

STATE OF MAINE
BOARD OF ACCOUNTANCY
LAWS AND RULES



**DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
OFFICE OF LICENSING AND REGISTRATION**

PROPANE AND NATURAL GAS BOARD

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TABLE OF CONTENTS

LAWS	Title 32 MRS Chapter 113	<u>Page</u>
Subchapter 1: General Provisions		
§12201	Definitions	7
§12202	Unlicensed persons or firms	10
§12203	Fees.....	10
Subchapter 2: Board of Accountancy		
§12213	Appointment.....	10
§12214	Organization; powers and duties	11
Subchapter 3: Registration of Certified Public Accountants		
§12227	Certificate.....	12
§12228	Certified public accountants; qualifications	12
§12229	Licensees offering or rendering services in another state.....	16
Subchapter 4: Registration of Public Accountants		
§12239	Certificate.....	16
§12240	Good character	16
§12241	Reciprocity	18
Subchapter 5: Licenses		
§12251	License; individual	18
§12252	Licenses; firms.....	23
Subchapter 6: Appointment of Commissioner as Agent		
§12263	Appointment of commissioner as agent	26
§12273-A	Denial or refusal to renew license; disciplinary action.....	27
§12274	Enforcement procedures; investigations	27
§12275	Unlawful acts	28
§12277	Unlicensed practice	33
§12278	Single act evidence of practice	33
§12280	Licensee's working papers; client's records.....	33
LAWS	Title 10 MRS Chapter 901	
§8001	Department; organization.....	35
§8001-A	Department; affiliation	40
§8002	Duties and authority of commissioner	41
§8003	Departmental organization; duties	43
§8003-A	Complaint investigation.....	54
§8003-B	Confidentiality of investigative records.....	55
§8003-C	Unlicensed practice	57
§8003-D	Investigations; enforcement duties; assessments.....	59
§8003-E	Citations and fines	59

§8003-F	Disposition of fees	59
§8004	Annual reports	60
§8004-A	Legislative reports.....	60
§8005	Compliance with support orders; license qualifications and conditions.....	60
§8005-A	Licensees not in compliance with court-ordered fine, fee or restitution; license qualifications and conditions	60
§8006	Licensees not in compliance with court order of support and other court orders; enforcement of parental support obligations and suspension.....	61
§8007	Board member candidate information	62
§8008	Purpose of occupational and professional regulatory boards	62
§8009	Standardized terms.....	63

RULES

Chapter 1	Definition.....	67
Chapter 2	General Information	69
Chapter 3	Examination Requirements.....	71
Chapter 4	Application for Certificate	77
Chapter 5	Permits to Practice, Individual.....	79
Chapter 6	Permits to Practice, Firms.....	86
Chapter 7	Complaints, Investigations and Adjudicatory Hearings	93
Chapter 8	Rules of Professional Conduct.....	95
Chapter 10	Establishment of License Fees	99
Chapter 11	Late Renewals	101
Chapter 13	Uniform Rule for the Substantiation of Continuing Education Requirements	103

BOARD OF ACCOUNTANCY LAWS

MRS Title 32, Chapter 113: PRACTICE OF PUBLIC ACCOUNTANCY

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Subchapter 1: GENERAL PROVISIONS HEADING: PL 1987, c. 489, §2 (new)

32 §12201. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1997, c. 265, §1 (AMD).]

1. Board. "Board" means the Board of Accountancy established under Title 5, section 12004-A, subsection 1, or its predecessor under prior law.

[1989, c. 503, Pt. B, §153 (AMD) .]

2. Certificate. "Certificate" means a certificate as "certified public accountant" issued under section 12227 or corresponding provisions of prior law, and a certificate as "public accountant" issued under section 12239 or corresponding provisions of prior law, or a corresponding certificate as a certified public accountant issued after examination under the law of any other state.

[1987, c. 489, §2 (NEW) .]

3. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

[1987, c. 489, §2 (NEW) .]

3-A. Defined service. For purposes of section 12275, subsections 12 and 13, "defined service" means providing the following services:

A. Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards, SAS; [1999, c. 245, §1 (NEW).]

B. 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; [2007, c. 384, §1 (AMD).]

C. Any examination of prospective financial information to be performed in

accordance with the Statement on Standards for Attestation Engagements, SSAE; [2007, c. 384, §1 (AMD).]

D. Any engagement to be performed in accordance with the auditing standards of the Public Company Accounting Oversight Board, established in 15 United States Code, Section 7211 (2007); or [2007, c. 384, §1 (NEW).]

E. Any compilation of a financial statement to be performed in accordance with the Statement on Standards for Accounting and Review Services, SSARS. [2007, c. 384, §1 (NEW).]

The statements on standards specified in this definition are those developed for general application by recognized national accountancy organizations.

[2007, c. 384, §1 (AMD) .]

4. Department. "Department" means the Department of Professional and Financial Regulation.

[1987, c. 489, §2 (NEW) .]

5. Firm. "Firm" means a sole proprietorship, a corporation, a partnership or any other form of organization.

[1995, c. 34, §1 (AMD) .]

6. Licensee. "Licensee" means a person who holds a license issued by the board under section 12251, or a firm that holds a license issued by the board under section 12252.

[2007, c. 402, Pt. Z, §1 (AMD) .]

6-A. Peer review. "Peer review" means a study, appraisal or review of one or more aspects of the professional work of a certified public accountancy firm that provides a defined service by a person or persons who are licensed as certified public accountants and who are not affiliated with the certified public accountancy firm being reviewed.

[1999, c. 619, §1 (NEW) .]

7. Permit.

[2007, c. 402, Pt. Z, §2 (RP) .]

8. Practice of or practicing public accountancy. "Practice of or practicing public accountancy" means the following combined activities by a person or firm:

A. Representing to the public that he or it is a licensee; and [1987, c. 489, §2 (NEW).]

B. Performing or offering to perform, for a client or potential client, services involving the use of accounting or auditing skills. [1987, c. 489, §2 (NEW).]

Accounting or auditing skills include the issuance of reports on financial statements,

management advisory or consulting services, the preparation of tax returns and the furnishing of advice on tax matters.

[1987, c. 489, §2 (NEW) .]

9. Quality review. "Quality Review" means a study, appraisal or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed.

[1987, c. 489, §2 (NEW) .]

10. Report on financial statements. "Report on financial statements" means any form of language that:

A. States or implies assurance as to the reliability of any financial statements; and [1987, c. 489, §2 (NEW).]

B. States or implies that an audit, review or compilation has been performed. [1987, c. 489, §2 (NEW).]

Report on financial statements includes disclaimers of opinions when the disclaimer implies positive assurance as to the reliability of the financial statements. Language that meets this definition includes language asserting or implying that the person has given an opinion upon financial statements or has reviewed or made a compilation of financial statements in accordance with the appropriate standards promulgated by the American Institute of Certified Public Accountants or its successor or other organization approved by the board as adopted by the board by rule or that the person has the capabilities to comply with those standards.

[2007, c. 402, Pt. Z, §3 (AMD) .]

11. Rule. "Rule" means any rule or other written directive of general application duly adopted by the board.

[1987, c. 489, §2 (NEW) .]

12. Substantial equivalency. "Substantial equivalency" means that the education, examination and experience requirements for certified public accountants contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements of this State or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements of this State.

[2007, c. 384, §2 (AMD) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1989, c. 503, §B153 (AMD). 1995, c. 34, §1 (AMD). 1997, c. 265, §1 (AMD). 1999, c. 245, §§1,2 (AMD). 1999, c. 619, §1 (AMD). 2007, c. 384,

§§1, 2 (AMD). 2007, c. 402, Pt. Z, §§1-3 (AMD).

32 §12202. Unlicensed persons or firms

Anyone may practice accounting and engage in services which involve accounting or auditing skills, including management advisory or consulting services, the preparation of tax returns and the furnishing of advice on tax matters, provided that no one except a licensee may: [1987, c. 489, §2 (NEW).]

1. Represent or appear to represent that he is a licensee as defined in section 12201, subsection 6; or

[1987, c. 489, §2 (NEW) .]

2. Issue a report on financial statements as defined in section 12201, subsection 10, except those persons described in section 12275, subsection 1, paragraphs A and B.

[1987, c. 489, §2 (NEW) .]

SECTION HISTORY

1987, c. 489, §2 (NEW).

32 §12203. Fees

The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$100. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. Z, §4 (NEW).]

SECTION HISTORY

2007, c. 402, Pt. Z, §4 (NEW).

Subchapter 2: BOARD OF ACCOUNTANCY HEADING: PL 1987, c. 489, §2 (new)

32 §12213. Appointment

The Board of Accountancy, as established by Title 5, section 12004-A, subsection 1, within the department consists of 5 members appointed by the Governor. Each member of the board must be a resident of this State. Three members must be holders of certificates issued under section 12227 and licenses issued under section 12251 and must have had, as their principal occupation, active practice as certified public accountants for at least the 5 preceding years. One member must hold a certificate issued under section 12239 and a license issued under section 12251 and must have had, as a principal occupation, active practice as a noncertified public accountant for at least the 5 preceding years. One member of the board must be a public member as defined in Title 5, section 12004-A. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. The Governor may remove a member of the board for cause. [2007, c. 402, Pt. Z, §5 (AMD).]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1989, c. 483, §A52 (AMD). 1989, c. 503, §B154 (AMD).
1989, c. 878, §A99 (RPR). 1993, c. 600, §A264 (AMD). 2007, c. 402, Pt. Z, §5 (AMD).

32 §12214. Organization; powers and duties

1. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business and to elect a chair, who must be a certified public accountant. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Three members of the board constitute a quorum.

[2007, c. 402, Pt. Z, §6 (RPR) .]

2. Compensation.

[1995, c. 397, §102 (RP) .]

3. Receipts and expenses.

[1995, c. 397, §102 (RP) .]

4. Rules. The board may, in accordance with procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt such rules as may be reasonably necessary for the proper performance of its duties and the administration of this chapter, including, but not limited to rules of professional conduct appropriate to establish and to maintain a high standard of integrity and of dignity in the profession of public accountancy and regulations prescribing requirements of continuing education.

[1987, c. 489, §2 (NEW) .]

5. Employees.

[1995, c. 397, §102 (RP) .]

6. Register.

[2007, c. 402, Pt. Z, §7 (RP) .]

7. Hearings.

[2007, c. 402, Pt. Z, §8 (RP) .]

8. Contracts.

[1995, c. 397, §102 (RP) .]

9. Fees.

[2007, c. 402, Pt. Z, §9 (RP) .]

10. Budget.

[1995, c. 397, §102 (RP) .]

11. Reports.

[2007, c. 402, Pt. Z, §10 (RP) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1989, c. 483, §A53 (AMD). 1995, c. 397, §102 (AMD). 1995, c. 502, §H42 (AMD). 2007, c. 402, Pt. Z, §§6-10 (AMD).

Subchapter 3: REGISTRATION OF CERTIFIED PUBLIC ACCOUNTANTS HEADING:
PL 1987, c. 489, §2 (new)

32 §12227. Certificate

Any person who shall have received from the board a certificate of his qualifications to practice as a certified public accountant, prior to the effective date of this chapter or as provided in section 12228, shall be styled and known as a certified public accountant and no other persons may assume that title or use the abbreviation "CPA" or any other words, letters or figures to indicate that the person using the title is a certified public accountant. [1987, c. 489, §2 (NEW).]

SECTION HISTORY

1987, c. 489, §2 (NEW).

32 §12228. Certified public accountants; qualifications

(CONFLICT)

1. (CONFLICT: Text as amended by PL 2007, c. 402, Pt. Z, §11) **Certificate grant.** The board shall grant the certificate of "certified public accountant" to any person who makes application to the board and who meets the good character, education, examination and experience requirements of, and who pays the fees as set under section 12203, except that no certificate may be granted to a person who has been issued a certificate by another state.

[2007, c. 402, Pt. Z, §11 (AMD) .]

1. (CONFLICT: Text as amended by PL 2007, c. 384, §3) **Certificate grant.** The board shall grant the certificate of "certified public accountant" to any person who makes application to the board and who meets the good character, education, examination and experience requirements of, and who pays the fees prescribed by, this section, except that no certificate may be granted to a person holding a valid certificate issued by another state.

[2007, c. 384, §3 (AMD) .]

2. Good character. "Good character" for the purposes of this section means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based and a notice of the applicant's right of appeal under the Maine Administrative Procedure Act, Title 5, chapter 375.

[1987, c. 489, §2 (NEW) .]

3. Education requirement. The education requirement for a certificate is as follows:

A. [2005, c. 347, Pt. D, §1 (RP).]

B. At least 150 semester hours of education, including a minimum 4-year baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include basic courses in accounting and auditing determined to be appropriate under board rules. Rules adopted by the board pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and [2005, c. 347, Pt. D, §2 (AMD).]

C. An examination applicant who expects to complete a minimum 4-year baccalaureate or higher degree required in paragraph B within 120 days following the examination is eligible to take the examination. Grades may not be released, nor may credit for the examination or any part of the examination be given to the applicant unless the degree required in paragraph B is completed within 120 days following the examination or within such time as the board in its sole discretion may determine. [2007, c. 384, §4 (AMD).]

[2007, c. 384, §4 (AMD) .]

4. Examination. An applicant is required to pass an examination approved by the board to test the applicant's knowledge of the subjects of accounting and auditing and such other related subjects as the board may specify by rule in order to qualify for a certificate. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The board may make the use of all or any part of the Uniform Certified Public Accountant Examination and the Advisory Grading Service of the American Institute of Certified Public Accountants or any other examination approved by the board and may contract with 3rd parties to perform such administrative services with respect to the examination as it considers appropriate to assist it in performing its duties under this section.

[2007, c. 402, Pt. Z, §11 (AMD) .]

5. Examination; passing.

[2003, c. 204, Pt. E, §2 (RP) .]

6. Examination; credits. An applicant must be given credit for any and all parts of an examination passed in another state if that credit would have been given, under then applicable requirements, if the applicant had taken the examination in this State.

[2007, c. 402, Pt. Z, §11 (AMD) .]

7. Waiver. The board may, in particular cases, waive or defer any of the requirements of subsection 6 regarding the circumstances in which the various sections of the examination must be passed upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet that requirement.

[2003, c. 204, Pt. E, §3 (AMD) .]

8. Administration fee.

[2007, c. 402, Pt. Z, §11 (RP) .]

9. Out-of-state examination. An applicant who has been given credit for any or all parts of an examination passed in another state as provided in subsection 6 must pay the fee as set under section 12203.

[2007, c. 402, Pt. Z, §11 (AMD) .]

10. Experience. For initial issuance of a certificate under this subsection, an applicant shall demonstrate 2 years of experience under the direction of a certified public accountant licensed by any state or territory of the United States or equivalent direction, as determined by the board, by a licensed professional in another country and must meet the other requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. To the extent the applicant's experience is as a revenue agent or in a similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Revenue Services, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

A. Examinations are performed in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board; [2007, c. 402, Pt. Z, §11 (AMD).]

B. Working papers prepared by the examiners are in conformity with generally

accepted auditing standards and are subject to a review by a supervisor who must be a certified public accountant; [1993, c. 634, Pt. C, §1 (NEW).]

C. Written reports of examination are prepared in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board. All examiners working on the examinations must participate in the preparation of the report; [2007, c. 402, Pt. Z, §11 (AMD).]

D. Reports of examination are prepared in accordance with statutory accounting principles. All examiners working on the examinations must participate in the preparation of the financial statements and corresponding note disclosures; and [1993, c. 634, Pt. C, §1 (NEW).]

E. All examiners assigned to an examination must participate in the planning of the examination and the planning phase conforms to the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board and generally accepted auditing standards. [2007, c. 402, Pt. Z, §11 (AMD).]

[2007, c. 402, Pt. Z, §11 (AMD) .]

11. Board discretion. The members of the board have the full and sole responsibility for the determination of the qualifications of applicants for the certificate of "certified public accountant." Only persons recommended by the board shall be granted the certificate of "certified public accountant."

[1987, c. 489, §2 (NEW) .]

12. Substantial equivalency.

[2007, c. 384, §5 (RP) .]

13. Foreign designation.

[2007, c. 384, §6 (RP) .]

14. Action by foreign jurisdiction.

[2007, c. 384, §7 (RP) .]

15. Authority.

[2007, c. 384, §8 (RP) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1989, c. 450, §49 (AMD). 1993, c. 634, §C1 (AMD). 1995, c. 353, §§23,24 (AMD). 1997, c. 265, §§2-6 (AMD). 1997, c. 526, §14 (AMD). 1999, c. 224, §1 (AMD). 1999, c. 245, §§3-5 (AMD). 2003, c. 204, §§E1-3 (AMD). 2003, c. 688, §C21 (AMD). 2005, c. 347, §§D1-3 (AMD). 2007, c. 384, §§3-8 (AMD). 2007, c. 402, Pt. Z, §11 (AMD).

32 §12229. Licensees offering or rendering services in another state

A licensee of this State offering or rendering services or using the title, certified public accountant, in another state is required to register in that state and is subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline in the other state. Notwithstanding section 12228, subsection 1, the board must investigate any complaint made by a board of accountancy of another state. [2007, c. 402, Pt. Z, §12 (AMD).]

SECTION HISTORY

1999, c. 245, §6 (NEW). 2007, c. 402, Pt. Z, §12 (AMD).

Subchapter 4: REGISTRATION OF PUBLIC ACCOUNTANTS HEADING: PL 1987, c. 489, §2 (new)

32 §12239. Certificate

Any person who receives from the board a certificate of his qualifications to practice as public accountant, prior to the effective date of this chapter or as provided in section 12240, shall be styled and known as a public accountant, and no other persons may assume to use the abbreviation "PA" or any other words, letters or figures to indicate that the person using the abbreviation is the public accountant. [1987, c. 489, §2 (NEW).]

SECTION HISTORY

1987, c. 489, §2 (NEW).

32 §12240. Public Accountants

1. Certificate grants. The board shall grant the certificate of "public accountant" to any person who makes application to the board and who meets the good character, education, examination and experience requirements of subsections 2 to 8 and pays the fees as set under section 12203, except that no certificate may be granted to a person who has been issued a certificate by another state.

[2007, c. 402, Pt. Z, §13 (AMD) .]

2. Good character. "Good character" for purposes of this section means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based and a notice of the applicant's right of appeal pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

[1987, c. 489, §2 (NEW) .]

3. Education requirement. The education requirement for a certificate, which shall be met no later than 120 days after an applicant sits for the examination prescribed in subsection 4, shall be a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board.

[1987, c. 489, §2 (NEW) .]

4. Examination. An applicant is required to pass an examination approved by the board to test the applicant's knowledge of the subjects of accounting and auditing and such other related subjects as the board may specify by rule in order to be qualified for a certificate. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The board may contract with 3rd parties to perform those administrative services with respect to the examination as it considers appropriate to assist it in performing its duties under this section.

[2007, c. 402, Pt. Z, §14 (AMD) .]

5. Examination; passing.

[2003, c. 204, Pt. E, §5 (RP) .]

6. Administrative fee. The board may charge, or provide for a 3rd party administering the examination to charge, each applicant a fee in an amount prescribed by the board by rule for each part of the examination or reexamination taken by the applicant.

[1987, c. 489, §2 (NEW) .]

7. Experience. The applicant shall show that he has had 2 years of experience in the practice of public accountancy or its equivalent, meeting requirements prescribed by the board by rule; or, if the applicant's educational qualifications comprise a baccalaureate degree meeting the requirements set out in subsection 3 and a master's degree conferred by a college or university approved by the board and one year of experience, then only one year of experience in that practice or its equivalent is required. To the extent the applicant's experience is as an auditor engaged in the examination of financial statements for the Department of Audit or as a revenue agent or similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Revenue Services, the applicant shall receive credit at the rate of 50% toward the experience required by this subsection.

[1987, c. 489, §2 (NEW); 1997, c. 526, §14 (AMD) .]

8. Board discretion. The noncertified member or members of the board shall have the full and sole responsibility for the determination of the qualifications of applicants for the certificate of "public accountant." Only persons recommended by them to the board shall be granted the certificate of "public accountant."

[1987, c. 489, §2 (NEW) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1989, c. 450, §50 (AMD). 1995, c. 353, §25 (AMD). 1997, c. 526, §14 (AMD). 1999, c. 245, §7 (AMD). 2003, c. 204, §§E4,5 (AMD). 2007, c. 402, Pt. Z, §§13, 14 (AMD).

32 §12241. Reciprocity

The noncertified member or members of the board may, in their discretion, waive the examination and upon payment of the fee as set under section 12203, issue a certificate of public accountant under section 12240 to any person who is the holder of a similar certificate or license issued under the laws of another state or foreign government, which is then in full force and effect, provided that the requirements in the state or foreign government that has granted the certificate or license to the applicant are, in the opinion of the noncertified member or members of the board, equivalent to those of this State. [2007, c. 402, Pt. Z, §15 (AMD).]

SECTION HISTORY

1987, c. 489, §2 (NEW). 2007, c. 402, Pt. Z, §15 (AMD).

Subchapter 5: LICENSES HEADING: PL 1987, c. 489, §2 (new); 2007, c. 402, Pt. Z, §27 (amd)

32 §12251. License; individual

(CONFLICT)

1. Licensure. The board shall grant or renew a license to persons who make application, pay the fee as set under section 12203 and demonstrate their qualifications in accordance with this section. The board shall grant or deny a license application no later than 60 days after a complete application is filed. In any case when the applicant seeks the opportunity to show that issuance or renewal of a license was mistakenly denied or when the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional license, which expires 90 days after its issuance or when the board determines whether or not to issue or renew the license for which application was made, whichever first occurs.

[2007, c. 402, Pt. Z, §16 (AMD) .]

2. Duration.

[2007, c. 402, Pt. Z, §16 (RP) .]

3. Requirements. An applicant for initial issuance of a license under this section shall show:

- A. That the applicant holds a valid certificate; and [2007, c. 402, Pt. Z, §16 (AMD).]
- B. If the applicant's certificate was issued more than 4 years prior to the applicant's application for issuance of an initial license under this section, that the applicant has fulfilled the requirements of continuing professional education applicable under subsection 5 if the applicant had secured the applicant's initial license within 4 years

of issuance of the applicant's certificate and was now applying under subsection 5 for renewal of that license. [2007, c. 402, Pt. Z, §16 (AMD).]

[2007, c. 402, Pt. Z, §16 (AMD) .]

4. Out-of-state certificates. The board shall issue a license to a holder of a certificate as a certified public accountant or a public accountant issued by another state upon showing that:

A. [2005, c. 347, Pt. D, §4 (RP).]

B. The applicant:

(1) Meets all current requirements in this State for issuance of a certificate at the time the application is made;

(2) At the time of the issuance of the applicant's certificate in the other state, met all the requirements then applicable in this State; and

(4) Was eligible to take and passed the examination required for issuance of the certificate with grades that would have been passing grades at the time in this State; [2005, c. 347, Pt. D, §4 (AMD).]

C. The applicant meets the requirements of subsection 3, paragraph B; or [2005, c. 347, Pt. D, §4 (AMD).]

D. The applicant had 4 years of experience in the practice of public accountancy or equivalent meeting requirements prescribed by the board by rule, after passing the examination upon which the certificate is based and within the 10 years preceding the submission of the application. [2005, c. 347, Pt. D, §4 (NEW).]

[2007, c. 402, Pt. Z, §16 (AMD) .]

4-A. (CONFLICT: Text as amended by PL 2007, c. 402, Pt. Z, §16) Out-of-state certificates; certified public accountants; substantial equivalency. The board shall issue a license to a holder of a certificate as a certified public accountant issued by another state if the applicant shows that the applicant:

A. Is eligible under the substantial equivalency standard authorized pursuant to section 12228, subsection 12. The holder of a license issued under this section may engage in the practice of public accountancy only in a firm that holds a license issued under section 12252; and [2007, c. 402, Pt. Z, §16 (AMD).]

B. Consents, as a condition of the granting of this privilege:

(1) To the jurisdiction of the board;

(2) To comply with this chapter and the board's rules; and

(3) To the appointment of the state board that issued the applicant's certificate as the applicant's agent upon whom process may be served in any action or proceeding by this board against the applicant. [1999, c. 245, §9 (NEW).]

[2007, c. 402, Pt. Z, §16 (AMD) .]

4-A. (CONFLICT: Text as repealed by PL 2007, c. 384, §9) Out-of-state certificates; certified public accountants; substantial equivalency.

[2007, c. 384, §9 (RP) .]

4-B. Substantial equivalency. The requirements for substantial equivalency are as set out in this subsection.

A. An individual whose principal place of business is outside the State is presumed to have qualifications substantially equivalent to the State's requirements and has all the privileges of permit holders of the State and may provide professional services in the State without the requirement to obtain a permit under this section or to otherwise notify or register with the board or pay any fee if the individual:

(1) Holds a valid license as a certified public accountant from a state that the board has verified to be in substantial equivalence with the certified public accountant licensure requirements of a national association of state boards of accountancy and standards promulgated by the American Institute of Certified Public Accountants; or

(2) Holds a valid license as a certified public accountant from a state that is not in substantial equivalence with the certified public accountant licensure requirements under subparagraph (1), but the board determines that the individual's certified public accountant qualifications are substantially equivalent to the certified public accountant licensure requirements of a national association of state boards of accountancy and standards promulgated by the American Institute of Certified Public Accountants. For purposes of this subsection, the board may exempt an individual who passed the Uniform Certified Public Accountant Examination and holds a valid license issued by any other state prior to January 1, 2012 from the education requirement in section 12228, subsection 3, paragraph B.

In determining substantial equivalence, the board may consult determinations and verifications from a national qualification appraisal service of a national association of state boards of accountancy. [2007, c. 384, §10 (NEW).]

B. Notwithstanding any other provision of law, an individual who qualifies for the practice privilege under this subsection may offer or render professional services in this State, whether in person or by mail, telephone or electronic means, and no notice or other submission may be required of any such individual. Such an individual is subject to paragraph C. [2007, c. 384, §10 (NEW).]

C. An individual licensee of another state exercising the privilege afforded under this subsection and the firm that employs that individual consent, as a condition of the grant of this privilege:

(1) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) To comply with the provisions of this chapter and the board's rules;

(3) To the stipulation that, in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease

offering or rendering professional services in the State individually and on behalf of a firm; and

(4) To the appointment of the state board that issued the individual's license as the individual's agent upon whom process may be served in any action or proceeding by this State's board against the individual. [2007, c. 384, §10 (NEW).]

D. An individual who qualifies for the practice privilege under this subsection may perform any of the services listed in this paragraph for any entity with its home office in the State provided the individual does so through a firm that has obtained a permit issued under section 12252:

(1) A financial statement audit or other engagement to be performed in accordance with the Statements on Auditing Standards, SAS;

(2) An examination of prospective financial information to be performed in accordance with Statements on Standards for Attestation Engagements, SSAE; or

(3) An engagement to be performed in accordance with auditing standards of the Public Company Accounting Oversight Board, established in 15 United States Code, Section 7211 (2007). [2007, c. 384, §10 (NEW).]

[2007, c. 384, §10 (NEW) .]

5. Renewal. An applicant for renewal of a license under this section shall show that requirements of continuing professional education consisting of not less than 20 hours in each one-year period and not less than 120 hours in any 3-year period have been fulfilled. The board shall establish by rule the number of hours of continuing professional education required in each one-year period and 3-year period. That education must consist of the general kinds and in subjects that are specified by the board by rule. The board may provide by rule that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the requirements of this subsection. The board may also provide by rule for prorated continuing professional education requirements to be met by applicants whose initial licenses were issued less than one year prior to the renewal date. The board may prescribe by rule special lesser continuing education requirements to be met by applicants for license renewal whose prior licenses lapsed prior to their applications for renewal. The board, in its discretion, may renew a license to practice despite failure to furnish evidence of satisfaction of requirements of continuing professional education only upon condition that the applicant follow a particular program or schedule of continuing professional education. In issuing rules and individual orders in respect of requirements of continuing professional education, the board in its discretion may use and rely upon guidelines and pronouncements of recognized educational and professional organizations; may prescribe for content, duration and organization of courses; may take into account any impediments to interstate practice of public accountancy that may result from differences in those requirements in other states; and may provide for relaxation or suspension of those requirements in regard to applicants who certify that they do not intend to engage in the practice of public accountancy.

[2007, c. 402, Pt. Z, §16 (AMD) .]

6. Prior certification. Applicants for initial issuance or renewal of licenses under this section shall list in their applications all states in which they have applied for or hold certificates or licenses and each holder of or applicant for a license under this section shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a certificate or license by another state.

[2007, c. 402, Pt. Z, §16 (AMD) .]

7. Fee.

[2007, c. 402, Pt. Z, §16 (RP) .]

8. Adjudicatory hearing.

[2007, c. 402, Pt. Z, §16 (RP) .]

9. Expiration. Licenses are initially issued and renewed for a period of one year, but in any event expire on June 30th following issuance or renewal or on such other date as the commissioner may designate.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 12203. Any person who submits an application for renewal more than 90 days after the expiration date is subject to all requirements governing new applicants under this chapter, in addition to fulfilling any continuing educational requirements the board considers necessary. The board in its discretion, giving due consideration to the protection of the public, may waive any or all requirements if that renewal application is made within 2 years from the date of that expiration. Any certificate holder whose employment by any government agency prohibits or precludes the practice of public accountancy in this State, by application to the board, may be excused from paying the annual license fee during the period of that employment.

[2007, c. 402, Pt. Z, §16 (AMD) .]

10. Certificates in other states. An applicant for initial issuance or renewal of a license under this section shall in the applicant's application list all states in which the applicant has applied for or holds a certificate or license and list any past denial, revocation or suspension of a certificate or license . Each holder of or applicant for a license under this section shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a certificate or license by another state.

[2007, c. 402, Pt. Z, §16 (AMD) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1989, c. 483, §A54 (AMD). 1999, c. 245, §§8-11 (AMD). 2005, c. 347, §D4 (AMD). 2007, c. 384, §§9, 10 (AMD). 2007, c. 402, Pt. Z, §16

(AMD).

32 §12252. Licenses; firms

(CONFLICT)

1. (CONFLICT: Text as amended by PL 2007, c. 402, Pt. Z, §17) **Licensure.** The board shall grant or renew a license to firms that make application, pay the fee as set under section 12203 and demonstrate their qualifications in accordance with this section.

[2007, c. 402, Pt. Z, §17 (AMD) .]

1. (CONFLICT: Text as amended by PL 2007, c. 384, §11) **Permits granted.** The board shall grant or renew permits to practice public accountancy to firms that make application and demonstrate their qualifications in accordance with this section.

A. A firm must hold a permit issued under this section if it:

- (1) Has an office in this State performing any of the services described in section 12201, subsection 3-A, paragraphs A to D;
- (2) Has an office in this State that uses the title "CPA" or "CPA firm"; or
- (3) Does not have an office in this State but performs any of the services described in section 12201, subsection 3-A, paragraphs A, C or D for a client having its home office in this State. [2007, c. 384, §11 (NEW).]

B. A firm that does not have an office in this State may perform services described in section 12201, subsection 3-A, paragraph B for a client having its home office in this State and may use the title "CPA" or "CPA firm" without a permit issued under this section only if:

- (1) It qualifies for a firm permit pursuant to subsections 3 and 8; and
- (2) It performs such services through an individual with practice privileges under section 12251, subsection 4-B. [2007, c. 384, §11 (NEW).]

C. A firm that is not subject to the requirements of paragraphs A and B may perform professional services other than those described in section 12201, subsection 3-A while using the title "CPA" or "CPA firm" in this State without a permit issued under this section only if the firm:

- (1) Performs such services through an individual with practice privileges under section 12251, subsection 4-B; and
- (2) Has legal authority to perform such services in the state of that individual's principal place of business. [2007, c. 384, §11 (NEW).]

[2007, c. 384, §11 (AMD) .]

2. Duration. Licenses are initially issued and renewed for a period of one year, but in any event expire on June 30th following issuance or renewal or on such other date as the commissioner may designate. The board shall grant or deny a license application no later than 60 days after a complete application is filed. In any case when the applicant

seeks the opportunity to show that issuance or renewal of a license was mistakenly denied or when the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional license, which expires 90 days after its issuance or when the board determines whether or not to issue or renew the license for which application was made, whichever first occurs.

[2007, c. 402, Pt. Z, §17 (AMD) .]

3. (CONFLICT: Text as amended by PL 2007, c. 402, Pt. Z, §17) Firm licenses. The following provisions apply to the issuance of firm licenses.

A. An applicant for initial issuance or renewal of a license under this section shall show that a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of certificates who are licensed in a state and that all partners, officers, shareholders, members or managers whose principal place of business is in this State or who perform professional services in this State hold valid individual licenses issued by the board. Firms may include nonlicensee owners in accordance with paragraph B. [2007, c. 402, Pt. Z, §17 (AMD).]

B. A certified public accountancy firm or public accountancy firm may include nonlicensee owners as long as:

- (1) All nonlicensee owners are individuals who actively participate in the certified public accountancy firm or public accountancy firm; and
- (2) The firm complies with such other requirements as the board may impose by rule. [1999, c. 200, §1 (NEW).]

[2007, c. 402, Pt. Z, §17 (AMD) .]

3. (CONFLICT: Text as amended by PL 2007, c. 384, §12) Firm permits. The following provisions apply to the issuance of firm permits.

A. An applicant for initial issuance or renewal of a permit to practice under this section shall show that a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of certificates who are licensed in a state and that all partners, officers, shareholders, members or managers whose principal place of business is in this State and who perform professional services in this State hold valid individual permits issued by the board. Firms may include nonlicensee owners in accordance with paragraph B. [2007, c. 384, §12 (AMD).]

B. A certified public accountancy firm or public accountancy firm may include nonlicensee owners as long as:

- (1) All nonlicensee owners are individuals who actively participate in the certified public accountancy firm or public accountancy firm;
- (2) The firm complies with such other requirements as the board may impose by rule; and
- (3) The firm designates an individual who is a licensee of this State or, in the

case of a firm that must have a permit pursuant to subsection 1, paragraph A, subparagraph (3), designates an individual who is a licensee of another state who meets the requirements set out in section 12251, subsection 4-B, paragraph A who is responsible for the proper registration of the firm and identifies that individual who is a licensee to the board. [2007, c. 384, §12 (AMD).]

[2007, c. 384, §12 (AMD) .]

4. (CONFLICT: Text as amended by PL 2007, c. 402, Pt. Z, §17) Office registered. An applicant for initial issuance or renewal of a license under this section is required to register each office of the firm within this State with the board, pay the fee as set under section 12203 and show that each such office is under the charge of a person holding a valid license issued under section 12251 or the corresponding provision of prior law.

[2007, c. 402, Pt. Z, §17 (AMD) .]

4. (CONFLICT: Text as amended by PL 2007, c. 384, §13) Office registered. An applicant for initial issuance or renewal of a permit to practice under this section shall register each office of the firm within this State with the board and show that each such office is under the charge of a person holding a valid permit to practice, issued under section 12251 or the corresponding provision of prior law or the laws of another state.

[2007, c. 384, §13 (AMD) .]

5. Fee.

[2007, c. 402, Pt. Z, §17 (RP) .]

6. Out-of-state licenses. Applicants for initial issuance or renewal of licenses under this section shall in their application list all states in which they have applied for, or hold licenses to, practice public accountancy and each holder of, or applicant for, a license under this section shall notify the board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers or shareholders who work regularly within this State, any change in the number or location of offices within this State, any change in the identity of the persons in charge of those offices and any issuance, denial, revocation or suspension of a license by any other state.

[2007, c. 402, Pt. Z, §17 (AMD) .]

7. Adjudicatory hearing.

[2007, c. 402, Pt. Z, §17 (RP) .]

8. Peer review for certified public accountancy firms. As a condition to the granting or renewal of licenses to certified public accountancy firms, each applicant that provides a defined service other than compilations must successfully participate in an approved peer review program. Participation in such a program is governed by the

following.

A. A peer review must be completed within 18 months after the initial granting of the license. The firm must undergo a peer review every 3 years for as long as it provides a defined service other than compilations. [2007, c. 402, Pt. Z, §17 (AMD).]

B. A certified public accountancy firm that does not provide a defined service other than compilations is not required to undergo a peer review if the firm annually confirms in writing to the board that it does not provide a defined service other than compilations. A certified public accountancy firm that subsequently provides a defined service other than compilations must undergo a peer review within 18 months after the fiscal year end of the first defined services engagement other than compilations that it accepts. [2005, c. 347, Pt. D, §5 (AMD).]

The board is authorized to adopt rules to carry out the intent of this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2007, c. 402, Pt. Z, §17 (AMD) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1999, c. 200, §1 (AMD). 1999, c. 619, §§2,3 (AMD). 2001, c. 260, §F2 (AMD). 2003, c. 344, §D22 (AMD). 2005, c. 347, §D5 (AMD). 2007, c. 384, §§11-13 (AMD). 2007, c. 402, Pt. Z, §17 (AMD).

Subchapter 6: APPOINTMENT OF COMMISSIONER AS AGENT HEADING: PL 1987, c. 489, §2 (new)

32 §12263. Appointment of commissioner as agent

Application by a person or a firm not a resident of this State for a certificate under section 12228 or 12240 or a license under section 12251 or 12252 constitutes appointment of the commissioner as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incident to the practice of public accountancy by the applicant within this State. [2007, c. 402, Pt. Z, §18 (AMD).]

SECTION HISTORY

1987, c. 489, §2 (NEW). 2007, c. 402, Pt. Z, §18 (AMD).

Subchapter 7: ENFORCEMENT AGAINST HOLDERS OF CERTIFICATES AND LICENSES HEADING: PL 1987, c. 489, §2 (new); 2007, c. 402, Pt. Z, §28 (amd)

32 §12273. Revocation or suspension (REPEALED)

SECTION HISTORY

1987, c. 489, §2 (NEW). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 402, Pt. Z, §19 (RP).

32 §12273-A. Denial or refusal to renew license; disciplinary action

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for: [2007, c. 402, Pt. Z, §20 (NEW).]

1. Loss of authority in other state. Cancellation, revocation, suspension or refusal to renew authority to engage in the practice of public accountancy in any other state for any cause;

[2007, c. 402, Pt. Z, §20 (NEW) .]

2. Failure to maintain compliance. Failure, on the part of an applicant or a licensee under section 12251 or 12252 to maintain compliance with the requirements for issuance or renewal of that license or to report changes to the board under section 12251, subsection 6 or section 12252, subsection 6;

[2007, c. 402, Pt. Z, §20 (NEW) .]

3. Revocation or suspension of right to practice. Revocation or suspension of the right to practice before any state or federal agency;

[2007, c. 402, Pt. Z, §20 (NEW) .]

4. Dishonesty, fraud, gross negligence, failure to file. Dishonesty, fraud or gross negligence in the practice of public accountancy or in the filing or failure to file the licensee's own income tax returns;

[2007, c. 402, Pt. Z, §20 (NEW) .]

5. Fraud. Performance of any fraudulent act while holding a certificate or license issued under this chapter or prior law; and

[2007, c. 402, Pt. Z, §20 (NEW) .]

6. Adverse conduct. Any conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy.

[2007, c. 402, Pt. Z, §20 (NEW) .]

SECTION HISTORY

2007, c. 402, Pt. Z, §20 (NEW).

32 §12274. Enforcement procedures; investigations

1. Board; action.

[2007, c. 402, Pt. Z, §21 (RP) .]

2. Review. The board may review the publicly available professional work of

licensees on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular licensee. If, as a result of such review, the board discovers reasonable grounds for a more specific investigation, the board may proceed under subsection 1.

[1987, c. 489, §2 (NEW) .]

3. Discipline. In any case when the board renders a decision imposing discipline against a licensee under this section and section 12273, the board shall examine its records to determine whether the licensee holds a certificate or a license in any other state; and, if so, the board shall notify the board of accountancy of that other state of its decision by mail within 45 days of rendering the decision. The board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to private professional organizations having a disciplinary interest in the licensee.

[2007, c. 402, Pt. Z, §22 (AMD) .]

4. Board; consideration. The board shall consider applications upon suspension, revocation or refusal to renew according to this subsection.

A. In any case when the board has suspended or revoked a certificate or a license or refused to renew a license, the board may modify the suspension or reissue the certificate or license upon application in writing by the person or firm affected and for good cause shown. [2007, c. 402, Pt. Z, §23 (AMD).]

B. The board shall by rule specify the manner in which those applications must be made, the times within which they must be made and the circumstances in which hearings will be held. [2007, c. 402, Pt. Z, §23 (AMD).]

C. Before reissuing or terminating the suspension of a certificate or license under this section, and as a condition for reissuance or termination of suspension, the board may require the applicant to show successful completion of specified continuing professional education. The board may make the reinstatement of a certificate or license conditional and subject to satisfactory completion of a quality review conducted in such fashion as the board may specify. [2007, c. 402, Pt. Z, §23 (AMD).]

[2007, c. 402, Pt. Z, §23 (AMD) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1999, c. 547, §B74 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 402, Pt. Z, §§21-23 (AMD).

32 §12275. Unlawful acts

1. Issuance of reports. No person or firm not holding a valid license issued under section 12251 or 12252 may issue a report, including reviews and compilations, on financial statements of any other person, firm, organization or governmental unit. This prohibition does not apply to the following:

A. An officer, partner or employee of any firm or organization affixing that person's signature to any statement or report in reference to the financial affairs of that firm or organization with any wording designating the position, title or office that that person holds in the organization; [2007, c. 402, Pt. Z, §24 (AMD).]

B. Any act of a public official or employee in the performance of that person's duties as such; or [2007, c. 402, Pt. Z, §24 (AMD).]

C. The performance by any person of other services involving the use of accounting skills, including management advisory or consulting services, the preparation of tax returns, the furnishing of advice on tax matters and the preparation of financial statements without the issuance of reports. [1987, c. 489, §2 (NEW).]

[2007, c. 402, Pt. Z, §24 (AMD) .]

2. Misuse of title; individual; certified public accountants. No person not holding a valid certificate issued under section 12227, shall use or assume the title of "certified public accountant," the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the person is a certified public accountant.

[1987, c. 489, §2 (NEW) .]

3. Use of title. A firm may not assume or use the title or designation "certified public accountant," the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the firm is composed of certified public accountants, unless:

A. The firm holds a valid license issued under section 12252; and [2007, c. 402, Pt. Z, §24 (AMD).]

B. A simple majority of all partners, officers, shareholders, members or managers of the firm hold certificates. [1999, c. 619, §4 (AMD).]

[2007, c. 402, Pt. Z, §24 (AMD) .]

4. Misuse of title; public accountant. No person may assume or use the title or designation "public accountant," the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the person is a public accountant unless that person holds a valid license issued under section 12251.

[2007, c. 402, Pt. Z, §24 (AMD) .]

5. Misuse of title; firm; public accountant. No firm not holding a valid license issued under section 12252 may assume or use the title or designation "public accountant," the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the firm is composed of public accountants.

[2007, c. 402, Pt. Z, §24 (AMD) .]

6. Similar titles prohibited. No person or firm not holding a valid license issued under section 12251 or 12252 may assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant" or any other title or designation likely to be confused with the titles "certified public accountant," "public accountant" or use any of the abbreviations "CA," "LA," "RA," "AA" or similar abbreviations likely to be confused with the abbreviations "CPA" or "PA," provided that a holder of a certificate who does not also hold a license may use the titles pertaining to that certificate in any manner not prohibited by rules adopted by the board under section 12214, subsection 4.

[2007, c. 402, Pt. Z, §24 (AMD) .]

7. Similar designation prohibited. No person or firm not holding a valid license issued under section 12251 or 12252 may assume or use any title or designation that includes the words "auditor" or "auditing" in connection with any other language, including the language of a report, that implies that the person or firm holds such a license or has special competence as an auditor, provided that this subsection does not prohibit any officer, partner or employee of any firm or organization from affixing that person's signature to any statement in reference to the financial affairs of that firm or organization with any wording designating the position, title or office that that person holds in the firm or organization or prohibit any act of a public official or employee in the performance of that person's duties.

[2007, c. 402, Pt. Z, §24 (AMD) .]

8. Unauthorized practice. No person holding a certificate may engage in the practice of public accountancy, unless that person also holds a valid license issued under section 12251.

[2007, c. 402, Pt. Z, §24 (AMD) .]

9. Form of firm. No person or firm holding a license may engage in the practice of public accountancy using a professional or firm name or designation that is misleading about the legal form of the firm, about the persons who are partners, officers or shareholders of the firm or about any other matter, except that the names of one or more former partners or shareholders may be included in the name of a firm or its successor.

[2007, c. 402, Pt. Z, §24 (AMD) .]

10. Foreign practice. Subsections 1 to 11 do not apply to a person or firm holding a certificate, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country, whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of or business entities of the country in which that person holds that entitlement, who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this State, and who does not use in this State any title or designation other than the one

under which that person practices in that country, followed by a translation of that title or designation into the English language, if it is in a different language and by the name of that country.

[2007, c. 402, Pt. Z, §24 (AMD) .]

11. Employees. Nothing in this chapter prohibits any person, not a certified public accountant or public accountant, from serving as an employee of, or an assistant to, a certified public accountant, public accountant, a firm of certified public accountants or of public accountants holding a license issued under section 12251 or 12252, provided that the employee or assistant may not issue any accounting or financial statements over the employee's or assistant's name.

[2007, c. 402, Pt. Z, §24 (AMD) .]

12. Commissions; referral fees. A licensee, when performing for a client a defined service, may not receive a commission or a referral fee:

A. For recommending or referring to a client any product or service; [1999, c. 245, §12 (NEW).]

B. For recommending or referring any product or service to be supplied by a client; or [1999, c. 245, §12 (NEW).]

C. As a consequence of a decision by a client to purchase or supply a particular product or service. [1999, c. 245, §12 (NEW).]

Notwithstanding paragraphs A, B and C, a licensee may receive a commission or a referral fee if the licensee's compilation report discloses in writing a lack of independence.

This prohibition applies during the period in which the licensee is engaged to perform any of the defined services and the period covered by any historical financial statements involved in the defined services.

A licensee who is not prohibited by this section from receiving a commission or a referral fee shall disclose in writing to any person or entity to whom the licensee recommends or refers a product or service to which the commission or referral fee relates the fact that the licensee has been paid or expects to be paid a commission or referral fee.

[1999, c. 245, §12 (NEW) .]

13. Contingency fees. A licensee or a licensee's firm may not:

A. When involved in providing for a client a defined service:

(1) Perform for a contingent fee any services for a client; or

(2) Receive a contingency fee from a client; or [1999, c. 245, §12 (NEW).]

B. Prepare an original or amended tax return or claim for a tax refund for a contingent fee. [1999, c. 245, §12 (NEW).]

Notwithstanding paragraph A, a licensee when providing a defined service may receive

a contingency fee if the licensee's compilation report discloses in writing a lack of independence.

The prohibitions apply during the period in which the licensee is engaged to perform any of the services listed in this section and the period covered by any historical financial statements involved in any of the listed services.

As used in this subsection a "contingent fee" or "contingency fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee is charged unless a specified finding or result is attained or in which the amount of the fee is otherwise dependent upon the finding or result of the service. For purposes of this subsection, fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending on the complexity of services rendered.

[1999, c. 245, §12 (NEW) .]

14. Substantial equivalency. For purposes of this section:

A. As an individual exercising permit privileges in the State pursuant to section 12251, subsection 4-B and complying with the restrictions on the scope of such privileges under subsection 4-B is equivalent to an individual holding a certificate under section 12227 and to an individual holding a permit to practice under section 12251, each reference in this section to certificate and permit holders is deemed to include, on an equal basis, individuals exercising such privileges; [2007, c. 384, §14 (NEW).]

B. A firm in compliance with section 12252, subsection 1 must, for the purposes of this section, be deemed to hold a valid permit to practice issued under section 12252; and [2007, c. 384, §14 (NEW).]

C. Notwithstanding any other provision of this section, it is not a violation of this section if a firm that does not hold a valid permit under section 12252 and that does not maintain an office in this State provides professional services in this State if the firm complies with the requirements of section 12252, subsection 1, paragraph B or C, whichever is applicable. [2007, c. 384, §14 (NEW).]

[2007, c. 384, §14 (NEW) .]

SECTION HISTORY

1987, c. 489, §2 (NEW). 1999, c. 200, §2 (AMD). 1999, c. 245, §12 (AMD). 1999, c. 619, §4 (AMD). 2007, c. 384, §14 (AMD). 2007, c. 402, Pt. Z, §24 (AMD).

32 §12276. Injunction (REPEALED)

SECTION HISTORY

1987, c. 489, §2 (NEW). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 402, Pt. Z, §25 (RP).

32 §12277. Unlicensed practice

A person who violates section 12275 is subject to the provisions of Title 10, section 8003-C. [2007, c. 402, Pt. Z, §26 (RPR).]

SECTION HISTORY

1987, c. 489, §2 (NEW). 2007, c. 402, Pt. Z, §26 (RPR).

32 §12278. Single act evidence of practice

In any action brought under section 12273 or 12277, evidence from the commission of a single act prohibited by this chapter shall be sufficient to justify a penalty, injunction, restraining order or conviction, respectively, without evidence of a general course of conduct. [1987, c. 489, §2 (NEW).]

SECTION HISTORY

1987, c. 489, §2 (NEW).

32 §12279. Confidential communications

Except by permission of the client engaging a licensee under this chapter, or the heirs, successors or personal representatives of that client, a licensee or any partner, officer, shareholder or employee of a licensee shall not voluntarily disclose information communicated to him by the client relating to, and in connection with, services rendered to the client by the licensee in the practice of public accountancy. That information shall be considered confidential, provided that nothing may be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, investigations or proceedings under section 12273, in ethical investigations conducted by private professional organizations or in the course of quality reviews. [1987, c. 489, §2 (NEW).]

SECTION HISTORY

1987, c. 489, §2 (NEW).

32 §12280. Licensee's working papers; client's records

1. Records; property of licensee. All statements, records, schedules, working papers and memoranda made by a licensee or a partner, shareholder, officer, director or employee of a licensee, incident to, or in the course of, rendering services to a client in the practice of public accountancy, except the reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper or memorandum may be sold, transferred or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of the licensee or any combined or merged firm or successor in interest to the licensee.

[1987, c. 489, §2 (NEW) .]

2. Licensee to furnish items to client. A licensee shall furnish to his client or former client upon request and reasonable notice:

A. A copy of the licensee's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and [1987, c. 489, §2 (NEW).]

B. Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of those documents of the client when they form the basis for work done by him. [1987, c. 489, §2 (NEW).]

SECTION HISTORY

1987, c. 489, §2 (NEW).

MRS Title 10, Chapter 901: DEPARTMENT OF BUSINESS REGULATION

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10 §8001. Department; organization

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, grantors of consumer credit and to license and regulate professions and occupations. The mission of the department is to encourage sound, ethical business practices through high-quality, impartial and efficient regulation of insurers, financial institutions, creditors, investment providers and numerous professions and occupations for the purpose of protecting consumers. The department is composed of the following: [1999, c. 687, Pt. C, §1 (AMD).]

1. Bureau of Financial Institutions. Bureau of Financial Institutions;

[2001, c. 44, §9 (AMD); 2001, c. 44, §14 (AFF) .]

2. Bureau of Consumer Credit Protection. Bureau of Consumer Credit Protection;

[1995, c. 309, §26 (AMD); 1995, c. 397, §4 (AMD); 1995, c. 309, §29 (AFF); 2007, c. 273, Pt. B, §7 (AFF); 2007, c. 273, Pt. B, §5 (REV) .]

3. Bureau of Insurance. Bureau of Insurance;

[1995, c. 397, §4 (AMD) .]

3-A. Office of Securities. Office of Securities; and

[2001, c. 182, §5 (NEW) .]

4. Maine Athletic Commission.

[1995, c. 397, §5 (RP) .]

5. Maine State Pilotage Commission.

[1995, c. 397, §5 (RP) .]

6. Real Estate Commission.

[1995, c. 397, §5 (RP) .]

7. Arborist Examining Board.

[1995, c. 397, §5 (RP) .]

8. Board of Licensing of Auctioneers.

[1995, c. 397, §5 (RP) .]

9. Board of Barbering and Cosmetology.

[1995, c. 397, §5 (RP) .]

10. Board of Commercial Driver Education.

[1995, c. 397, §5 (RP) .]

10. Board of Driver Education.

[1995, c. 505, §22 (AFF); 1995, c. 505, §4 (RP) .]

11. Board of Licensing of Dietetic Practice.

[1995, c. 397, §5 (RP) .]

12. Electricians' Examining Board.

[1995, c. 397, §5 (RP) .]

13. State Board of Licensure for Professional Foresters.

[1995, c. 397, §5 (RP) .]

14. State Board of Funeral Service.

[1995, c. 397, §5 (RP) .]

15. State Board of Certification for Geologists and Soil Scientists.

[1995, c. 397, §5 (RP) .]

16. Board of Hearing Aid Dealers and Fitters.

[1995, c. 397, §5 (RP) .]

17. Manufactured Housing Board.

[1995, c. 397, §5 (RP) .]

18. Nursing Home Administrators Licensing Board.

[1995, c. 397, §5 (RP) .]

19. Board of Occupational Therapy Practice.

[1995, c. 397, §5 (RP) .]

20. Oil and Solid Fuel Board.

[1995, c. 397, §5 (RP) .]

21. Board of Examiners in Physical Therapy.

[1995, c. 397, §5 (RP) .]

22. Plumbers' Examining Board.

[1995, c. 397, §5 (RP) .]

22-A. Board of Licensure of Podiatric Medicine.

[1995, c. 397, §6 (RP) .]

23. State Board of Examiners of Psychologists.

[1995, c. 397, §7 (RP) .]

24. Radiologic Technology Board of Examiners.

[1995, c. 397, §7 (RP) .]

25. Board of Respiratory Care Practitioners.

[1995, c. 397, §7 (RP) .]

26. State Board of Social Worker Licensure.

[1995, c. 397, §7 (RP) .]

27. Board of Examiners on Speech Pathology and Audiology.

[1995, c. 397, §7 (RP) .]

28. State Board of Substance Abuse Counselors.

[1995, c. 397, §7 (RP) .]

29. State Board of Veterinary Medicine.

[1995, c. 397, §7 (RP) .]

30. Acupuncture Licensing Board.

[1995, c. 397, §7 (RP) .]

31. Board of Commissioners of the Profession of Pharmacy.

[1995, c. 397, §7 (RP) .]

32. Board of Licensure for Professional Land Surveyors.

[1995, c. 397, §7 (RP) .]

32-A. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers.

[1995, c. 397, §8 (RP) .]

33. Board of Chiropractic Licensure.

[1995, c. 397, §9 (RP) .]

34. Board of Licensure of Railroad Personnel.

[1993, c. 428, §2 (RP) .]

35. Board of Counseling Professionals Licensure.

[1995, c. 625, Pt. A, §17 (RP) .]

36. Board of Real Estate Appraisers.

[1995, c. 625, Pt. A, §17 (RP) .]

37. Real Estate Commission.

[1995, c. 502, Pt. H, §7 (RP) .]

P. [2007, c. 369, Pt. C, §5 (AFF); 2007, c. 369, Pt. B, §2 (RP).]

Q. Board of Licensure for Professional Land Surveyors; [1995, c. 397, §11 (NEW).]

R. Manufactured Housing Board; [1995, c. 397, §11 (NEW).]

S. Nursing Home Administrators Licensing Board; [1995, c. 397, §11 (NEW).]

T. Board of Occupational Therapy Practice; [1995, c. 397, §11 (NEW).]

U. Oil and Solid Fuel Board; [1995, c. 397, §11 (NEW).]

V. Maine Board of Pharmacy; [1995, c. 397, §11 (NEW); 1997, c. 245, §19 (AMD).]

- W. Board of Examiners in Physical Therapy; [1995, c. 397, §11 (NEW).]
- Y. Plumbers' Examining Board; [1995, c. 397, §11 (NEW).]
- Z. Board of Licensure of Podiatric Medicine; [1995, c. 397, §11 (NEW).]
- AA. State Board of Examiners of Psychologists; [1995, c. 397, §11 (NEW).]
- BB. Radiologic Technology Board of Examiners; [1995, c. 397, §11 (NEW).]
- CC. Board of Real Estate Appraisers; [1995, c. 397, §11 (NEW).]
- DD. Board of Respiratory Care Practitioners; [1995, c. 397, §11 (NEW).]
- EE. State Board of Social Worker Licensure; [1995, c. 397, §11 (NEW).]
- FF. [2007, c. 369, Pt. C, §5 (AFF); 2007, c. 369, Pt. B, §3 (RP).]

38. Office of Licensing and Registration. The Office of Licensing and Registration also administers the following regulatory functions: licensure of athletic trainers; licensure of massage therapists; licensure of interpreters for the deaf and hard-of-hearing; licensure of persons pursuant to the Charitable Solicitations Act; and licensure of transient sellers, including door-to-door home repair transient sellers.

Office of Licensing and Registration. The Office of Licensing and Registration is composed of the following:

- A. Board of Accountancy; [1995, c. 397, §11 (NEW).]
- D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers; [1995, c. 397, §11 (NEW).]
- E. Maine Athletic Commission; [1995, c. 397, §11 (NEW).]
- F. Board of Licensing of Auctioneers; [1995, c. 397, §11 (NEW).]
- G. Board of Barbering and Cosmetology; [1995, c. 397, §11 (NEW).]
- H. Board of Chiropractic Licensure; [1995, c. 397, §11 (NEW).]
- H-1. Board of Complementary Health Care Providers; [1995, c. 671, §7 (NEW).]
- I. Board of Driver Education; [1995, c. 397, §11 (NEW); 1995, c. 402, Pt. A, §47 (AMD).]
- J. Board of Counseling Professionals Licensure; [1995, c. 397, §11 (NEW).]
- K. Board of Licensing of Dietetic Practice; [1995, c. 397, §11 (NEW).]
- L. Electricians' Examining Board; [1995, c. 397, §11 (NEW).]
- M. Board of Licensure of Foresters; [1995, c. 397, §11 (NEW); 2001, c. 261, §5 (AMD).]
- N. State Board of Funeral Service; [1995, c. 397, §11 (NEW).]
- O. State Board of Certification for Geologists and Soil Scientists; [1995, c. 397, §11 (NEW).]
- GG. State Board of Alcohol and Drug Counselors; [1995, c. 502, Pt. H, §8 (AMD).]
- HH. State Board of Veterinary Medicine; [1995, c. 502, Pt. H, §8 (AMD).]

II. Propane and Natural Gas Board; [1995, c. 560, Pt. H, §3 (AMD); 1995, c. 560, Pt. H, §17 (AFF).]

JJ. Real Estate Commission; [1995, c. 560, Pt. H, §3 (AMD); 1995, c. 560, Pt. H, §17 (AFF).]

KK. Board of Boiler Rules; [2007, c. 369, Pt. B, §4 (AMD); 2007, c. 369, Pt. C, §5 (AFF).]

LL. Board of Elevator and Tramway Safety; and [2007, c. 369, Pt. B, §5 (AMD); 2007, c. 369, Pt. C, §5 (AFF).]

MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting. [2007, c. 369, Pt. B, §6 (NEW); 2007, c. 369, Pt. C, §5 (AFF).]

[2007, c. 369, Pt. B, §§2-6 (AMD); 2007, c. 402, Pt. C, §1 (AMD); 2007, c. 369, Pt. C, §5 (AFF) .]

SECTION HISTORY

1971, c. 488, §§1,3 (NEW). 1973, c. 537, §15 (RP). 1973, c. 585, §4 (RPR). 1973, c. 788, §43 (RPR). 1975, c. 134, §4 (AMD). 1975, c. 547, §4 (AMD). 1975, c. 579, §1 (AMD). 1975, c. 770, §58 (AMD). 1975, c. 771, §122 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 160, §2 (AMD). 1977, c. 466, §1 (AMD). 1977, c. 673, §1 (AMD). 1977, c. 78, §36 (RPR). 1979, c. 606, §2 (AMD). 1981, c. 501, §37 (AMD). 1981, c. 703, §A2 (AMD). 1983, c. 553, §11 (AMD). 1983, c. 746, §1 (AMD). 1983, c. 758, §1 (AMD). 1985, c. 819, §§A15,16 (AMD). 1985, c. 233, §2 (RPR). 1985, c. 288, §2 (RPR). 1985, c. 389, §6 (RPR). 1985, c. 737, §A21 (RPR). 1985, c. 748, §15 (RPR). 1987, c. 395, §A34 (RPR). 1987, c. 488, §2 (RPR). 1989, c. 450, §4 (RPR). 1989, c. 465, §2 (RPR). 1989, c. 502, §A31 (RPR). 1989, c. 806, §2 (RPR). 1989, c. 878, §D6 (RPR). 1991, c. 396, §1 (AMD). 1991, c. 397, §3 (AMD). 1991, c. 548, §B1 (RPR). 1993, c. 389, §3 (AMD). 1993, c. 428, §2 (AMD). 1993, c. 600, §§A6,7 (AMD). 1995, c. 309, §26 (AMD). 1995, c. 389, §§2,3 (AMD). 1995, c. 397, §§3-11 (AMD). 1995, c. 402, §§A3,47 (AMD). 1995, c. 502, §§H6-8 (AMD). 1995, c. 505, §4 (AMD). 1995, c. 560, §§H3,4 (AMD). 1995, c. 625, §A17 (AMD). 1995, c. 671, §§6,7 (AMD). 1995, c. 309, §29 (AFF). 1995, c. 505, §22 (AFF). 1995, c. 560, §H17 (AFF). 1997, c. 727, §C1 (AMD). 1997, c. 749, §2 (AMD). 1999, c. 386, §B1 (AMD). 1999, c. 399, §2 (AMD). 1999, c. 687, §C1 (AMD). 1999, c. 399, §20 (AFF). 2001, c. 44, §9 (AMD). 2001, c. 182, §5 (AMD). 2001, c. 261, §5 (AMD). 2001, c. 44, §14 (AFF). 2007, c. 369, Pt. B, §§2-6 (AMD). 2007, c. 402, Pt. C, §1 (AMD). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 369, Pt. C, §5 (AFF). 2007, c. 273, Pt. B, §5 (REV).

10 §8001-A. Department; affiliation

The following boards and commissions are affiliated with the Department of Professional and Financial Regulation: [1989, c. 450, §5 (NEW).]

1. State Board of Registration of Architects and Landscape Architects.

[1991, c. 396, §2 (RP) .]

2. State Board of Cosmetology.

[1991, c. 397, §4 (RP) .]

3. Board of Dental Examiners. Dental Examiners, Board of;

[1989, c. 450, §5 (NEW) .]

4. Board of Licensure in Medicine. Medicine, Board of Licensure in;

[1993, c. 600, Pt. A, §8 (AMD) .]

5. State Board of Nursing. Nursing, State Board of;

[1989, c. 450, §5 (NEW) .]

6. Board of Optometric Examiners. Optometric Examiners, Board of;

[1989, c. 450, §5 (NEW) .]

7. Board of Osteopathic Licensure. Osteopathic Licensure, Board of;

[1993, c. 600, Pt. A, §9 (AMD) .]

8. Board of Examiners of Podiatrists.

[1993, c. 600, Pt. A, §10 (RP) .]

9. Board of Registration for Professional Engineers. Professional Engineers, Board of Registration for.

[1989, c. 450, §5 (NEW) .]

SECTION HISTORY

1989, c. 450, §5 (NEW). 1991, c. 396, §2 (AMD). 1991, c. 397, §4 (AMD). 1993, c. 600, §§A8,10 (AMD).

10 §8002. Duties and authority of commissioner

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to: [1999, c. 687, Pt. C, §2 (AMD).]

1. Budget. Prepare the budget for the department;

[1975, c. 767, §9 (RPR) .]

2. Personnel. Except as otherwise specified, appoint and remove, subject to the Civil Service Law, all personnel considered necessary to fulfill the duties and functions of the department; appoint an assistant to the commissioner to serve at the commissioner's pleasure; and transfer personnel within the department to ensure efficient utilization of department personnel;

[1995, c. 502, Pt. H, §9 (AMD) .]

3. Purchases. Coordinate the purchase and use of all equipment and supplies within the department;

[1995, c. 502, Pt. H, §9 (AMD) .]

4. Review. Review the organization, functions and operation of bureaus, offices, boards and commissions within and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies fully with its statutory and public service responsibilities;

[1995, c. 502, Pt. H, §9 (AMD) .]

5. Liaison. Act as a liaison among the bureaus, offices, boards and commissions within and affiliated with the department and act as liaison between them and the Governor;

[1995, c. 502, Pt. H, §9 (AMD) .]

6. Recommendations. Recommend to the Governor and Legislature those changes in the laws relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department as the commissioner determines desirable;

[1995, c. 502, Pt. H, §9 (NEW) .]

7. Delegate authority. Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority;

[1997, c. 727, Pt. A, §4 (AMD) .]

8. Adequate resources. Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned;

[1999, c. 184, §12 (AMD) .]

9. Licensing. Coordinate all administrative processes related to licensing functions of bureaus, offices, boards and commissions within the department, including but not

limited to the frequency and form of applications and licenses;

[2007, c. 466, Pt. C, §3 (AMD) .]

10. Confidentiality of shared information. Keep confidential any information provided by or to the commissioner that has been designated confidential by the agency, bureau, board or commission within or affiliated with the department that furnished the information and that is the property of the agency, bureau, board or commission that furnished the information. Any information provided pursuant to this subsection may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency, bureau, board or commission that furnished the information; and

[2007, c. 466, Pt. C, §4 (AMD) .]

11. Report on fees. By December 1st of each even-numbered year, conduct a review of the fees assessed by the department and provide a written report to the State Budget Officer and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and financial services matters and business, research and economic development matters identifying any fee changes the commissioner recommends for the next biennium.

[2007, c. 466, Pt. C, §5 (NEW) .]

SECTION HISTORY

1973, c. 585, §4 (RPR). 1975, c. 134, §5 (AMD). 1975, c. 579, §2 (AMD). 1975, c. 770, §59 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 78, §37 (AMD). 1977, c. 564, §49 (AMD). 1983, c. 489, §7 (AMD). 1983, c. 553, §12 (AMD). 1985, c. 748, §§16,17 (AMD). 1993, c. 659, §B1 (AMD). 1995, c. 502, §H9 (AMD). 1997, c. 727, §§A3-5 (AMD). 1999, c. 184, §§12-14 (AMD). 1999, c. 687, §§C2-4 (AMD). 2007, c. 466, Pt. C, §§3-5 (AMD).

10 §8003. Departmental organization; duties

1. Division of Administrative Services. There is created a Division of Administrative Services, which is a division within the department under the commissioner's office, to provide assistance to the commissioner and to the agencies within and affiliated with the department in civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform other duties the commissioner designates. The commissioner may employ a Director of Administrative Services and clerical and technical assistants necessary to discharge the duties of the division and shall outline their duties and fix their compensation, subject to the Civil Service Law.

A. Within the Division of Administrative Services, there is a computer services section. It is the responsibility of the computer services section to provide technical assistance to the Office of Licensing and Registration to process and issue original and renewal licenses for the department and for bureaus, offices, boards and commissions within the department as the commissioner directs. The licenses may be processed and

issued only upon authorization of the appropriate bureau, office, board or commission or upon the authorization of the commissioner in the case of licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, offices, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner directs. [1995, c. 502, Pt. H, §10 (AMD).]

[1995, c. 502, Pt. H, §10 (AMD) .]

2. Office of Licensing and Registration.

[1999, c. 687, Pt. C, §5 (RP) .]

2-A. Office of Licensing and Registration. There is created an Office of Licensing and Registration, referred to in this subsection as the "office," composed of the boards, commissions and regulatory functions set forth in section 8001, subsection 38. The commissioner may appoint a Director of the Office of Licensing and Registration and those clerical and technical assistants who are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. Notwithstanding any other provision of law granting authority to a board or commission, the Director of the Office of Licensing and Registration has the following superseding powers, duties and functions:

A. To administer the office and maximize and direct the use of personnel and financial resources to regulate professionals in the best interest of the public; [1999, c. 687, Pt. C, §6 (NEW).]

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory purposes of the boards and commissions. The Director of the Office of Licensing and Registration shall maintain one office budget that includes a separate account for each board or commission. The Director of the Office of Licensing and Registration has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or that would seriously jeopardize a board's or commission's fiscal well-being; [1999, c. 687, Pt. C, §6 (NEW).]

C. To provide all staffing necessary and appropriate to administer the office and carry out the statutory missions of the boards, commissions and regulatory functions. All clerks, technical support staff and supervisors must be assigned to the office and allocated by the director to perform functions on behalf of the various boards, commissions and regulatory functions according to need; [1999, c. 687, Pt. C, §6 (NEW).]

D. To establish by rule and after reasonable notice to the affected board all fees necessary and appropriate for all boards, commissions and regulatory functions within the office, subject to any fee cap established by statute and applicable to that

board, commission or regulatory function. The Director of the Office of Licensing and Registration shall set the criteria for all fees. The criteria must include, but are not limited to, the costs, statutory requirements, enforcement requirements and fees and expenses of each board, commission or regulatory function. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [2001, c. 323, §9 (AMD).]

E. To establish by rule, such processes and procedures necessary to administer the various boards, commissions and regulatory functions of the office, including, but not limited to, a uniform complaint procedure, a uniform procedure regarding protested checks, a uniform policy regarding the treatment of late renewals and a uniform procedure for substantiating continuing education requirements. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [1999, c. 687, Pt. C, §6 (NEW).]

F. To keep records of public meetings, proceedings and actions and to make those records available to the public at cost upon request, unless otherwise prohibited by state or federal law; [1999, c. 687, Pt. C, §6 (NEW).]

G. To enter into contracts to ensure the provision of goods and services necessary to perform regulatory functions and to fulfill statutory responsibilities. This authority includes the ability to employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as necessary to assist the office in carrying out its regulatory functions and to contract office staff to other state and federal regulatory agencies to assist those agencies in carrying out their regulatory functions; [1999, c. 687, Pt. C, §6 (NEW).]

H. To perform licensing functions for other state agencies on a fee-for-service basis; [1999, c. 687, Pt. C, §6 (NEW).]

I. To enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory functions of the office, including, but not limited to, information sharing, coordination of examinations or inspections and joint examinations or inspections. Any information furnished pursuant to this paragraph by or to the office that has been designated confidential by the agency furnishing the information remains confidential and the property of the agency furnishing the information and may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency that furnished the information; [1999, c. 687, Pt. C, §6 (NEW).]

J. To direct staff to review and approve applications for licensure or renewal in accordance with criteria established in statute or in rules adopted by a board or commission. Licensing decisions made by staff may be appealed to the full board or commission; [1999, c. 687, Pt. C, §6 (NEW).]

K. To prepare and submit to the commissioner an annual report of the office's operations, activities and goals; and [1999, c. 687, Pt. C, §6 (NEW).]

L. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes. [1999, c. 687, Pt. C, §6 (NEW).]

[2001, c. 323, §9 (AMD) .]

3. License defined. For purposes of this section, the term "license" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

[1991, c. 509, §1 (AMD) .]

4. Licensing periods; renewal dates. The commissioner may establish expiration or renewal dates and establish whether licenses are issued annually or biennially for all licenses authorized to be issued by bureaus, offices, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, office, board or commission, or the department in the case of a license that it issues directly, shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date established by the commissioner, the license remains in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, office, board or commission. Should a licensee seek to renew the license at the end of the original term, the law or regulations established by the respective bureau, office, board or commission for late renewals or reregistrations apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, offices, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. This section may not change the term or fee for one-time licenses, except as specifically stated.

[1999, c. 386, Pt. B, §3 (AMD) .]

4-A. Disclosure and recording of social security numbers. An individual who applies for a license shall provide that individual's social security number on the application, which must be recorded.

[1997, c. 537, §3 (NEW); 1997, c. 537, §62 (AFF) .]

5. Authority of bureaus, offices, boards or commissions. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Financial Institutions or the Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the Office of Licensing and Registration.

A. [1989, c. 450, §6 (RP).]

A-1. For each violation of applicable laws, rules or conditions of licensure or

registration, the bureau, office, board or commission may take one or more of the following actions:

(1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;

(2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's or registrant's record;

(2-A) Revoke a license or registration;

(3) Impose civil penalties of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant. [2001, c. 167, §1 (AMD).]

B. The bureau, office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2001, c. 167, §1 (AMD).]

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms;

(2) Except as provided in Title 37-B, section 390-A, require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's,

office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate. Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;

(3) Refuse to renew a license or registration or deny a license when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a bureau, office, board or commission order or consent agreement;

(4) Allow licensees or registrants to hold inactive status licenses or registrations in accordance with each bureau's, office's, board's or commission's rules. The fee for an inactive license or registration may not exceed the statutory fee cap established for the bureau's, office's, board's or commission's license or registration renewal set forth in its governing law; or

(5) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules developed pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2005, c. 111, §1 (AMD).]

D. The bureau, office, board or commission may require surrender of licenses and registrations. In order for a licensee's or registrant's surrender of a license or registration to be effective, a surrender must first be accepted by vote of the bureau, office, board or commission. Bureaus, offices, boards and commissions may refuse to accept surrender of licenses and registrations if the licensee or registrant is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this chapter. [1995, c. 502, Pt. H, §10 (AMD).]

E. The bureau, office, board or commission may issue letters of guidance or concern to a licensee or registrant. Letters of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The bureau, office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the bureau, office, board or commission in any subsequent action commenced against the licensee or

registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21, the Maine Health Security Act. [1999, c. 386, Pt. B, §5 (AMD).]

F. A bureau, office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §2 (AMD).]

G. Notwithstanding any other provision of law, any bureau, office, board or commission within or affiliated with the department may issue a temporary license for a period of 6 months and waive all licensing requirements, except for fees, to any applicant upon a showing of current, valid licensure in that profession in another state. [2005, c. 474, §1 (NEW).]

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Any nonconsensual revocation of an occupational or professional license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this section.

[2007, c. 402, Pt. C, §2 (AMD) .]

5-A. Authority of Office of Licensing and Registration. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Licensing and Registration, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

(1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;

(2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the

occupation or profession for which the person is licensed;

(3) Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or of a crime that bears directly on the licensed profession or occupation;

(4) Any violation of the governing law of an office, board or commission;

(5) Any violation of the rules of an office, board or commission;

(6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;

(7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;

(8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;

(9) Noncompliance with an order or consent agreement of an office, board or commission;

(10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or

(11) Any violation of a requirement imposed pursuant to paragraph D, subparagraph (1) or (2). [2007, c. 402, Pt. C, §3 (NEW).]

B. The office, board or commission may impose the following forms of discipline upon a licensee or applicant for licensure:

(1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;

(2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;

(3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;

(4) Revocation of a license;

(5) Imposition of civil penalties of up to \$1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity;

(6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines

appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. [2007, c. 402, Pt. C, §3 (NEW).]

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2007, c. 402, Pt. C, §3 (NEW).]

D. The office, board or commission may:

- (1) Require all applicants for license renewal to respond to all inquiries set forth on renewal forms;
- (2) Require all licensees and applicants for licensure to report in writing any of the following to the office, board or commission no later than 10 days after the change or event, as the case may be:
 - (a) Change of name or address;
 - (b) Criminal conviction;
 - (c) Revocation, suspension or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant or licensee; or
 - (d) Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the office, board or commission.
- (3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A;
- (4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Licensing and Registration if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §3 (NEW).]

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement. [2007, c. 402, Pt. C, §3 (NEW).]

F. The office, board or commission may issue a letter of guidance or concern to a licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21. [2007, c. 402, Pt. C, §3 (NEW).]

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method

of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §3 (NEW).]

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

Any nonconsensual revocation of a professional or occupational license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

[2007, c. 402, Pt. C, §3 (NEW) .]

6. Funding. The commissioner may assess each internal bureau, office, board or commission served by the commissioner's office, the Division of Administrative Services or the Office of Licensing and Registration its reasonable share of an amount sufficient to cover the cost of operating those service agencies. The commissioner may assess any board affiliated with the department for the services the board receives from the department. The commissioner may assess other state agencies for licensing functions performed on behalf of those agencies by the Office of Licensing and Registration.

[1999, c. 687, Pt. C, §8 (AMD) .]

7. Evidentiary effect of certificate. Notwithstanding any provision of law or rule of evidence, the certificate of the commissioner under the seal of the State must be received by any court in this State as prima facie evidence of the issuance, suspension or revocation of any license issued by the department.

[1991, c. 509, §3 (NEW) .]

8. Display of license. In addition to authority otherwise conferred, bureaus, offices,

boards or commissions within or affiliated with the department may specify by rule the conditions under which a licensee's number, name and address are to be displayed to the public.

[1995, c. 502, Pt. H, §10 (AMD) .]

9. Construction.

[1999, c. 687, Pt. C, §9 (RP) .]

10. National disciplinary record system. Within the limits of available revenues, all bureaus, offices, boards or commissions internal or affiliated with the department shall join or subscribe to a national disciplinary record system used to track interstate movement of regulated professionals who have been the subject of discipline by state boards, commissions or agencies and report disciplinary actions taken within this State to that system.

[1995, c. 502, Pt. H, §10 (AMD) .]

SECTION HISTORY

1975, c. 556, §1 (NEW). 1975, c. 705, §3 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 113, (AMD). 1977, c. 273, §§1,2 (AMD). 1983, c. 553, §13 (RPR). 1985, c. 748, §18 (AMD). 1985, c. 785, §B55 (AMD). 1987, c. 595, §2 (AMD). 1987, c. 609, §§1,2 (AMD). 1989, c. 450, §6 (AMD). 1991, c. 509, §§1-3 (AMD). 1993, c. 600, §A11 (AMD). 1993, c. 659, §§B2,3 (AMD). 1995, c. 397, §12 (AMD). 1995, c. 502, §H10 (AMD). 1997, c. 210, §§1-3 (AMD). 1997, c. 537, §3 (AMD). 1997, c. 680, §A1 (AMD). 1997, c. 537, §62 (AFF). 1999, c. 184, §§15-17 (AMD). 1999, c. 386, §§B2-5 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 687, §§C5-9 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 44, §10 (AMD). 2001, c. 167, §1 (AMD). 2001, c. 323, §9 (AMD). 2001, c. 44, §14 (AFF). 2003, c. 204, §B1 (AMD). 2005, c. 111, §1 (AMD). 2005, c. 474, §1 (AMD). 2007, c. 402, Pt. C, §§2, 3 (AMD).

10 §8003-A. Complaint investigation

1. Affiliated boards. In aid of their investigative authority, the licensing boards and commissions affiliated with the department pursuant to section 8001-A may issue subpoenas in the name of the relevant licensing board or commission, in accordance with the terms of Title 5, section 9060, except that the authority applies to any stage of an investigation and is not limited to an adjudicatory proceeding.

[2007, c. 402, Pt. C, §4 (NEW) .]

2. Office of Licensing and Registration. The Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the office, may receive, initiate and investigate complaints alleging any ground for disciplinary action set forth in section 8003, subsection 5-A. To assist with complaint or other investigations, or as otherwise considered necessary for the fulfillment of their responsibilities, the office, boards and commissions may hold hearings and may issue

subpoenas for witnesses, records and documents in the name of the office, board or commission, as the case may be, in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing held pursuant to section 8003, subsection 5-A.

Investigative personnel of the Office of Licensing and Registration, during the normal conduct of their work for boards, commissions and regulatory functions within the office, may conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with specific statutory authority. When specific authority does not exist to appeal an order to correct, that process must be established by rule by the respective board.

[2007, c. 402, Pt. C, §4 (NEW) .]

3. Dispositions available to the public. Upon disposition of each complaint and investigation, the office and all boards and commissions shall make such disposition available to the public.

[2007, c. 402, Pt. C, §4 (NEW) .]

SECTION HISTORY

1985, c. 748, §19 (NEW). 1991, c. 509, §4 (AMD). 1995, c. 502, §H11 (AMD). 2007, c. 402, Pt. C, §4 (RPR).

10 §8003-B. Confidentiality of investigative records

1. During investigation. Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards and commissions within or affiliated with the Department of Professional and Financial Regulation are confidential during the pendency of an investigation. Those records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

- A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter IV has been issued; [1989, c. 173, (NEW).]
- B. [1999, c. 687, Pt. C, §10 (RP).]
- C. A consent agreement has been executed; or [1989, c. 173, (NEW).]
- D. A letter of dismissal has been issued or the investigation has otherwise been closed. [1989, c. 173, (NEW).]

[1999, c. 687, Pt. C, §10 (AMD) .]

2. Exceptions. Notwithstanding subsection 1, during the pendency of an investigation, a complaint or investigative record may be disclosed:

- A. To department employees designated by the commissioner; [1989, c. 173, (NEW).]
- B. To designated complaint officers of the appropriate board or commission; [1989, c. 173, (NEW).]

C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation; [1989, c. 173, (NEW).]

D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies; [1989, c. 173, (NEW).]

E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated; [1989, c. 173, (NEW).]

F. Pursuant to rules which shall be promulgated by the department, when it is determined that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; and [1989, c. 173, (NEW).]

G. To the person investigated on request. The commissioner may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the commissioner determines that disclosure would prejudice the investigation. The authority of the commissioner to make such a determination shall not be delegated. [1989, c. 173, (NEW).]

[1989, c. 173, (NEW) .]

2-A. Certain client records confidential. Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person; [1993, c. 552, §1 (NEW).]

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions; [1993, c. 552, §1 (NEW).]

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation; [1993, c. 552, §1 (NEW).]

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or [2001, c. 345, §1 (AMD).]

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect. [1993, c. 552, §1 (NEW).]

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

[2001, c. 345, §1 (AMD) .]

3. Attorney General records. The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality of those records for any other purposes. Further disclosure of those investigative records is subject to Title 16, section 614 and the discretion of the Attorney General.

[1993, c. 719, §4 (AMD); 1993, c. 719, §12 (AFF) .]

4. Violation. A person who knowingly or intentionally makes a disclosure in violation of this section or who knowingly violates a condition of a release pursuant to subsection 2-A commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

[1993, c. 552, §2 (AMD) .]

SECTION HISTORY

1989, c. 173, (NEW). 1993, c. 552, §§1,2 (AMD). 1993, c. 719, §4 (AMD). 1993, c. 719, §12 (AFF). 1999, c. 386, §B6 (AMD). 1999, c. 687, §§C10,11 (AMD). 2001, c. 345, §1 (AMD).

10 §8003-C. Unlicensed practice

1. Complaints of unlicensed practice. A board or commission listed in section 8001, subsection 38 or section 8001-A may receive or initiate complaints of unlicensed practice.

[1999, c. 687, Pt. C, §12 (NEW) .]

2. Investigation of unlicensed practice. Complaints or allegations of unlicensed practice may be investigated by the Office of Licensing and Registration, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

[1999, c. 687, Pt. C, §12 (NEW) .]

3. Unlicensed practice; criminal penalties. Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized

to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has expired or been suspended or revoked commits a Class E crime; and [2003, c. 452, Pt. E, §10 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years. [2003, c. 452, Pt. E, §10 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. X, §2 (AFF); 2003, c. 452, Pt. E, §10 (RPR) .]

4. Unlicensed practice; civil penalties. Any person who practices or represents to the public that the person is authorized to practice a profession or trade without first obtaining a license as required by this Title or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$100 but not more than \$2,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

[1999, c. 687, Pt. C, §12 (NEW) .]

5. Unlicensed practice; injunctions. The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4, whether or not proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted, and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

[2007, c. 402, Pt. C, §5 (AMD) .]

6. Unlicensed practice; private cause of action; repeal.

[2005, c. 378, §1 (NEW); 2005, c. 378, §29 (AFF); T. 10, §8003-C, sub-§6 (RP) .]

SECTION HISTORY

1999, c. 687, §C12 (NEW). 2003, c. 452, §E10 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 378, §1 (AMD). 2005, c. 378, §29 (AFF). 2007, c. 402, Pt. C, §5 (AMD).

10 §8003-D. Investigations; enforcement duties; assessments

When there is a finding of a violation, a board or commission listed in section 8001, subsection 38 or section 8001-A may assess the licensed person or entity for all or part of the actual expenses incurred by the board, commission or its agents for investigations and enforcement duties performed. [1999, c. 687, Pt. C, §12 (NEW).]

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record. [1999, c. 687, Pt. C, §12 (NEW).]

The board or commission, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board or commission, which may not be less than 30 days. [1999, c. 687, Pt. C, §12 (NEW).]

SECTION HISTORY

1999, c. 687, §C12 (NEW).

10 §8003-E. Citations and fines

Any board or commission listed in section 8001, subsection 38 or section 8001-A may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Licensing and Registration or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission regarding the violation. [1999, c. 687, Pt. C, §12 (NEW).]

SECTION HISTORY

1999, c. 687, §C12 (NEW).

10 §8003-F. Disposition of fees

All money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be paid to the Treasurer of State and credited to the account for that board, commission or regulatory function within the budget of the Office of Licensing and Registration. [1999, c. 687, Pt. C, §12 (NEW).]

Money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony, procuring the attendance of witnesses, all legal proceedings initiated for enforcement and administering the office. [1999, c. 687, Pt. C, §12 (NEW).]

Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. [1999, c. 687, Pt. C, §12 (NEW).]

SECTION HISTORY
1999, c. 687, §C12 (NEW).

10 §8004. Annual reports

Notwithstanding any other provision of law, all annual reports or statements required of bureaus and offices within the department must be submitted to the commissioner not later than August 1st of each year and must summarize the operations and financial position of the bureau or office for the preceding fiscal year ending June 30th. After reviewing such reports and statements, the commissioner shall compile them into a report for submission to the Governor, together with such analysis as the Governor may direct. [1999, c. 687, Pt. C, §13 (AMD).]

SECTION HISTORY
1975, c. 767, §9 (NEW). 1999, c. 687, §C13 (AMD).

10 §8004-A. Legislative reports

The Director of the Office of Licensing and Registration shall report annually to the joint standing committee of the Legislature having jurisdiction over professional licensing and registration on the status of licensing fees and fee caps. [2001, c. 323, §10 (NEW).]

SECTION HISTORY
2001, c. 323, §10 (NEW).

10 §8005. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of bureaus, boards or commissions that compose or are affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201. [1995, c. 694, Pt. D, §7 (AMD); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY
1993, c. 410, §V1 (NEW). 1995, c. 694, §D7 (AMD). 1995, c. 694, §E2 (AFF).

10 §8005-A. Licensees not in compliance with court-ordered fine, fee or

restitution; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as required by bureaus, boards and commissions within or affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees may not hold any such license when there has been a court-ordered suspension of that license as provided by Title 14, sections 3141 and 3142. [2003, c. 193, §1 (NEW).]

SECTION HISTORY

2003, c. 193, §1 (NEW).

10 §8006. Licensees not in compliance with court order of support and other court orders; enforcement of parental support obligations and suspensions

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" means any bureau, board or commission listed in section 8001 or 8001-A, other licensors that are affiliated with or are a part of the department and the Board of Overseers of the Bar. [1993, c. 410, Pt. V, §1 (NEW).]

B. "Compliance with a support order" means that the support obligor has obtained or maintained health insurance coverage if required by a support order and is:

(1) No more than 60 days in arrears in making any of the following payments:

(a) Payments in full for current support;

(b) Periodic payments on a support arrearage pursuant to a written agreement with the Department of Health and Human Services; and

(c) Periodic payments as set forth in a support order; and

(2) No more than 30 days in arrears in making payments as described in subparagraph (1) if the obligor has been in arrears for more than 30 days in making payments as described in subparagraph (1) at least 2 times within the past 24 months. [2003, c. 396, §1 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

C. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief. [2003, c. 396, §1 (RPR).]

D. "Court-ordered suspension" means a suspension by a court of the right of a licensee to hold a professional license based on the contempt procedures pursuant to Title 14, sections 3141 and 3142. [2003, c. 193, §2 (NEW).]

[2003, c. 193, §2 (AMD); 2003, c. 396, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Noncompliance with a support order. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who is not in compliance with a support order is subject to the requirements of Title 19-A, section 2201.

[2003, c. 396, §2 (AMD) .]

3. Court-ordered suspension. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who has not paid a court-ordered fine, court-appointed attorney's fees or court-ordered restitution is subject to court suspension of all licenses as provided in Title 14, sections 3141 and 3142.

[2003, c. 193, §2 (NEW) .]

SECTION HISTORY

1993, c. 410, §V1 (NEW). 1995, c. 694, §D8 (AMD). 1995, c. 694, §E2 (AFF). 2003, c. 193, §2 (AMD). 2003, c. 396, §§1,2 (AMD). 2003, c. 689, §B6 (REV).

10 §8007. Board member candidate information

The Commissioner of Professional and Financial Regulation or the chief staff administrator for an occupational and professional regulatory board shall work with the Executive Department to prepare general information regarding the purpose of an occupational and professional regulatory board and the role, responsibility and perspective of a member of an occupational and professional regulatory board, including a public member. The material must also include information specific to the board for which the individual is a prospective member, including but not limited to the time commitment, remuneration and any other pertinent details. [1993, c. 600, Pt. A, §12 (NEW).]

This information must be provided to all new candidates for membership on an occupational and professional regulatory board and to members seeking reappointment in order to fully inform the candidate or member about the nature of the position. Prior to gubernatorial appointment or reappointment, the candidate or member shall sign a statement indicating that the candidate or member has read the material and is prepared to properly discharge the duties of a member of an occupational and professional regulatory board. Failure to sign this statement disqualifies the candidate or member for appointment or reappointment on a board. [1993, c. 600, Pt. A, §12 (NEW).]

SECTION HISTORY

1993, c. 600, §A12 (NEW).

10 §8008. Purpose of occupational and professional regulatory boards

The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose. [1993, c. 600, Pt. A, §12 (NEW).]

SECTION HISTORY
1993, c. 600, §A12 (NEW).

10 §8009. Standardized terms

Notwithstanding any other provision of law, upon expiration of a professional or occupational licensing board member's term, that member serves until a successor is appointed. The successor's term commences at the expiration of the preceding term, regardless of the date of appointment. A vacancy occurring prior to the expiration of a specified term must be filled by appointment of a similarly qualified individual as a replacement. The replacement member serves for the remainder of the unexpired term, regardless of the date of appointment. [2007, c. 402, Pt. C, §6 (NEW).]

SECTION HISTORY
2007, c. 402, Pt. C, §6 (NEW).

BOARD OF ACCOUNTANCY RULES

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 1 - DEFINITIONS

SUMMARY: This chapter outlines the definitions of the Maine Board of Accountancy.

As used in these Rules, unless the context indicates otherwise, the following terms have the following meanings:

1. **AICPA.** AICPA means the American Institute of Certified Public Accountants.
2. **APPROVED REVIEWER.** Approved Reviewer means an individual licensed by the Board, or by another jurisdiction, who has been approved by a Report Acceptance Body, to be responsible for conducting peer reviews of firms.
3. **CONTACT HOURS.**
 - A. **CLASSROOM.** Hours in the classroom which hourly period must include at least 50 minutes of continuous participation.
 - B. **SELF-STUDY PROGRAMS.** Hours of self-study recommended by the CPE sponsor for successful completion of the self-study course.
4. **CPA.** CPA means Certified Public Accountant.
5. **CPE.** CPE means Continuing Professional Education.
6. **IQAB.** IQAB means the International Qualifications Appraisal Board.
7. **LICENSED.** Licensed means holding a Permit to Practice issued by the Board.
8. **FIRM.** Firm means an organization holding a license issued by the Board under 32 M.R.S.A. §12252. Solely, for purposes of Peer Review, "Firm" means an organization licensed by the Board to engage in practice as Certified Public Accountants.
9. **MULTI-JURISDICTIONAL FIRM.** Multi-jurisdictional Firm means a firm with some members or employees who hold licenses issued by the Board and with other members or employees who hold licenses or permits to practice issued by one or more other jurisdictions.
10. **NASBA.** NASBA means the National Association of State Boards of Accountancy.

11. **NONDISCLOSED EXAMINATION.** Nondisclosed examination means that CPA and PA candidates are not allowed to retain or receive their question booklets after the examination has been administered.
12. **OFF-SITE PEER REVIEW.** Off-Site Peer Review means a peer review conducted outside of the office of a reviewed firm, which consists of reviewing selected financial statements, the reports thereon, and related documents to determine compliance with professional standards, sufficient to provide the Approved Reviewer with a reasonable basis upon which to issue a peer review report meeting the requirements of these rules.
13. **ON-SITE PEER REVIEW.** On-Site Peer Review means a peer review conducted at the office of a reviewed firm, which includes testing compliance with the firm's quality control policies and procedures, and a review of selected engagements, sufficient to provide the Approved Reviewer with a reasonable basis upon which to issue a peer review report meeting the requirements of these rules.
14. **PA.** PA means Public Accountant.
15. **PERMIT TO PRACTICE.** Permit to Practice means a license issued by the Board.
16. **REPORT ACCEPTANCE BODY.** Report Acceptance Body means a firm, professional society, or other organization approved by the Board to be responsible for the selection of Approved Reviewers, the acceptance of Peer Reviews and letters of comments issued by Approved Reviewers, and the consideration of any responses of a reviewed firm to its peer review.
17. **STATE.** State means the State of Maine.

AUTHORITY: 32 M.R.S.A. §12214(4)

EFFECTIVE DATE: November 4, 2001

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 2 - GENERAL INFORMATION

SUMMARY: This rule establishes guidelines relating to meetings, advisory rulings, and maintenance of records.

1. MEETING NOTICES

The Department shall be responsible for distributing meeting notices to the board members and to others as required by statute or rule. A notices will be provided to any person who requests a copy.

2. MEETING AGENDAS

- A. An agenda for meetings shall be prepared by the Department and shall include business requiring consideration or action by the board members. The agenda shall also include all business items requested by the Board members provided such request is received by the Board at least ten (10) days in advance of the meeting.
- B. Business not included on the agenda may be considered following an affirmative vote of a majority of the board members present.

3. RECORDS

The Department shall maintain a record of all business conducted by the Board and shall preserve, subject to the provisions of 5 M.R.S.A. Chapter 6, all books, documents and papers entrusted to their care. Records shall be opened to public inspection subject to 1 M.R.S.A. Chapter 13. Delays in making records available for inspection may be occasioned by action necessary to preserve the security of records, to obtain legal advice, or to avoid disrupting regular business activities and for these reasons, it is recommended that requests be submitted three (3) business days in advance of anticipated inspection.

Access to written communication with the Department of the Attorney General, criminal history records, materials relating to license examinations, pending complaints, and other records may be restricted subject to 1 M.R.S.A. Chapter 13 and other applicable laws.

3. ADVISORY RULINGS

- A. Authority and Scope. The Board may issue advisory rulings pursuant to 5 M.R.S.A. §9001, concerning the applicability of any statute or rule it administers to an existing factual situation. Each request shall be reviewed individually by the Board to determine whether an advisory ruling is appropriate. The Board may, at its discretion, decline the request for an advisory ruling. An advisory ruling is not legally binding upon the Board pursuant to 5 M.R.S.A. §9001 of the Administrative Procedure Act.
- B. Submission. A request for an advisory ruling shall be in writing and shall set forth in detail all facts pertinent to the question. The Board may require the submission of additional information as necessary to complete a factual background for a ruling by the Board.
- C. Ruling. An advisory ruling shall be in writing and shall include a statement of facts or assumptions, or both, upon which the ruling is based. The statement, without reference to other documents, shall be sufficiently detailed to apprise the reader of the basis of the opinion. An advisory ruling shall be signed by the Chairperson of the Board, shall be identified specifically as an advisory ruling, and shall be numbered serially.
- D. Publication. An advisory ruling shall be mailed to the requesting party and a copy shall be kept by the Board Administrator. An advisory ruling is a public document and shall be available for public inspection during the normal working hours of the Board. In addition, the Board, as it deems appropriate, may otherwise publish or circulate any advisory ruling.

AUTHORITY: 32 M.R.S.A. §12214(4)

EFFECTIVE DATE: April 25, 1999

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 3 - EXAMINATION REQUIREMENTS

SUMMARY: This chapter outlines the eligibility requirements to sit for the Certified Public Accountant and Public Accountant examination and the examination procedure.

1. APPLICATION FOR EXAMINATION

- A. Application to take the examination must be made on a form provided by the Board.
- B. An application will not be considered filed until the examination fee 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 the candidate has satisfied the education requirements of 32 M.R.S.A. Sections 12228(3) or 12240(3).
- C. A candidate who fails to appear for the examination shall forfeit all fees charged for both the application and the examination. Specific requests for refund of the examination fee may be considered by the Board.
- D. The Board or its designee will forward notification of eligibility for the computer-based examination to NASBA's National Candidate Database.

2. ELIGIBILITY

- A. Certified Public Accountant. A candidate shall be eligible to take the examination without waiting until the candidate meets the experience requirements, provided the candidate meets the requirements of 32 M.R.S.A. §12228(3) and these rules.
- B. Public Accountant. A candidate shall be eligible to take the examination without waiting until the candidate meets the experience requirements, provided the candidate meets the requirements of 32 M.R.S.A. §12240(3) and these rules.

3. EDUCATIONAL REQUIREMENT

- A. Certified Public Accountant. Title 32 M.R.S.A. §12228(3) sets forth the education required of candidates applying for CPA certification. The 150 semester hours shall consist of at least 15 hours of accounting, auditing,

and ethics which must include at least three hours of auditing and three hours of accounting.

- B. Public Accountant. Title 32 M.R.S.A. §12240(3) sets forth the education required of candidates applying for PA certification.
- C. A college or university will be considered to be an "accredited college or university" if the college or university is accredited by an accrediting agency in good standing of the Council on Postsecondary Accreditation or equivalent agency. In the matter of foreign colleges or universities, the candidate shall submit his transcript to the Foreign Academic Credential Service or other service approved by the Board for its evaluation. Upon receipt of such evaluation, the Board shall determine the education qualification of such applicant.

4. TIME AND PLACE OF EXAMINATION

Eligible candidates will be notified of the time and place of the examination or may independently contact a test center operator identified by the Board to schedule the time and place for the examination at an approved test site. Scheduling reexaminations must be done in accordance with Section 7 below.

5. EXAMINATION

The examination administered by the Board is the AICPA Uniform CPA examination. The examination tests the knowledge and skills required for performance as an entry-level certified public accountant or public accountant. The examination includes the subject areas of accounting and auditing and related knowledge and skills as the Board may require.

6. DETERMINING AND REPORTING EXAMINATION GRADES

A candidate shall be required to pass all test sections of the examination provided for in Section 7(C) in order to qualify for a certificate. 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. The passing grade for each test section shall be 75.

7. RETAKE AND GRANTING OF CREDIT REQUIREMENTS

- A. A candidate may take the required test sections individually and in any order. Credit for any test section(s) passed shall be valid for eighteen (18) months from the actual date the candidate took that test section, without having to attain a minimum score on any failed test section(s) and without regard to whether the candidate has taken other test sections.

1. Candidates must pass all four test sections of the Uniform CPA Examination within a rolling eighteen-(18) month period, which begins on the date that the first test section(s) passed is taken.
 2. Candidates cannot retake a failed test section in the same examination window. An examination window refers to a three-(3) month period in which candidates have an opportunity to take the examination (comprised of two months in which the examination is available to be taken and one month 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 two out of the three months within an examination window.
 3. In the event all test sections of the Uniform CPA Examination are not passed within the rolling eighteen-(18) month period, credit for any test sections(s) passed outside the eighteen-(18) month period will expire and such test section(s) must be retaken.
- B. Candidates having earned conditional credits on the paper-and-pencil examination, as of the first date the computer-based Uniform CPA Examination is given, will retain conditional credits for the corresponding test sections of the computer-based examination as follows:

Paper-and-Pencil Examination	Computer-Based Examination
Auditing	Auditing and Attestation
Financial Accounting and Reporting (FARE)	Financial Accounting and Reporting
Accounting and Reporting (ARE)	Regulation
Business Law and Professional Responsibilities (LPR)	Business Environment and Concepts

1. Candidates who have attained conditional credit as of the first date the computer-based Uniform CPA Examination is given will be allowed a transition period to complete any remaining test sections of the examination. A conditional candidate may take the examination as many times as he would have had remaining to complete all remaining test sections as of the first date of the computer-based examination. The candidate must also complete the examination within the time frame of six months times that number of opportunities to pass all sections of the examination.
2. If a candidate previously earned conditional credit under the paper-and-pencil examination does not pass all remaining test sections during the transition period, conditional status earned will expire and the candidate will lose credit for the test sections earned under the paper-and-pencil examination.

- C. 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.
- D. The Board may, in particular cases, extend the term of conditional credit validity notwithstanding the requirements of subsections A and B, upon a showing that the credit was lost by reason of circumstances beyond the candidate's control.
- E. 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 computer-based 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.

8. CANDIDATE TESTING FEE

For each test section scheduled by the candidate, the candidate shall pay to the Board or its designee, a Candidate Testing Fee that includes the actual fees charged by the AICPA, NASBA, and the test delivery service provider.

9. CHEATING

- A. Cheating by a candidate in applying for, taking or subsequent to the examination will be deemed to invalidate any grade otherwise earned by a candidate on a test section of the examination, and may warrant summary expulsion from the test site and disqualification from taking the examination for a specified period of time.
- B. For purposes of this rule, the following actions or attempted activities, among others, may be considered cheating:
 - 1. Falsifying or misrepresenting educational credentials or other information required for admission to the examination;
 - 2. Communication between candidates inside or outside the test site or copying another candidate's answers while the examination is in progress;
 - 3. Communication with others inside or outside the test site while the examination is in progress;

4. Substitution of another person to sit in the test site in the stead of a candidate;
 5. Reference to crib sheets, textbooks or other material or electronic media (other than that provided to the candidate as part of the examination) inside or outside the test site while the examination is in progress;
 6. Violating the nondisclosure prohibitions of the examination or aiding or abetting another in doing so; and
 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.
- C. In any case where it appears that cheating has occurred or is occurring, 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.
- 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 the Administrative Procedures Act following the examination session for the purpose of determining whether or not there was cheating, and if so what remedy should be applied. In such proceedings, the Board shall decide:
1. Whether the candidate shall be given credit for any portion of the examination completed in that session; and
 2. Whether the candidate shall be barred from taking the examination and if so, for what period of time.
- E. In any case where the Board or its representatives permits a candidate to continue taking the examination, it may, depending on the circumstances:
1. Admonish the candidate;
 2. Seat the candidate in a segregated location for the rest of the examination; and/or

3. Keep a record of the candidate's seat location and identifying information, and the names and identifying information of the candidates in close proximity of the candidate.
 4. Notify the National Candidate Database and the AICPA and/or the Test Center of the circumstances, so that the candidate may be more closely monitored in future examination sessions.
- F. In any case in which a candidate is refused credit for any test section of an examination taken, disqualified from taking any test section, or barred from taking the examination in the future, the Board will provide to any other state to which the candidate may apply for the examination information as to the Board's findings and actions taken.

10. 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.

AUTHORITY: 32 M.R.S.A. §12214(4), §12228(4), §12240(4)
EFFECTIVE DATE: March 8, 2004

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 4 – APPLICATION FOR CERTIFICATE

SUMMARY: This chapter sets forth the application process and the experience requirements for obtaining a certificate of “Certified Public Accountant” and “Public Accountant”.

Applications for a certificate of “Certified Public Accountant” under 32 M.R.S.A. §12228 or for a certificate of “Public Accountant” under 32 M.R.S.A. §12240 must be submitted on a form provided by the Board and must be accompanied by the application fee. A candidate applying for a certificate of “Certified Public Accountant” or “Public Accountant” must comply with the following requirements.

1. EXAMINATION

The candidate must have passed the examination as provided in Chapter 3.

2. EXPERIENCE

A candidate applying for a certificate of “Certified Public Accountant” under 32 M.R.S.A. §12228 must comply with the experience requirement of 32 M.R.S.A. §12228(10) and these rules. A candidate applying for a certificate of “Public Accountant” under 32 M.R.S.A. §12240 must comply with the experience requirements of 32 M.R.S.A. §12240(7) and these rules.

- A. Experience in the practice of public accountancy must be under the supervision of an individual licensed to practice public accountancy by this or another state and must be such as to acquaint the individual with auditing and attesting to the accuracy and fairness of financial statements, with an independent state of mind.
- B. This experience must include the following or an equivalent as determined by the Board:
 - 1. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records in accordance with Generally Accepted Accounting Principles;
 - 2. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records;

3. Experience in the preparation of written explanations and comments on the findings of the examination and on the content of the accounting records;
 4. Personal involvement in the preparation of audited financial statements in accordance with Generally Accepted Accounting Principles together with explanations and notes thereon and be such as to acquaint the individual with the preparation of the compilation and review of financial statements in accordance with generally accepted professional standards such as Statements on Standards for Accounting and Review Services;
 5. Involvement in the planning process of an audit;
 6. A minimum of 400 hours of experience in audit, review, or compilation procedures; and
 7. A minimum of 200 hours of experience in at least one of the following: the provision of management advisory, financial advisory or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters.
- C. The Board may give credit for non-public accounting experience if it is determined to be substantially equivalent to the experience set forth in these Rules.
- D. For purposes of computing experience for part-time employees, 2,080 hours of work experience constitutes one (1) year of experience and 173 hours of part-time employment constitutes one (1) month of experience.
- E. The required experience shall be verified by the completion of a form provided by the Board. The Board may, at its discretion, request further documentation to verify such experience.

AUTHORITY: 32 M.R.S.A. §12214(4), §12228(10), §12240(7)
EFFECTIVE DATE: March 8, 2004

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 5 - PERMITS TO PRACTICE, INDIVIDUAL

SUMMARY: This chapter sets forth the application process and requirements for individual permits to practice and continuing professional education requirements for maintaining licensure.

1. APPLICANTS FOR PERMITS TO PRACTICE AS CERTIFIED PUBLIC ACCOUNTANTS

- A. A holder of a certificate issued by this State pursuant to 32 M.R.S.A. §12228 who is applying for an initial permit must meet the requirements of 32 M.R.S.A. §12251(3) and submit an application on a form provided by the Board together with the license fee._
- B. A holder of a certificate issued by another state who is applying for a permit must meet the requirements of 32 M.R.S.A. §12251(4-A) and submit an application on a form provided by the Board together with the application and license fee._Such application must include:
 - 1. The name of the state which issued the certificate;
 - 2. The certificate number (where applicable) and the date such certificate was issued. If the applicant is or has been issued a permit to practice in a jurisdiction that does not issue a certificate equivalent to a certificate issued pursuant to 32 M.R.S.A. §12228, information concerning such applicant's license or permit to practice in such other jurisdiction may be submitted to satisfy this requirement; and
 - 3. Verification directly from such other state that no formal discipline has been entered against the applicant.

2. APPLICANTS FOR PERMITS TO PRACTICE AS PUBLIC ACCOUNTANTS

- A. A holder of a certificate issued by this State pursuant to 32 M.R.S.A. §12240 who is applying for an initial permit must meet the requirements of 32 M.R.S.A. §12251(3) and submit an application on a form provided by the Board together with the license fee.
- B. A holder of a certificate issued by another state who is applying for a permit must meet the requirements of 32 M.R.S.A. §12251(4) and submit an

application on a form provided by the Board together with the application and license fee. Such application must include:

1. The name of the state which issued the certificate;
2. The certificate number (where applicable) and the date such certificate was issued. If the applicant is or has been issued a permit to practice in a jurisdiction that does not issue a certificate equivalent to a certificate issued pursuant to 32 M.R.S.A. §12240, information concerning such applicant's license or permit to practice in such other jurisdiction may be submitted to satisfy this requirement; and
3. Verification directly from such state(s) that no formal discipline has been entered against the applicant.

3. APPLICANTS HOLDING CREDENTIALS FROM ANOTHER COUNTRY

- A. The Board recognizes the existence of the International Qualifications Appraisal Board (IQAB), a joint body of NASBA and the AICPA, which is charged with:
 1. Evaluating the professional credentialing process of certified public accountants, or their equivalents, of countries other than the United States; and
 2. Negotiating principles of reciprocity agreements with the appropriate professional and/or governmental bodies of other countries seeking recognition as having requirements substantially equivalent to U.S. requirements for the certificate of a certified public accountant.
- B. The Board shall give consideration to the terms of all principles of reciprocity agreements issued by IQAB.

4. LICENSE RENEWAL

- A. Expiration. All licenses issued under this chapter expire September 30 each year.
- B. Eligibility for Renewal. Applications for renewal of a license governed by this chapter must be on a form provided by the Board and must be accompanied by the fee established by the Director. A license may be renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

5. LICENSE REINSTATEMENT

Any person who submits an application for reinstatement shall demonstrate that he has fulfilled 80 hours of continuing professional education requirements in the last 24 months as set forth in Section 6 of this rule. The 80 hours of continuing professional education must include four hours of ethics.

6. CONTINUING PROFESSIONAL EDUCATION

- A. The Board requires all licensees to obtain 40 hours of CPE annually and 120 hours of CPE every three years, due at time of renewal. The annual period for measurement of CPE shall be the twelve month period beginning on October 1 and ending on September 30 of the following calendar year. If a licensee obtains more than 40 hours of CPE in any measurement period, no more than 20 hours of such excess may be carried forward and utilized in the immediately succeeding measurement period. (For example, an individual who obtains 70 hours of CPE in one year and 30 hours in the succeeding year has 30 excess hours in the first year. The licensee may carry forward 20 hours from the first year to the second in order to make up a deficiency and satisfy the CPE requirement for the second year. However, the licensee may not carry any of the excess from the first year to satisfy the CPE requirement in any subsequent year.)

A person who is issued his initial certificate as a CPA or as a PA will not be required to meet the CPE requirements for his first renewal period ending September 30.

- B. All licensees must obtain at least 4 hours of CPE in professional ethics every three years. Acceptable CPE in ethics may include a program of study of the accountancy laws and rules of the State of Maine and the Code of Conduct, or equivalent standards of the Securities Exchange Commission, the AICPA, or similar regulatory agency or professional organization. (Refer to Section 6 of these rules.)
- C. The Board may verify information submitted by an applicant by whatever means it deems appropriate.
- D. Licensees must maintain evidence in support of their CPE for a period of 3 years. Such evidence should include course outlines and proof of attendance.

7. CPE PROGRAM REQUIREMENTS

A. PROGRAMS WHICH QUALIFY.

A specific program will qualify as acceptable CPE if it is a formal program of learning, which contributes directly, at a professional level, to the professional competence of a licensee in public practice. It will be left to the individual licensee to determine the course of study to be pursued.

1. **ACCEPTABLE PROGRAMS.** The following are deemed to qualify as acceptable CPE programs:
 - a. Professional development programs of state and national professional accounting societies or institutes;
 - b. Accredited university or college credit or non-credit courses;
 - c. Formal correspondence or other individual study programs. Such programs must require registration and provide evidence of satisfactory completion; provided, however, that credit for such programs may not exceed 50% of the hours required by these rules.
 - d. Formal organized in-firm education programs;
 - e. Meetings of the National Association of State Boards of Accountancy (NASBA); and
 - f. Other formal, organized educational programs.

B. PROGRAMS WHICH DO NOT QUALIFY

1. Any program or course specifically designed to prepare for the taking of the CPA or PA examination.
2. Committee service of professional organizations.

C. STANDARDS FOR CPE PROGRAMS

1. **STANDARDS FOR CPE PROGRAM DEVELOPMENT**
 - a. The program should contribute to the professional competence of participants.
 - b. Programs should be developed by persons qualified in the subject matter and in instructional design.

- c. Program content should be current.
- d. Programs should be reviewed by a qualified person other than the preparer to ensure compliance with the above standards.

2. STANDARDS FOR CPE PROGRAM PRESENTATION

- a. Instructors, facilitators and speakers should be qualified both with respect to program content and teaching methods used. They are considered qualified if through formal training and experience they have obtained sufficient knowledge to instruct the course competently.
- b. The number of participants and physical facilities should be consistent with the teaching method specified.
- c. All programs should include some means for evaluating quality.

3. STANDARDS FOR CPE REPORTING

- a. Participants in group or self-study programs should document their participation including: (i) sponsor; (ii) title and/or description of content; (iii) date(s); (iv) location; and (v) number of CPE contact hours.
- b. In order to support the reports that may be required of participants, the sponsor of group or self-study programs should retain following the completion of any program: (i) record of participation; (ii) outline of the course (or equivalent); (iii) date(s); (iv) location; (v) instructor(s); and (vi) number of CPE contact hours. An outline is a schedule of activity listing major topics of discussion that is prepared in advance.
- c. Participants at NASBA meetings should document the meeting agenda(s).

4. SUBJECT MATTER

- a. The following subject matters are acceptable without limitation:
 - i. Accounting, Auditing and Ethics

- ii. Specialized Accounting Areas of Industry
 - iii. Administrative Practices
 - iv. Taxation
 - v. Management Services
- b. Credit for the following subject matters may not exceed 50% of the hours required by these rules.
- i. Communication Arts
 - ii. Mathematics, Statistics, Probability and Quantitative Applications in Business
 - iii. Economics
 - iv. Business, Securities and Administrative Law
 - v. Human Resources Policies
 - vi. Computer Software Applications

Areas other than those listed above may be acceptable if the licensee can demonstrate to the Board that they contribute to the licensee's professional competence.

5. **MEASUREMENT.** Professional education courses shall be credited for continuing education purposes in full hours only, equivalent to the actual number of contact hours. A course participant must attend substantially an entire course to be granted credit for the entire course and, if a record of registration and attendance is not maintained by the sponsoring organization, the course participant must be able to prove registration and attendance.
6. **INSTRUCTORS.** Credit as an instructor, discussion leader, or speaker will be allowed for any meeting, program, or engagement provided that the session is one that would meet the CPE requirements of those attending. An instructor, discussion leader, or a speaker will be credited for the first presentation only, and on a basis of 3 hours for each hour of class time. To the extent a course or program has been substantially revised, the revised course shall be considered a first presentation. However, those credits may not exceed 50% of the hours required by these rules.

7. PUBLICATIONS. Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis of up to 50% of the renewal 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 he/she feels justify a greater credit.
8. ASSISTANCE TO THE BOARD. The Board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

D. DETERMINATIONS

1. The Board shall consider all statements submitted to establish compliance with the CPE requirements, and shall determine whether specific programs meet the requirements of this paragraph.
2. The Board may determine that a specific program qualifies for less than 100% of the total elapsed hours of the program, if it determines that only part of the program meets the requirements of this paragraph.
3. If the Board determines that a licensee has not met the CPE requirements, the Board shall notify the licensee and it may:
 - a. request additional information to substantiate the CPE claimed;
 - b. establish specific CPE requirements which the licensee must meet; or
 - c. schedule an informal conference with the licensee to obtain such additional information as the Board deems necessary.
4. The Board will not revoke or refuse to renew a permit for failure to satisfy the CPE requirements unless it has afforded the licensee an opportunity for an adjudicatory hearing.

AUTHORITY: 32 M.R.S.A. §12214(4), §12251(4), 12251(4)(A), §12251(5)
EFFECTIVE DATE: March 8, 2004

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 6 - PERMITS TO PRACTICE, FIRMS

SUMMARY: This chapter outlines the requirements of firm permits.

1. PERMITS REQUIRED.

- A. All firms which provide accounting services for which a license is required pursuant to the law, to clients with principal offices in this State must be licensed by the Board, regardless of whether the firm itself is located in this State.
- B. Applications for initial issuance or renewal of Permits to Practice must indicate the name and individual permit number, and the name of the jurisdiction that issued the permit, of each licensed partner, member, officer or shareholder who regularly works in this State, and the name and individual permit number, and the name of the jurisdiction that issued the permit, of each licensed employee holding a certificate who regularly works in this State.
- C. An individual who is responsible for the conduct of any engagement to deliver accounting services for which a license is required pursuant to the law, to clients with principal offices in this State, shall be deemed to regularly work in this State.
- D. Applications for initial issuance or renewal of Permits to Practice must indicate all other states or jurisdictions in which the applicant has applied for, or holds, permits to practice public accountancy.

2. FIRMS WITH UNLICENSED OWNERS AND AGENTS

- A. Firms may be licensed if a simple majority, in terms of financial interests and voting rights, of its owners consists of individuals licensed by the Board or by other states, and if all unlicensed owners are individuals whose primary occupation consists of participation in the business of the firm. In order to evaluate applications for issuance or renewal of licenses of firms, the Board may require explanation and documentation of relationships (including without limitation "employee leasing," subcontracting for services, and the provision of administrative or clerical services) between the applicant and any other business entity, and may require substantiation of the nature and extent of nonlicensee owners' participation in the business of the firm.

- B. All unlicensed owners and agents of firms shall comply with the rules and professional standards applicable to licensed owners.
- C. Aside from any possible disciplinary action brought by the Board against any individual licensee, the Board may bring disciplinary action against the firm with respect to violations of applicable statutes or these rules by licensed or unlicensed partners, employees, or agents of the firm.

3. PEER REVIEW

A. PEER REVIEW CERTIFICATION AND COMPLIANCE REQUIREMENTS

1. Effective January 1, 2001, every firm, as a condition for the issuance or renewal of its license to practice public accountancy, must certify to the Board either:
 - a. That the firm has completed a peer review within the time required by 32 M.R.S.A. §12252(8)(A) which has been accepted by a Report Acceptance Body (or, for a Multi-Jurisdictional Firm, a peer review which meets the requirements of Section 3(l)) that such firm is in compliance with the terms of any peer review report and any actions mandated by the Report Acceptance Body, and shall provide a copy of its accepted peer review report to the Board; or
 - b. That the firm conducts no defined services other than compilations.
2. If the firm conducts a defined service other than compilations after certifying to the Board under section 3(A)(1)(b) that it does not conduct defined services, the firm must complete a peer review within the time specified by 32 M.R.S.A. §12252(8)(B).
3. In the event that a firm's obligation to participate in an approved peer review program under 32 M.R.S.A. §12252(8) arises because the defined service provided by the firm includes audit engagements, the approved peer review program under these rules shall be an On-Site Peer Review. In the event that the defined service provided by the firm does not include audit engagements, the approved peer review program under these rules may be an Off-Site Peer Review.
4. Every firm must cooperate with the Approved Reviewer, the Report Acceptance Body, and the Board, and take all steps necessary,

including the payment of all costs and fees relating to the peer review, to comply with the peer review requirement.

5. In addition to being grounds for denial of a permit, it shall also be grounds for disciplinary action pursuant to 32 MRSA §12273(1)(C) for a firm to fail to comply with the terms of a peer review report accepted by a Report Acceptance Body, to fail to cooperate with the Approved Reviewer, the Report Acceptance Body or the Board, or to in any other manner fail to comply with the peer review requirements of these rules.

B. QUALIFICATIONS OF APPROVED REVIEWERS

1. An Approved Reviewer must meet the following minimum qualifications:
 - a. Hold a current individual permit issued by the Board, or by another state;
 - b. Possess at least 5 years of current experience in the practice of public accountancy in the accounting and auditing function;
 - c. Be independent from, and have no conflict of interest with, the licensee being reviewed; and
 - d. Be familiar with all specialized services in the area of accounting and auditing provided by the firm being reviewed.
2. To be qualified as an Approved Reviewer, an individual must provide a Report Acceptance Body with documentation of his or her qualifications, (as stated above), and such other information requested by the Report Acceptance Body.
3. A Report Acceptance Body, in its discretion, may terminate the appointment of an individual to act as an Approved Reviewer.

C. CONDUCT OF PEER REVIEWS

1. In the case of a firm which undergoes a peer review, upon completion of the review, the Approved Reviewer shall write a peer review report which, at a minimum, sets forth the nature (On-Site or Off-Site) and scope of the peer review, including any limitations thereon, and the standards under which the peer review was performed. On-Site peer review reports shall, at a minimum, set forth an opinion on whether, during the period under review, the system of quality control for the accounting and auditing practice of the

reviewed firm met generally accepted quality control standards and whether that system of quality control was being followed sufficiently to provide the Approved Reviewer with reasonable assurance that the firm was conforming with generally accepted quality control and professional standards. Off-Site peer review reports shall indicate that the financial statements and review reports submitted for review conformed to professional standards of reporting, or, if not, shall describe significant departures from those standards.

2. The peer review report shall also describe the reason for any qualification or limitation of the report and set forth any corrective measures to be undertaken by the firm to address any issues identified by the peer review.
3. Upon completion of the peer review and preparation of the peer review report, the Approved Reviewer shall issue a copy of the peer review report to the firm and to a Report Acceptance Body.

D. QUALIFICATIONS OF REPORT ACCEPTANCE BODIES

1. The Board shall approve one or more entities to function as Report Acceptance Bodies.
2. Report Acceptance Bodies must meet the following qualifications:
 - a. Any employee, agent or representative of a Report Acceptance Body who is involved in any decision relating to the conduct of a peer review engagement, shall be independent of the reviewed firm.
 - b. The organization must be competent to undertake the tasks required of Report Acceptance Bodies. Such competence may be demonstrated by proof of approval to serve in comparable capacities by a national professional organization, or regulatory boards of other jurisdictions. Competence may also be demonstrated by submission to the Board of:
 - i. Resumes of the individuals proposed to execute the Report Acceptance Body's tasks, which must include their experience in accounting and auditing functions, and other peer review activities;
 - ii. Standards by which Approved Reviewers will be approved and evaluated;

- iii. Minimum requirements of peer review programs;
 - iv. Procedures for resolution of disputes between Approved Reviewers and reviewed firms; and
 - v. Proof of such other qualifications as may be required by the Board.
3. The Board may, in its discretion, terminate its approval of a Report Acceptance Body.

E. REVIEW OF PEER REVIEW REPORTS BY THE BOARD

A reviewed firm may request reconsideration of the action of a Report Acceptance Body by the Board. The Board may accept, alter, or reject and return for further review, any action of a Report Acceptance Body. If the Board proposes to accept the action of the Report Acceptance Body without any modification requested by the reviewed firm, the Board shall afford the reviewed firm the opportunity for an adjudicatory hearing. To be effective, the request for hearing must be received by the Board within 30 days of the reviewed firm's receipt of notice from the Board.

F. EXTENSIONS

1. The Board may grant an extension of time not to exceed 12 months to meet the peer review requirement for the following reasons:
 - a. Health;
 - b. Military service; or
 - c. Other good cause clearly outside of the control of the reviewed firm.
2. Requests for extensions of time shall be in writing and submitted with the renewal form no later than its due date.
3. An extension may be renewed upon application received by the Board prior to the expiration of the current extension, if the Board finds that the reasons justifying the extension continue to exist.

G. REVIEW OF MULTI-JURISDICTIONAL FIRMS

1. The Board may accept a peer review of a Multi-jurisdictional firm, which is based solely upon work conducted outside of Maine as satisfying the peer review requirement, if:
 - a. the peer review was conducted within 3 years of the effective date of the renewal;
 - b. the peer review was performed in accordance with requirements equivalent to those of the Board;
 - c. the peer review studies, evaluates and reports on the financial reporting practice of the firm as a whole; and
 - d. at the conclusion of the peer review, the reviewer issues a report meeting the requirements of these rules.
2. A Multi-jurisdictional firm seeking approval of a peer review must submit evidence that the proposed peer review was conducted under requirements equivalent to those of the Board, certification by the reviewer that the review was based solely on work conducted outside of Maine, and a report equivalent to the report required by these rules, with its application for renewal.

4. LICENSE EXPIRATION

The Commissioner has determined that Permits to Practice shall expire on December 31 following issuance or renewal.

5. CHANGE OF IDENTITY, LOCATION, OR FORM OF ORGANIZATION

Every firm holding a valid permit issued by the Board shall notify the Board in writing of the following changes no later than 30 days after the effective date of such changes:

- A. Change or modification of firm name;
- B. Change of business address;
- C. Establishment of new or additional office(s);
- D. Change of organizational form (sole proprietorship, partnership, corporation or any other form or organization);

- E. Change of ownership (partners, members, shareholders, merger, reorganization, acquisition); or
- F. In the case of firms without offices in this State, any change in the list of partners, members, officers, shareholders or employees who regularly work in this State.

AUTHORITY: 32 M.R.S.A. §12214(4), §12252(2), §12252(8)
EFFECTIVE DATE: November 4, 2001

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 7 - COMPLAINTS, INVESTIGATIONS AND ADJUDICATORY HEARINGS

SUMMARY: This Chapter describes the procedure by which complaints and adjudicatory hearings will be handled by the Board.

1. WRITTEN COMPLAINTS

Complaints are filed in accordance with procedures established by the Department of Professional & Financial Regulation, Office of Licensing & Registration. To receive a copy of the complaint procedure or to file a written complaint, contact:

Office of Licensing & Registration
Complaints & Investigations Unit
35 State House Station
Augusta, ME 04333-0035
Tel: 207/624-8603

2. OTHER INVESTIGATIONS

An investigation may be conducted based upon information other than a written complaint, if such information provides evidence of a violation of 32 M.R.S.A. Chapter 113 or if the information raises a substantial question regarding the qualifications of any applicant or licensee.

3. BOARD MEMBER REQUEST FOR INVESTIGATION

A member of the Board may file a complaint or request an investigation, but such complaint or request shall serve to disqualify that member from participating in the Board's disposition of that complaint. The complaining Board member shall be prohibited from discussing the issue with other members, except as a witness, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.

4. PROHIBITED COMMUNICATIONS

The Board members shall avoid discussing, except with adequate notice and opportunity for all parties to participate, any specific case under investigation, or any case which may reasonably be expected to be the subject of investigations, until after final agency action and the time for filing an appeal has lapsed or appeal remedies have been exhausted, except in accordance with the Standard

Complaint Procedure of the Department of Professional and Financial Regulation, Office of Licensing and Registration. This rule shall not be construed to limit the Board members at a Board meeting from discussions among themselves or with the attorney for the Board. This rule shall not be construed to limit communications regarding matters which have reached final disposition, investigatory procedures in general, inquiries regarding the procedural status of a specific case, or other matters not relating to issues of fact or law concerning a specific case.

5. ADJUDICATORY HEARINGS

Board hearings shall conform to the requirements of the Maine Administrative Procedure Act, 5 M.R.S.A. Chapter 375.

AUTHORITY: 32 M.R.S.A. §12214(4)
EFFECTIVE DATE: April 25, 1999

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

CHAPTER 8 - RULES OF PROFESSIONAL CONDUCT

SUMMARY: This chapter adopts a code of professional conduct.

The Board adopts the following Code of Professional Conduct. Interpretations and rulings of this or similar Codes of Conduct by the AICPA, courts or the Boards of other states, may constitute persuasive but not binding authorities with the Board, unless based on language of a Code that is materially inconsistent with these Rules.

1. PREAMBLE

The public places trust and confidence in the profession and the services it provides; consequently, licensees have a duty to conduct themselves in a manner that will be beneficial to the public and which fosters such trust and confidence. This Code of Professional Conduct identifies seven fundamental principles of conduct, six of which are intended to govern licensees' professional performance whether they are in public practice, industry, not-for-profit organizations, government, education or other professional endeavors. The seventh principle, independence, applies only to those professional services where it is required by professional standards. This Code of Professional Conduct defines the conduct that the public has a right to expect of the licensee, as well as all persons or entities the licensee has the authority or capacity to control.

With the exception of independence, these principles are universal and apply to all services and activities performed by the licensee in all aspects of his or her professional conduct. Independence, however, is a unique principle that applies only to those professional services where it is required in accordance with professional standards.

Users of the licensee's services draw confidence from the knowledge that the profession is bound to a framework which requires continued dedication to professional excellence and commitment to ethical behavior that will not be subordinated to personal gain.

2. PRINCIPLE: PUBLIC INTEREST

The grant of a license indicates that an individual has met the criteria established by state boards of accountancy to perform services in a manner that protects the public interest. The licensee must, therefore, have a keen consciousness of the public interest. The public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who use the services of licensees. Services provided by licensees support and facilitate

many societal needs, including the orderly functioning of commerce and the capital markets.

Because the licensee is seen as a representative of the profession by the public who retains or employs him or her or uses his or her services, the licensee should avoid conduct that might conflict with the public interest or erode public respect for, and confidence in, the profession.

3. PRINCIPLE: INTEGRITY

Integrity is a character trait demonstrated by acting honestly, candidly, and not knowingly misrepresenting facts, accommodating deceit, or subordinating ethical principles. Acting with integrity is essential to maintaining the public's trust. It incorporates both the spirit and substance in the application of the ethical and technical standards that govern the profession, or in the absence thereof, what is just and right.

A licensee should act with integrity in the performance of all professional activities in whatever capacity performed.

4. PRINCIPLE: OBJECTIVITY

Objectivity is a distinguishing feature of the accounting profession and is critical to maintaining the public's trust and confidence. It is a state of mind that imposes the obligation to be impartial and free of bias that may result from conflicts of interest or the inappropriate subordination of judgment. Objectivity requires a licensee to exercise an appropriate level of professional skepticism in carrying out all professional activities.

Although a licensee may serve multiple interests in many different capacities, objectivity must be maintained. This requires a careful assessment of the effects on objectivity of all professional relationships and activities.

A licensee should maintain objectivity in the performance of all professional activities in whatever capacity performed.

5. PRINCIPLE: DUE CARE

Due care imposes the obligation to perform professional activities with concern for the best interest of those for whom the activities are performed and consistent with the profession's responsibility to the public. It is essential to preserving the public's trust and confidence. Due care requires the licensee to discharge professional responsibilities with reasonable care and diligence and to adequately plan and supervise all professional activities for which he or she is responsible.

A licensee should act with due care in the performance of all professional activities in whatever capacity performed.

6. PRINCIPLE: COMPETENCE

Competence is derived from a combination of education and experience. It begins with a mastery of the common body of knowledge, skills, and abilities, and requires a commitment to life-long learning and professional improvement. A licensee should possess a level of competence, sound professional judgment, and proficiency to ensure that the quality of his or her activities meets the high level of professionalism required by these Principles. A licensee is responsible for assessing his or her own competence, which includes evaluating whether education, experience, and judgment are adequate for the responsibility assumed.

A licensee should be competent in the performance of all professional activities, in whatever capacity performed, and comply with applicable professional standards.

7. PRINCIPLE: CONFIDENTIALITY

A licensee has an obligation to maintain and respect the confidentiality of information obtained in the performance of all professional activities. Maintaining such confidentiality is vital to the proper performance of the licensee's professional activities.

A licensee shall not use or disclose, or permit others within the licensee's control to use or disclose, any confidential client or employer information without the consent of the client or employer. This obligation continues after the termination of the relationship between the licensee and the client or employer and extends to information obtained by the licensee in professional relationships with prospective clients and employers.

This principle shall not be construed to prohibit a licensee from disclosing information as required to meet professional or legal obligations.

8. PRINCIPLE: INDEPENDENCE

Independence, where required by professional standards, is essential to establishing and maintaining the reliability of, and the public's confidence in, the information reported on by the licensee.

A licensee should be independent in fact and appearance. Independence in fact is the absence of a licensee's interest in, relationship with, or services provided to, a person or entity that results in the licensee's loss of objectivity. Independence in appearance is the absence of such interests, relationships, or services which may, to a reasonable person having knowledge of all the facts, appear to result in an unacceptable threat to the licensee's objectivity.

When considering independence issues, it is presumed that the reasonable person would consider, among other factors:

- A. A licensee's normal strength of character under the circumstances;
- B. Pressures that may be exerted on the licensee by clients and others;
- C. The countervailing pressures of legal liability and professional discipline, including loss of reputation and license; and
- D. The safeguards established by the profession for the licensee's practice entity, such as peer review and quality control standards.

A licensee in the practice of public accounting should be independent in fact and appearance when engaged to provide services where independence is required by professional standards.

AUTHORITY: 32 M.R.S.A. §12214(4)
EFFECTIVE DATE: November 4, 2001

Chapter 10: ESTABLISHMENT OF LICENSE FEES

Summary: This chapter establishes fees for professional and occupational licenses and registrations issued by the Office of Licensing and Registration.

1. Definitions

Unless the context otherwise indicates, the following words have the following meanings:

1. **3d party.** “3d party” refers to a fee for a standardized license examination that is paid directly by the applicant to the organization administering the examination or its designee.
2. **OLR.** “OLR” means the Office of Licensing and Registration.

2. Establishment of Fees; Effective Dates

OLR shall charge the license and other fees indicated in §§ 3 and 5 below. For initial licenses, and for applications and examinations, the fees set out below shall become effective upon the effective date of this chapter. For renewal licenses, the fees set out below shall become effective with the first renewal cycle occurring on or after the effective date of this chapter.

The license and other fees of OLR boards and regulatory functions not listed below are set by the statute and implementing rules governing the particular board or regulatory function.

3. Fees Applicable to All Boards and Regulatory Functions Listed in §4

Except as otherwise indicated, the fees listed in this section apply to all boards and regulatory functions listed in §5 below:

1. Replacement license \$10
2. Verification of licensure \$10
3. Photocopies No charge for first 7 pages, 25¢ for each page thereafter

- 4. Licensee register list on diskette or CD-ROM \$10

4. Refunds

If an applicant applies for a license listed in §5 for which a separate application fee is charged, the license fee will be refunded if the license is denied. All other fees listed in §§ 3 and 5 are nonrefundable.

5. Fees to be Charged For Particular Occupational and Professional Licenses and Registrations and Related Fees

The following fees shall be charged for the licenses, registrations, permits and other services listed in subsections 1–40 below. For any given license or registration, the designated fee shall apply to both initial issuance and renewal unless otherwise indicated. The term of a license or registration ends on the uniform expiration or renewal date established for that license or registration by law.

1. Board of Accountancy

Certified Public Accountant	1 yr	\$50
Public Accountant	1 yr	\$50
Firm	1 yr	\$10
Branch	1 yr	\$10
Application	NA	\$50

STATUTORY AUTHORITY: 10 MRSA §8003(2-A)(D), (E)
 EFFECTIVE DATE: September 22, 2003

Chapter 11: LATE RENEWALS

SUMMARY: This chapter establishes a uniform policy regarding the treatment of late renewals of licenses issued by the licensing boards and regulatory functions within the Office of Licensing and Registration (“OLR”).

1. Applicability

This chapter applies to the OLR licensing boards and regulatory functions enumerated in 10 MRSA §8001(38). For those programs, this chapter supersedes existing statutory and rule provisions dealing with the consequences of late renewal.

2. Late Renewal Within 90 Days of Expiration

1. A licensee who applies for renewal after expiration of the license but within 90 days of expiration shall pay a late renewal fee of \$50. The license will be issued as of the date of late renewal and will not be retroactive to the expiration of the prior license.
2. The licensee is considered to have been unlicensed from the date of expiration to the date of late renewal.
3. A licensee who applies for renewal within 90 days after expiration and pays the \$50 late renewal fee will not be subject to disciplinary action by the licensing authority for unlicensed practice during the period of nonlicensure. The licensee will remain subject to disciplinary action for all other violations.

3. Late Renewal Beyond 90 Days of Expiration

A licensee who fails to renew within 90 days after expiration shall be subject to:

1. Applicable administrative and judicial penalties for all unlicensed practice that occurred subsequent to expiration; and
2. Applicable statutory provisions relating to late renewal.

4. Notice

Licensees who fail to timely renew shall be notified of the consequences of late renewal as soon as practicable after expiration.

STATUTORY AUTHORITY: 32 MRSA §8003(2-A)(E)

EFFECTIVE DATE: September 9, 2001

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

041 OFFICE OF LICENSING AND REGISTRATION

Chapter 13: UNIFORM RULE FOR THE SUBSTANTIATION OF CONTINUING EDUCATION REQUIREMENTS

Summary: This chapter establishes the substantiation of continuing education requirements for professional and occupational licenses and registrations issued by the Office of Licensing and Registration.

Section 1. Applicability

This chapter applies to all boards and regulatory functions within the Office of Licensing and Registration that require licensees to complete continuing education as a prerequisite to license renewal. This Chapter does not affect a board's authority to require or approve continuing education activities or to establish the number and nature of continuing education hours required for renewal.

Section 2. Certification of continuing education for renewal

At the time of application for renewal, each licensee must certify, on a form provided by the Office of Licensing and Registration, the number of continuing education hours completed during the preceding license term or during the continuing education period established in statute or by board rule. No additional information or continuing education documentation is required to be submitted at the time of renewal. However, the licensee must retain documentation of all continuing education activities as described in section 4 of this chapter.

Section 3. Verification of compliance by audit

Applicants for license renewal will be selected by the licensing board on a random basis for audit of continuing education compliance. In addition, an individual licensee may be selected for an audit as part of an investigation or if there is reasonable cause to believe the licensee has provided a false certification concerning the completion of continuing education requirements. An audit may review the last two continuing education certifications submitted by the licensee.

Licensees selected for audit will be notified to submit documentation of the continuing education activities that were certified by the licensee at the time of renewal. Continuing education hours that cannot be documented in accordance with the documentation requirements determined by the licensing board or that do not satisfy the criteria for continuing education contained in statute or board rule will be disallowed.

Section 4. Retention of Documentation

The licensee shall retain documentation of continuing education activities included in the most recent two continuing education certifications submitted by the licensee, including the current renewal period.

STATUTORY AUTHORITY: 10 MRSA § 8003(2-A)(E)
EFFECTIVE DATE: August 19, 2003

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