. Reporting forms shall contain the certificate holder's Board certificate and licensee numbers.

7.3.e.3. The Board shall enter hours reported into the record of the certificate holder in a master file with the designation of the year and the number of credits and maintain in the master file the certificate holder's record of the current year and the past two years. In addition, the Board shall maintain a file of continuing education reporting forms for each certificate holder for four years.

7.3.e.4. The Board shall annually provide a mailing to each certificate holder which will provide a confirmation of the record for review by the licensee so that corrective action can be taken if there is an error or dispute.

7.3.e.5. Fraudulent reporting of Continuing Professional Education credits is a basis for disciplinary action by the Board.

7.3.f. Continuing education exceptions.

7.3.f.1. The following persons are exempt from the requirements of this subsection:

7.3.f.1.A. Inactive certified public accountants who do not perform or offer to perform any professional service to the public, either directly or indirectly through his or her employer; or

7.3.f.1.B. Persons who demonstrate good cause for exemption to the Board. A person not meeting the requirements of this subsection must apply to the Board for a waiver due to extenuating circumstances, such as accident, illness, pregnancy, military service or any other circumstance as determined appropriate by the Board. This request shall be received by the Board by January 31 following the reporting period, except for good cause shown.

7.4. Reactivation of certificate-- In order to reactivate a certificate, an Applicant shall complete the following:

7.4.a. Activation application with the accompanying fee as required by the Board; and

7.4.b. Minimum of forty (40) hours of continuing education, including a minimum of four (4) hours in the subject of ethics. This continuing education shall have been completed during the previous two (2) calendar years and the portion of the year for which the application is being filed.

7.5. Reactivation of certificate from failure to meet continuing education requirements.

7.5.a. If the Applicant was not in compliance with the continuing education requirement during the last calendar year for which he or she was required to secure hours, then he or she shall complete the following:

7.5.a.1. Application for Reinstatement with the accompanying fee as required by the Board; and

7.5.a.2. The greater of the following:

7.5.a.1.A. The number of hours that the Applicant was deficient for continuing education compliance during the Applicant's last continuing education calendar year, including a minimum of four (4) hours in the subject of ethics. The continuing education hours required for this subsection shall have been completed after the last calendar year for which the Applicant was last in compliance with continuing education requirements, but no earlier than the previous two (2) calendar years and the portion of the year for which the application is being filed; or

7.5.a.2.B. Forty (40) hours of continuing education, including a minimum of four (4) hours in the subject of ethics. The continuing education hours must have been completed during the previous two (2) calendar years and the portion of the year for which the application is being filed.

§1-1-8. Peer Review.

For purposes of subdivisions 12.2.e. and 12.3.e., the Board shall accept (i) the peer review program offered by the AICPA and administered by the West Virginia Society of Certified Public Accountants or (ii) any other peer review program that the Board deems comparable in terms of quality, thoroughness and reliability to the AICPA peer review program. If an applicant intends to use a peer review program other than the AICPA peer review program, the applicant shall submit detailed information concerning the peer review program (including but not limited to the sponsor of the program, the standards used, the identity and qualifications of the expected reviewers, and similar information) to the Board prior to contracting with the alternative peer review provider. The Board will promptly evaluate the proposed peer review program and inform the applicant whether the program is acceptable.

§1-1-9. Public Accountants.

All provisions of this Rule that are specifically applicable to certified public accountants are also applicable to the same extent to public accountants.

§1-1-10. Substantial Equivalency Practice Privileges.

10.1. In determining whether the certification requirements of the other state or the individual are substantially equivalent to the certification requirements of the Uniform Accountancy Act, the Board is authorized to use the NQAS.

10.2. Any individual performing or offering to perform any services as a substantial equivalency practitioner is subject to the following:

10.2.a. Jurisdiction of the board concerning all matters within the scope of these Rules;

10.2.b. Compliance with the provisions of W. Va. Code §30-9-1 et seq. and applicable Rules;

10.2.c. The appointment of the Board of Accountancy of the state of issuance of his or her out-of-state certificate as his or her agent upon which process may be served in an action or proceeding by the Board; and

10.2.d. Voluntary disclosure of any and all documentation necessary to conduct an investigation under this Rule.

§1-1-11. Issuance and Renewal of Permits.

11.1. A firm receiving a permit pursuant to this Section shall file with the Board a written notification of any of the following events within thirty (30) days after its occurrence:

11.1.a. Formation of a new firm;

11.1.b. Addition of a partner, member, manager or shareholder;

11.1.c. Retirement, withdrawal or death of a partner, member, manager or shareholder;

11.1.d. Any change in the name of the firm;

11.1.e. Dissolution of the firm;

11.1.f. Change in the management of any branch office in this State;

11.1.g. Establishment of a new branch office or the closing or change of address of a branch office in this State; or

11.1.h. The occurrence of any event or events which would cause the firm not to be in conformity with the provisions of the Act or this Rule.

11.2. In the event of any change in legal form of a firm, such new firm shall within thirty (30) days of the change file an application for the issuance of a permit in accordance with these Rules and pay the fee required by these Rules.

§1-1-12. Issuance and Renewal of Authorizations.

12.1. No individual practitioner or firm may provide attest or compilation services without first having obtained an authorization issued by this Board unless the individual practitioner or firm meets the substantial equivalency practice privilege exceptions below:

12.1.a. Individual practitioners who have substantial equivalency practice privileges who provide only compilation services performed in accordance with Statements on Standards for Accounting and Review Services who:

12.1.a.1. Sign compilation reports as a certified public accountant;

12.1.a.2. Meet the competency requirements set forth in the professional standards for those services; and

12.1.a.3. Are undergoing a peer review program that conforms with applicable laws and rules;

12.1.b. Out-of-state firms who provide only compilation services performed in accordance with Statements on Standards for Accounting and Review Services who:

12.1.b.1. Meet firm ownership requirements;

12.1.b.2. Are undergoing a peer review program that conforms with applicable rules; and

12.1.b.3. Performs the services through an individual with substantial equivalency practice privileges.

12.2. The Board may issue an authorization to an individual practitioner who tenders the fee specified in Section 18 of this Rule and provides the following information:

12.2.a. The name of the individual applying and the individual practitioner's certificate or registration number;

12.2.b. The location of each office within the state from which the individual practitioner performs accounting services;

12.2.c. Any issuance, denial, revocation, suspension, probation, or censure of any certification issued by this state or an out-of-state accountancy Board;

12.2.d. Verification that the individual practitioner who signs attest and compilation reports as a certified public accountant or public accountant meets the competency requirements set forth in the Generally Accepted Auditing Standards published by the AICPA (for attest services) and/or the Statements on Standards for Accounting and Review Services published by the AICPA (for compilation services); and

12.2.e. Verification that the individual practitioner has timely completed a peer review (as discussed in Section 8 of this Rule) in a satisfactory manner as determined by the Board.

12.3. The Board may issue an authorization to a firm that holds a permit or a firm that applies for a permit who tenders the fee specified in Section 18 of this Rule and provides the following information:

12.3.a. The names of all partners, officers, shareholders, members or managers of the firm whose principal place of business is in this state and each individual's certification or registration number, (if applicable);

12.3.b. The location of each office of the firm within the state and the name of the certified public accountant or public accountant in charge of each office, (if applicable);

12.3.c. Any issuance, denial, revocation, suspension, probation, or censure of a permit issued by this or another state Board;

12.3.d. Verification that any certified public accountant or public accountant who signs or authorizes someone to sign a report on financial statements on behalf of the permit holder meets the competency requirements set forth in the Generally Accepted Auditing Standards published by the AICPA (for attest services) and/or the Statements on Standards for Accounting and Review Services published by the AICPA (for compilation services); and

12.3.e. Verification that the permit holder has timely completed a peer review (as discussed in Section 8 of this Rule) in a satisfactory manner as determined by the Board.

12.4. A firm may simultaneously apply for the issuance or renewal of a permit and the issuance or renewal of an authorization by demonstrating that the firm meets the requirements of Section 11 of this Rule and Section 12 of this Rule.

12.5. The Board shall renew an authorization for a period of one year beginning on the first day of July of each year.

§1-1-13. Refusal to Issue or Renew; Suspension, Revocation of License; Disciplinary Action.

13.1. Authority and grounds for refusal to issue or renew a license or to suspend, revoke and/or fine a licensee. The Board may refuse to issue, refuse to renew, suspend, revoke or limit any license or practice privilege of any licensee, substantial equivalency practitioner or firm and may take disciplinary action against a licensee or substantial equivalency practitioner practicing in this state who, after a hearing held pursuant to W. Va. Code §30-1-1, et seq., has been adjudged by the Board as unqualified because of any of the following reasons:

13.1.a. Fraud or deceit in obtaining or maintaining a license or substantial equivalency practice privilege;

13.1.b. Cancellation, revocation, suspension or refusal to renew an out-of-state certificate, an out-of-state permit or substantial equivalency practice privilege for disciplinary reasons in any other state for any cause other than failure to pay an annual fee for the renewal of an out-of-state certificate or out-of-state permit in the other state;

13.1.c. Failure by any licensee to maintain compliance with requirement for issuance or renewal of a license or to timely notify the Board as required under W. Va. Code §30-9-18;

13.1.d. Revocation or suspension of the right of the licensee or substantial equivalency practitioner to practice before any state or federal agency;

13.1.e. Dishonesty, fraud, professional negligence in the performance of services as a licensee or substantial equivalency practitioner or in the filing or failure to file the licensee's or substantial equivalency practitioner's own income tax returns, or a willful departure from accepted standards of professional conduct applicable to licensees and substantial equivalency practitioners;

13.1.f. Violation of any provision of this article, any lawful order of this Board, or any Rule, including the violation of any professional standard or rule of professional conduct;

13.1.g. Conviction of a felony or any crime an element of which is dishonesty or fraud under the laws of the United States or this state, or conviction of any similar crime under the laws of any other state if the underlying act or omission involved would have constituted a crime under the laws of this state;

13.1.h. Performance of any fraudulent act by any licensee or substantial equivalency practitioner;

13.1.i. Any conduct reflecting adversely upon the licensee's or substantial equivalency practitioner's fitness to perform professional services;

13.1.j. Making any false or misleading statement or verification in support of an application for a license filed by another person or firm; or

13.1.k. Engaging in the unlawful practice of law as defined by the West Virginia Supreme Court of Appeals.

13.2. If the Board renders a decision to deny issuance or renewal of a license, or to suspend or revoke a license, or the Board takes disciplinary action, the Board shall determine whether the licensee, substantial equivalency practitioner or firm holds an out-of-state certificate or permit, and, if so, the Board shall notify the Board of Accountancy of the state of issuance of its decision.

13.2.a. The Board shall notify of the decision 30 days from the time the decision becomes final including the final determination of any appeals that may be made.

13.2.b. Upon expiration of the time period set forth in subdivision 13.2.a., the Board shall provide a certified copy of its decision and any decision of a circuit court or the West Virginia Supreme Court of Appeals issued in the matter to the licensee, substantial equivalency practitioner or firm.

13.3. When the Board has suspended, revoked or refused to renew a license or has revoked the practice privileges of a substantial equivalency practitioner, the licensee, firm, or substantial equivalency practitioner against whom the action has been taken shall be afforded an opportunity to demonstrate the qualifications to resume practice or regain licensure.

13.3.a. A request for reinstatement shall be made in writing and directed to the Board. It shall state with specificity the reasons that the applicant believes that he or she is qualified to resume practice or regain licensure. The applicant requesting reinstatement may also request to address the Board at a future Board meeting. The Board may also request a meeting and may require any additional information that it considers necessary to issue a decision.

13.3.b. Upon a determination with regard to the request for reinstatement, the Board shall notify the requesting party of its decision in writing.

13.3.c. The provisions of this subsection are separate and distinct from the 1CSR2 Contested Case Hearing Procedure. A request for reinstatement shall not meet the petition requirements set forth in that rule.

§1-1-14. Board Initiated Review.

The Board may, at its discretion, provide for the review of any certificate holder (i) applying for licensure renewal or (ii) who the Board has reason to believe may be in violation of Section 19 of this Rule. In these cases, the Board may provide for reimbursement and payment of those persons conducting the review and shall set forth in writing the scope and procedures of the review. Nothing in this section is a prerequisite to any other Board action under this Rule, including but not limited to Section 13 of this Rule.

§1-1-15. Contingency Fee Contracts; Commissions; Referral Fees.

15.1. All contingency fee contracts shall be in writing and signed by both the licensee or substantial equivalency practitioner and the clients.

15.2. Before entering into a contingency fee contract, the licensee or substantial equivalency practitioner shall disclose to the prospective client, in writing, the percentage to be retained by the licensee or substantial equivalency practitioner in the event a favorable result is attained.

15.3. A licensee or substantial equivalency practitioner may utilize a contingency fee contract when representing a client before a taxing authority: Provided, That nothing in this Rule shall be construed either to limit or expand the scope of professional services. This Rule shall not be construed to promote the unauthorized practice of law.

15.4. Disclosure of Permitted Commission. A licensee or substantial equivalency practitioner who is not prohibited by this Rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact in writing to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

15.5. Referral Fees. Any licensee or substantial equivalency practitioner who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose the acceptance or payment to the client in writing.

§1-1-16. Confidentiality of Information.

Except by permission of the client for whom a licensee or substantial equivalency practitioner performs services or the heirs, successors, or personal representatives of a client, a licensee or substantial equivalency practitioner shall not voluntarily disclose information communicated to the licensee or substantial equivalency practitioner by the client relating to and in connection with services rendered to the client by the licensee or substantial equivalency practitioner. The information shall be considered confidential: Provided, That this Section shall not be construed as prohibiting the disclosure of information required to be disclosed by the standards of the profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, in investigations or proceedings under this article, in ethical investigations conducted by private professional organizations, in the course of peer reviews, to other persons on a need-to-know basis when those persons are active in the firm and performing services for the client, or to persons in the firm who need the information for the sole purpose of assuring quality control within the firm.

§1-1-17. Accounting Corporations and Other Forms of Business.

17.1. A licensee may practice public accounting only in the form of a proprietorship, a partnership, an accounting corporation, a professional limited liability company, or a limited liability partnership whose characteristics conform to this Rule. A licensee shall not practice public accounting under a firm name that is misleading. Names of one or more past partners, members or shareholders may be included in the firm name of a successor partnership, limited liability company, or corporation. A partner, member or shareholder surviving the death or withdrawal of all other partners, members or shareholders may continue to practice under a name which includes the name of past partners, members, or shareholders for up to two years after becoming a sole practitioner.

17.2. Accounting Corporations.

17.2.a. One or more licensees may organize and become shareholders of an accounting corporation subject to the requirements of this Section.

17.2.b. No accounting corporation shall exist or transact business as an accounting corporation without the prior authorization of the Board. An applicant for authorization shall complete an application form, furnish all other documents and information requested by the Board, and pay the fee set forth in Section 18 of this Rule.

17.2.c. The Board shall not authorize the organization of an accounting corporation unless, in addition to the other requirements set forth in this Rule, the applicants comply with the following requirements:

17.2.c.1. The sole purpose and business of the corporation shall be to furnish to the public, services not inconsistent with the Act or this Rule: Provided, That the corporation may invest its funds in a manner not incompatible with the practice of public accounting;

17.2.c.2. The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation shall be an individual licensed under W. Va. Code §30-9-1 et seq.;

17.2.c.3. At least one shareholder of the corporation is certified or registered in this state;

17.2.c.4. The accounting corporation is domiciled in this State;

17.2.c.5. A simple majority of the ownership of any accounting corporation is by individuals licensed under W. Va. Code §30-9-1 et seq.;

17.2.c.6. The remaining percentage of ownership may be held by non-licensee owners who are active participants in the accounting corporation;

17.2.c.6.A. Non-licensee owners are considered active participants in the accounting corporation if they are employed by the accounting corporation for at least 20 hours per week and are otherwise legally authorized to provide compatible professional services.

17.2.c.6.B. Non-licensee owners shall possess no direct control or have personal supervision of the practice or personnel who act on behalf of the corporation in giving assurance in a report or otherwise.

17.2.c.7. Each resident manager in charge of an office of the corporation in this State and each shareholder or director personally engaged within this State in the practice of public accounting shall be certified or registered in this State; and

17.2.c.8. When not inconsistent with this Section, the organization and procedures of accounting corporations shall conform to the requirements of W. Va. Code §31-1-1, et seq.

17.2.d. When the Board determines that an accounting corporation meets the requirements of this Rule and W. Va. Code §30-9-30, the Board shall notify the Secretary of State that a certification of authorization has been issued to the person or persons making application for the accounting corporation.

17.2.e. Upon receipt of the certificate of authorization required by subdivision 17.1.d. of this Rule, an accounting corporation shall promptly file in the office of the Secretary of State a certified copy of the certificate of authorization.

17.2.f. The person or persons making application for the accounting corporation shall send a copy of the certification of authorization to the Secretary of State's office.

17.2.g. An accounting corporation shall not transact business until it has received (i) a certificate of incorporation from the Secretary of State and (ii) filed a certified copy of the certificate of incorporation with the Board.

17.2.h. The Secretary of State, upon receipt of a certificate of authorization shall attach the Certificate of Authorization to the corporation's application and, upon compliance with the applicable provisions of W. Va. Code §30, the Secretary of State may issue to the incorporators a certificate of incorporation for the accounting corporation. Once the accounting corporation receives the certificate of incorporation from the Secretary of State's Office it may begin offering professional services to the public.

17.3. Professional Limited Liability Companies [RESERVED].

17.4. Partnerships [RESERVED].

17.5. Limited Liability Partnerships [RESERVED].

§1-1-18. Fees.

The Board shall charge the following fees:

18.1. CPA Examination Fees.

18.1.a. An initial examination application fee of ten dollars ($10.00) to review and approve a candidate to sit for the uniform certified public accountant examination;

18.1.b. An examination application fee of forty dollars ($40.00) for each section for which the candidate applies to sit ~~during the next available window~~;

18.1.c. Any fees paid for the computer-based examination for the uniform certified public accountant examination itself are paid directly to the National Association of State Boards of Accountancy (NASBA) or any successor organization as determined by the Board and are subject to change; and

18.1.d. A transfer of credit and examination application fee as follows:

18.1.d.1. an examination application fee of ten dollars ($10.00);

18.1.d.~~1~~2. an intent-to-sit fee of forty dollars $40.00 per section for each unpassed section of the examination ~~application fee of one hundred seventy dollars ($170.00), which will give the candidate two (2) windows six (6) months to sit for any remaining sections(s)~~;

18.1.d.~~2~~3. and forty dollars ($40.00) per section score transferred.

18.2. Certification/Licensure Fees.

18.2.a. An initial certificate fee of one hundred twenty dollars ($120.00) (which includes the wall certificate and initial license to practice);

18.2.b. A reciprocal certificate fee of two hundred dollars ($200.00) (which includes the wall certificate and initial license to practice);

18.2.c. An annual certificate renewal fee of eighty-five dollars ($85.00);

18.2.d. An annual CPA-Inactive certificate renewal fee of sixty-five dollars ($65.00);

18.2.e. A duplicate wall certificate fee (if the certificant's name has been legally changed or if the original certificate has been destroyed) of thirty-five dollars ($35.00);

18.2.f. All renewals postmarked after the annual renewal deadline date of June 30 are subject to an additional late filing fee of fifty dollars ($50.00);

18.2.g. A fee to reinstate a certificate for an individual who was previously ineligible for renewal of eighty-five dollars ($85.00);

18.2.h. The application for reinstatement of a certificate when a license renewal has lapsed past July 31 of the current licensing period is subject to a fee of seventy-five dollars ($75.00) per month or partial month thereof; and

18.2.i. A fee for Activation of License of eighty-five dollars ($85.00).

18.2.j. Initial certification/licensure application fees are waived for any person who serves as an active-duty member of the armed forces of the United States, the National Guard or a reserve unit, active duty members' spouses, honorably discharged veterans and their spouses, and surviving spouses of deceased services members who have not remarried, as specified in § 1-1-4.1.e.1.

18.2.k. Initial certification/licensure application fees are waived for anyone who qualifies as a low-income individual, as specified in § 1-1-4.1.e.2.

18.3. Firm Fees.

18.3.a. A fee for issuance or renewal of a firm permit of one hundred dollars ($100.00);

18.3.b. An additional fee for firm renewal postmarked after July 31 of current licensing period of seventy-five dollars ($75.00) per month;

18.3.c. A fee for an application to form an accounting corporation of two hundred dollars ($200.00);

18.3.d. A fee for an application to form a professional limited liability company or a registered limited liability partnership of two hundred dollars ($200.00); and

18.3.e. A fee of twenty-five dollars ($25.00) for a Certificate of Approval for a Firm Name Change.

18.4. Continuing Professional Education Fees.

18.4.a. A late fee for the filing of a continuing professional education report postmarked after January 31 of one hundred fifty dollars ($150.00);

18.4.b. Requests for an extension of time to secure additional hours to meet CPE compliance for the previous year are subject to a fee of seventy-five dollars ($75.00) for forms postmarked on or before January 31;

18.4.c. Requests for an extension of time to secure additional hours to meet CPE compliance for the previous year are subject to a fee of two hundred twenty-five dollars ($225.00) for forms postmarked subsequent to January 31;

18.4.d. Initial or additional extension requests after June 30 will be increased by seventy-five dollars ($75.00) per month; and

18.4.e. A fee of $25.00 for a report of continuing professional education credits which includes all forms.

18.5. Authorization Fees.

18.5.a. A fee for issuance or renewal of a firm authorization to perform attest and/or compilation services at the level indicated below:

Number of Licensees in Firm	Fee
1. 1-5 licensees	$100.00
2. 6-10 licensees	$200.00
3. 11+ licensees	$300.00

18.5.b. A fee for issuance or renewal of an authorization to perform attest and/ or compilation services for an individual practitioner of eighty-five dollars ($85.00).

18.6. Other Fees.

18.6.a. A fee for authorization to release information form of thirty dollars ($30.00);

18.6.b. A fee for a directory of active licensees in electronic format of one hundred twenty-five dollars ($125.00);

18.6.c. A fee for a copy of the list of all scheduled examination candidates of not more than two hundred dollars ($200.00); ~~and~~

18.6.d. A fee for a petition as referenced in Section 4.1.d.11.d. of one hundred fifty dollars ($150.00); and

18.6.~~d~~e. If the Board is required to use any appraisal service in making a determination as to whether an applicant's qualifications or the qualifications of another state are substantially equivalent, the applicant shall bear the cost of such appraisal service.

18.7. All fees are non-refundable and shall not be prorated. The Board may, in its discretion, return all or part of a fee accompanying a filing which the Board declines to process.

§1-1-19. Rules of Professional Conduct.

19.1. Independence, Integrity, and Objectivity.

19.1.a. A licensee or substantial equivalency practitioner shall be independent in the performance of professional services.

19.1.b. In the performance of any professional service, a licensee or substantial equivalency practitioner shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.

19.2. General Standards; Accounting Principles.

19.2.a. A licensee or substantial equivalency practitioner shall:

19.2.a.1. Undertake only those professional services that the licensee or substantial equivalency practitioner can reasonably expect to complete with professional competence;

19.2.a.2. Exercise due professional care in the performance of professional services;

19.2.a.3. Adequately plan and supervise the performance of professional services; and

19.2.a.4. Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.

19.2.b. A licensee or substantial equivalency practitioner who performs auditing, review, compilation, management advisory, tax, or other professional services shall comply with the recognized professional standards applicable to the services.

19.2.c. A licensee or substantial equivalency practitioner shall not (1) express an opinion or state affirmatively that the financial statements or other financial data of any entity are presented in conformity with generally accepted accounting principles or (2) state that he or she is not aware of any material modifications that should be made to the statements or data in order for them to be in conformity with generally accepted accounting principles, if the statements or data contain any departure from any accounting principle promulgated by bodies designated to establish the principles that has material effect on the statements or data taken as a whole. If, however, the statements or data contain a departure and the licensee or substantial equivalency practitioner can demonstrate that due to unusual circumstances the financial statements or data would otherwise have been misleading, the licensee or substantial equivalency practitioner can comply with the Rule by describing the departure and its approximate effects with the principle would result in a misleading statement.

19.3. Responsibilities to Clients.

19.3.a. Except as provided in Section 16 of this Rule, a licensee or substantial equivalency practitioner shall not disclose any confidential client information without the specific consent of the client. This Rule shall not be construed (i) to relieve a licensee or substantial equivalency practitioner of its professional obligations under subdivisions 19.2.b and 19.2.c of this Rule, (ii) to affect in any way the obligation to comply with a validly issued and enforceable subpoena or summons, (iii) to prohibit review of a licensee's or substantial equivalency practitioner's professional practice under Section 14 of this Rule, or (iv) to preclude a licensee or substantial equivalency practitioner from initiating a complaint with or responding to any inquiry made by a recognized investigative or disciplinary body. Members of a recognized investigative or disciplinary body and professional practice reviewers shall not use to their own advantage or disclose any licensee's or substantial equivalency practitioner's confidential client

information that comes to their attention in carrying out their official responsibilities. However, this prohibition shall not restrict the exchange of information with a recognized investigative or disciplinary body or affect, in any way, compliance with a validly issued and enforceable subpoena or summons.

19.4. Responsibilities to Colleagues [RESERVED].

19.5. Other Responsibilities and Practices.

19.5.a. A licensee or substantial equivalency practitioner shall not commit an act that discredits the public accounting profession.

19.5.b. A licensee or substantial equivalency practitioner shall not seek to obtain clients by advertising or other forms of solicitation that are false, misleading, or deceptive. Solicitation by the use of coercion, over-reaching, or harassing conduct is prohibited.