NORTH CAROLINA ACCOUNTANCY RULES

JANUARY 2007

ORAL REQUESTS FOR OPINIONS AND INTERPRETATIONS

Oral requests to Board or staff members for opinions and interpretations of these rules are discouraged. Whenever given, such opinions and interpretations are non-binding and applicants or licensees who thereafter act in reliance do so at their own risk.

References are to North Carolina Administrative Code, Title 21 – Occupational Licensing Boards, Chapter 08 – Board of Certified Public Accountant Examiners.

NORTH CAROLINA ACCOUNTANCY RULES

References are to North Carolina Administrative Code, Title 21 – Occupational Licensing Boards, Chapter 08 – Board of Certified Public Accountant Examiners, as amended through January 1, 2007.

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CHAPTER 08 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

SUBCHAPTER 08A - DEPARTMENTAL RULES

SECTION .0100 - ORGANIZATIONAL RULES

21 NCAC 08A .0101 FORMAL NAME
The formal name for the agency is the State Board of Certified Public Accountant Examiners. The informal and acceptable title of the Board is the Board of CPA Examiners.

21 NCAC 08A .0102 ADDRESS AND PHONE NUMBER
The Board's physical address is Suite 104, 1101 Oberlin Road, Raleigh, North Carolina 27605. The mailing address is Post Office Box 12827, Raleigh, North Carolina 27605-2827. The telephone number is (919) 733-4222.

21 NCAC 08A .0103 OFFICE HOURS
The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The office is closed on recognized state holidays.

SECTION .0200 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21 NCAC 08A .0201 ELECTION OF OFFICERS
The Board shall annually, prior to March 31 of each year, elect a President, Vice-President and Secretary-Treasurer.

21 NCAC 08A .0203 QUORUM
Four members of the Board shall constitute a quorum to transact all business.

SECTION .0300 - DEFINITIONS

21 NCAC 08A .0301 DEFINITIONS
(a) The definitions set out in G.S. 93-1(a) shall apply when those defined terms are used in 21 NCAC 08.
(b) In addition to the definitions set out in G.S. 93-1(a), the following definitions and other definitions in this Section apply when these terms are used in 21 NCAC 08:

(1) "Active," when used to refer to the status of a person, describes a person who possesses a North Carolina certificate of qualification and who has not otherwise been granted "Retired," "Inactive," or "Conditional" status;
(2) "Agreed upon procedures" means a professional service whereby a CPA is engaged to issue a report of findings based on specific procedures performed on financial information prepared by a responsible party;
(3) "AICPA" means the American Institute of Certified Public Accountants;
(4) "Applicant" means a person who has applied to take the CPA examination or applied for a certificate of qualification;
(5) "Attest service or assurance service" means:
    (A) any audit or engagement to be performed in accordance with the Statements on Auditing Standards, Statements on Generally Accepted Governmental Auditing Standards, and Public Company Accounting Oversight Board Auditing Standards;
    (B) any review or engagement to be performed in accordance with the Statements on Standards for Accounting and Review Services;
    (C) any compilation or engagement to be performed in accordance with the Statements on Standards for Accounting and Review Services; or
    (D) any agreed-upon procedure or engagement to be performed in accordance with the Statements on Standards for Attestation Engagements;

(6) "Audit" means a professional service whereby a CPA is engaged to examine financial statements, items, accounts, or elements of a financial statement, prepared by management, in order to express an opinion on whether the financial statements, items, accounts, or elements of a financial statement are presented in conformity with generally accepted accounting principles or other comprehensive basis of accounting;

(7) "Calendar year" means the 12 months beginning January 1 and ending December 31;

(8) "Candidate" means a person whose application to take the CPA examination has been accepted and who may sit for the CPA examination;

(9) "Client" means a person who orally or in writing agrees with a licensee to receive any professional services;

(10) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person;

(11) "Compilation" means a professional service whereby a CPA is engaged to present, in the form of financial statements, information that is the representation of management without undertaking to express any assurance on the statements;

(12) "Conditional," when used to refer to the status of a person, describes a person who holds a North Carolina certificate of qualification under certain conditions as imposed by the Board, such as additional requirements for failure to complete the required CPE hours in a calendar year, for failure to comply with CPA firm registration, or for failure to comply with peer review reporting and or participation in peer review;

(13) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service;

(14) "CPA" means certified public accountant;

(15) "CPA firm" means a sole proprietorship, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership which uses "certified public accountant(s) " or "CPA(s) " in or with its name or offers to or renders any attest services in the public practice of accountancy;

(16) "CPE" means continuing professional education;

(17) "Disciplinary action" means revocation or suspension of, or refusal to grant, membership, or the imposition of a reprimand, probation, constructive comment, or any other penalty or condition;

(18) "FASB" means the Financial Accounting Standards Board;

(19) "Forecast" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions the entity expects to exist and the course of action the entity expects to take;

(20) "GASB" means the Governmental Accounting Standards Board;

(21) "Inactive," when used to refer to the status of a person, describes one who has requested inactive status and been approved by the Board and who does not use the title "certified public accountant" nor does he or she allow anyone to refer to him or her as a "certified public accountant," and neither he nor she nor anyone else refers to him or her in any representation as described in 21 NCAC 08A .0308(b).

(22) "IRS" means the Internal Revenue Service;

(23) "Jurisdiction" means any state or territory of the United States or the District of Columbia;

(24) "License year" means the 12 months beginning July 1 and ending June 30;

(25) "Member of a CPA firm" means any CPA who has an equity ownership interest in a CPA firm;

(26) "NASBA" means the National Association of State Boards of Accountancy;

(27) "NCACPA" means the North Carolina Association of Certified Public Accountants;

(28) "North Carolina office" means any office physically located in North Carolina;

(29) "Person" means any natural person, corporation, partnership, professional limited liability company, registered limited liability partnership, unincorporated association, or other entity;

(30) "Professional" means arising out of or related to the particular knowledge or skills associated with CPAs;

(31) "Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions;

(32) "Referral fee" means compensation for recommending or referring any service of a CPA to any person;

(33) "Retired," when used to refer to the status of a person, describes one possessing a North Carolina certificate of qualification who verifies to the Board that the applicant does not receive or intend to receive in the future any earned compensation for current personal services in any job whatsoever and will not return to active status. However, retired status does not preclude volunteer services for which the retired CPA receives no direct or indirect compensation so long as the retired CPA does not sign any documents, related to such services, as a CPA;

(34) "Revenue Department" means the North Carolina Department of Revenue;

(35) "Review" means a professional service whereby a CPA is engaged to perform procedures, limited to analytical procedures and inquiries, to obtain a reasonable basis for expressing limited assurance on whether any material modifications should be made to the financial statements for them to be in conformity with generally accepted accounting principles or other comprehensive basis of accounting;

(36) "Reviewer" means a member of a review team including the review team captain;

(37) "Suspension" means a revocation for a specified period of time. A CPA may be reinstated after a specific period of time if the CPA has met all conditions imposed by the Board at the time of suspension;

(38) "Trade name" means a name used to designate a business enterprise;

(39) "Work papers" mean the CPA's records of the procedures applied, the tests performed, the information obtained, and the conclusions reached in attest services, tax, consulting, special report, or other engagement. Work papers include, but are not limited to, programs used to perform professional services, analyses, memoranda, letters of confirmation and representation, checklists, copies or abstracts of company documents, and schedules of commentaries prepared or obtained by the CPA. The forms include, but are not limited to, handwritten, typed, printed, word processed, photocopied, photographed, computerized data, or any other form of letters, words, pictures, sounds or symbols;

(40) "Work product" means the end result of the engagement for the client which may include, but is not limited to a tax return, attest or assurance report, consulting report, and financial plan. The forms include, but are not limited to, handwritten, typed, word processed, photocopied, photographed, computerized data, or in any other form of letters, words, pictures, sounds, or symbols.

(c) Any requirement to comply by a specific date to the Board that falls on a weekend or federal holiday shall be received as in compliance if postmarked by U.S. Postal Service cancellation or received in the Board office on the next business day.

21 NCAC 08A .0307 PUBLIC PRACTICE OF ACCOUNTANCY OR ACCOUNTING

(a) A person is engaged in the "public practice of accountancy" who:

(1) holds himself or herself out to the public as a certified public accountant or an accountant; and

(2) in consideration of compensation received or to be received, offers to perform or does perform for other persons services which involve:
   (A) preparing, auditing or verifying financial transactions, books, accounts, or records, or
   (B) preparing, verifying or certifying financial, accounting and related statements intended for publication, including preparing tax returns, or
   (C) rendering professional services or assistance in or about any and all matters of principle or detail relating to accounting procedure and systems, or
   (D) recording, presenting or certifying and interpreting such service (including tax, consulting or management advisory services) through statements and reports.

(b) Services, as described in Subparagraph (a)(2) of this Rule, may be performed on a full-time, part-time or temporary basis in the various accounting fields, including, but not limited to, public accounting, governmental or other not-for-profit accounting, industrial, commercial or financial accounting, taxation and tax-related matters or accounting education.

21 NCAC 08A .0308 HOLDING OUT TO THE PUBLIC

(a) The phrase "holds himself out to the public as a certified public accountant," as used in defining "public practice of accountancy" in G.S. 93-1(a)(5) and in these rules, means any representation that a person holds a certificate of qualification, if that representation is made in connection with an offer to perform or the performance of accountancy services for the public, regardless of whether that representation is made by the person, someone associated with that person, or someone serving as that person's agent. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate in connection with the professional services offered to be performed or performed by the person.

(b) For purposes of this Rule, a representation shall be deemed to include any oral, electronic, or written communication indicating that the person holds a certificate, including without limitation the use of titles or legends on letterheads, reports, business cards, brochures, resumes, office signs, telephone directories, websites, the Internet, or any other advertisements, news articles, publications, listings, tax return signatures, signatures on experience or character affidavits for exam or certificate applicants, displayed membership in CPA associations, displayed CPA licenses from this or any other jurisdiction, and displayed certificates or licenses from other organizations which have the designation "CPA" or "Certified Public Accountant" by the person's name.

21 NCAC 08A .0309 CONCENTRATION IN ACCOUNTING

(a) A concentration in accounting shall include:
   (1) at least 30 semester hours, or the equivalent in quarter hours, of undergraduate accountancy courses which shall include no more than six semester hours of accounting principles and no more than three semester hours of business law; or
   (2) at least 20 semester hours or the equivalent in quarter hours, of graduate accounting courses that are open exclusively to graduate students; or
   (3) a combination of undergraduate and graduate courses which would be equivalent to Subparagraph (1) or (2).

(b) In recognition of differences in the level of graduate and undergraduate courses, one semester (or quarter) hour of graduate study in accounting shall be considered the equivalent of one and one-half semester (or quarter) hours of undergraduate study in accounting.

(c) Up to four semester hours, or the equivalent in quarter hours, of graduate income tax courses completed in law schools may count toward the semester hour requirement of Paragraph (a) of this Rule.

(d) Where, in the Board's discretion, an accounting course duplicates another course previously taken, only the semester (or quarter) hours of one of the courses shall be counted in determining if the applicant has a concentration in accounting.

(e) Accounting courses include such courses as principles courses at the elementary, intermediate and advanced levels; managerial accounting; business law; cost accounting; fund accounting; auditing; and taxation. There are many college courses offered that would be helpful in the practice of accountancy, but are not included in the definition of a concentration in accounting. Such courses include business finance,

business management, computer science, economics, writing skills, accounting internships, and CPA exam review.

(f) A candidate who has conditional credit prior to January 1, 2001, may continue to apply to sit for the examination as long as the conditional credit is valid. A candidate who no longer has valid conditional credit after January 1, 2001, shall be required to meet all education requirements in effect at the time of the candidate's subsequent application.

21 NCAC 08A .0310 DIRECT SUPERVISION DEFINED

"Direct supervision" means:

(1) having jurisdiction and oversight authority over the process of planning, coordinating, guiding, inspecting, controlling, and evaluating on a continuing basis the activities and accomplishments of the employees under one's command;

(2) having the power of direction and decision in implementing activities to meet the objectives of one's stewardship;

(3) having authority delegated by higher management to hire, transfer, suspend, recall, promote, assign, or discharge an employee under one's charge or to recommend such action through the proper administrative chain of command;

(4) having authority to supervise the employee in the usual line of authority unrestricted by multiple positions of influence; and

(5) having authority to verify the employee's experience in a notarized experience affidavit.

SUBCHAPTER 8B - RULE-MAKING PROCEDURES

SECTION .0100 - PETITIONS FOR RULE-MAKING

21 NCAC 08B .0101 PETITIONS

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall address a petition to the Board's Executive Director, as set forth in 21 NCAC 8A .0102.

21 NCAC 08B .0102 CONTENTS OF PETITION FOR NEW RULE

A petition requesting the adoption of a rule should contain the following information:

(1) either a draft of the proposed rule or a summary of the contents of the proposed rule;

(2) reason for the proposal;

(3) effect of the new rule on existing rules;

(4) data supporting the rule proposal;

(5) effects of the rule on existing practices in the area involved; and

(6) name, address and phone number of each petitioner.

21 NCAC 08B .0104 CONTENTS OF PETITIONS FOR RULE AMENDMENT OR REPEAL

A petition requesting the amendment or repeal of a rule should contain the following information:

(1) rule affected;

(2) reasons for change;

(3) either a draft of the proposed amendment or a summary of the proposed amendment, if the petition is to amend the rule;

(4) data supporting the rule proposal;

(5) effect of the proposed change on existing practices in the area involved; and

(6) name and address of each petitioner.

21 NCAC 08B .0105 GRANTING OR DENYING PETITIONS

The Executive Director of the Board shall make a recommendation to a committee of the Board and the committee shall recommend to the full Board, based on a study of the facts stated in the petition, whether the

public interest will be better served by granting or denying the petition. The Board will consider all the contents of the submitted petition plus any additional information deemed relevant.

SECTION .0200 - NOTICE

21 NCAC 08B .0202 MAILING LIST

(a) Persons or agencies desiring to be placed on the mailing list for the Board's rule-making notices issued pursuant to G.S. 150B-21.2 may file a request in writing, furnishing their name and mailing address to the Executive Director of the Board, at the address set forth in 21 NCAC 8A .0102.
(b) The request shall state the subject areas within the authority of the agency for which notice is requested.

SECTION .0300 - HEARINGS

21 NCAC 08B .0304 ORAL PRESENTATION

Upon receipt of a request to make an oral presentation at a rule-making hearing, the Executive Director will acknowledge receipt of the request and inform the person making the request of any limitations deemed necessary to achieve a full and effective public hearing on the proposed rule.

21 NCAC 08B .0307 CONTROL OF RULE-MAKING HEARINGS

(a) The presiding officer of a rule-making hearing shall have complete control of the proceedings including the following:

(1) extension of any deadlines,
(2) rescheduling a hearing time, as announced at the published hearing, and continuation of any hearing,
(3) limitations for individual presentations,
(4) recognition of speakers, and
(5) direction of the flow of discussion and the management of the hearing.

(b) The presiding officer at all times shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

SECTION .0500 - DECLARATORY RULINGS

21 NCAC 08B .0501 REQUEST FOR DECLARATORY RULING

Any person aggrieved, as defined in G.S. 150B-2(6), by a statute administered or rule promulgated by the Board may request a declaratory ruling as to how the statute or rule applies to a given factual situation or whether a particular Board rule is valid. All requests for declaratory rulings shall be in writing and mailed to the Board at its address, as set forth in 21 NCAC 8A .0102.

21 NCAC 08B .0502 CONTENTS OF REQUEST

All requests for a declaratory ruling must include the following information:

(1) name and address of petitioner;
(2) statute or rule to which the petition relates;
(3) concise statement of the manner in which the petitioner is aggrieved, as defined in G.S. 150B-2(6), or thinks that he or she may be injured by the rule or statute and its application to him or her; and
(4) statement of whether an oral hearing is desired and if so the reasons for such an oral hearing.

21 NCAC 08B .0503 REFUSAL TO ISSUE DECLARATORY RULING

Whenever the Board believes for good reason that issuing a declaratory ruling is undesirable, it may refuse to do so. The Board will notify the petitioner in writing of its reasons for refusing to issue a declaratory ruling.

21 NCAC 08B .0507 CIRCUMSTANCES

As a general rule the Board will issue a declaratory ruling except:

(1) when the subject of a requested declaratory ruling is also the subject of a lawsuit pending in a court of this state or a federal court;

(2) when the facts presented in the request were considered at a rule-making hearing; or

(3) in other special circumstances.

21 NCAC 08B .0508 REQUESTS FOR INFORMAL OPINIONS

Requests to Board employees or legal counsel, or requests to Board members not in accordance with 21 NCAC 08B .0501, for opinions concerning the application of the Board's rules or any statutes are discouraged. If ever an opinion is given, it is non-binding on the Board. Applicants, licensees and any other persons who act in reliance on such opinions do so at their own risk.

SUBCHAPTER 8C - CONTESTED CASES

SECTION .0100 - PROCEDURE IN CONTESTED CASES

21 NCAC 08C .0103 ADDITIONAL INFORMATION ON NOTICES OF HEARINGS

In addition to the items required by G.S. 150B-38 to be included in a notice of hearing for a contested case before the Board, such a notice shall include the following information:

(1) the name, title, address and phone number of Board personnel to contact for further information or discussion; and

(2) the date and place for any pre-hearing conference.

21 NCAC 08C .0104 WRITTEN PETITION FOR INTERVENTION

A person desiring to intervene in a contested case must file a written petition with the Board at its address set forth in 21 NCAC 8A .0102. A petition to intervene shall be filed in accordance with G.S. 1A-1, Rule 24.

21 NCAC 08C .0105 NOTICE OF ALLOWANCE OR DENIAL OF PETITION TO INTERVENE

(a) If a petition for intervention is one of right, or if a petition for permissive intervention is allowed by the Board, the Board will promptly send written notice of the intervention to all parties, including the intervenor. In cases of permissive intervention, such notification will also include a statement of any limitations of time, subject matter, evidence or any other matters the Board thereby imposes upon the intervenor.

(b) If the Board denies a petition for permissive intervention, it will promptly send written notice of such denial to the petitioner and all parties setting forth its reasons for denying the petition.

21 NCAC 08C .0107 DISQUALIFICATION OF BOARD MEMBER

(a) A Board member shall be disqualified from participating in the hearing of any contested case or performing any duties related to a contested case if personal bias or other factors would keep the member from being able to participate in the hearing or to perform any duty related to the contested case or hearing in an impartial manner.

(b) If a party to a hearing or any other interested person has a reasonable good faith belief that a Board member should be disqualified, that person shall submit an affidavit of disqualification to the Board.

21 NCAC 08C .0108 AFFIDAVIT OF DISQUALIFICATION

An affidavit of disqualification must state all the facts the affiant deems relevant to the disqualification of the Board member.

21 NCAC 08C .0109 FILING AFFIDAVIT OF DISQUALIFICATION

An affidavit of disqualification must be filed with the Board office before commencement of the hearing. However, it may be filed after the commencement of the hearing if it is filed within a reasonable time after the affiant knows or reasonably should know the facts giving rise to the affiant's reasonable belief that the Board member should be disqualified from participating in a contested case under this Section.

21 NCAC 08C .0110 DETERMINATION OF DISQUALIFICATION

(a) The members of the Board not challenged in an affidavit of disqualification shall determine whether the challenged Board member should be disqualified from participating in the hearing of a contested case. In making this determination, those Board members may:

(1) call upon the challenged Board member to furnish relevant information; and

(2) appoint a member of the Board or a member of the staff to investigate the allegations of the affidavit and report their findings and recommendations to the Board.

(b) The Board will maintain a record of the proceedings on disqualification and a written summary of its conclusions as part of the record of the contested case.

21 NCAC 08C .0111 NEW HEARING AFTER DISQUALIFICATION

(a) Upon request of a party to a contested case, the Board will conduct a new hearing of the contested case if a Board member was disqualified after the beginning of the initial hearing and if either:

(1) less than a majority of Board members remained at the hearing subsequent to the disqualification, or

(2) when the Board determines that substantial prejudice would result if a new hearing was not conducted.

(b) The Board member who has been disqualified shall not participate in the determination of whether substantial prejudice would result if a new hearing was not conducted.

21 NCAC 08C .0114 PRE-HEARING CONFERENCE

(a) The Board may itself conduct an informal pre-hearing conference for the purposes set forth in 21 NCAC 8C .0115 or it may designate a committee to conduct such a conference. The committee so designated may be composed entirely of staff members.

(b) Evidence of conduct or evidence of statements made during the pre-hearing conference are not admissible at the hearing in a contested case. However, evidence otherwise discoverable shall not be excluded merely because it is presented during the pre-hearing conference.

21 NCAC 08C .0115 PURPOSES OF A PRE-HEARING CONFERENCE

The purposes of a pre-hearing conference in a contested case are:

(1) to determine the possibility of simplifying or eliminating the issues;

(2) to facilitate the stipulation to facts or findings by the parties;

(3) to identify evidence which will be needed at the hearing;

(4) to determine the validity of proposed evidence;

(5) to determine the need for depositions or subpoenas;

(6) to determine the relevance of findings in some other case to the case at hand;

(7) to determine the need for consolidation of cases or joint hearings; and

(8) to determine any other matters which will reduce cost or save time or otherwise aid in the expeditious disposition of the contested case.

21 NCAC 08C .0116 NOTICE OF PRE-HEARING CONFERENCE

Notice of a pre-hearing conference in a contested case will be given in the notice of hearing for the case or, if the decision to hold a pre-hearing conference is made after the notice of hearing has been sent, in a subsequent notice.

21 NCAC 08C .0118 CONTINUANCES

A continuance of a pre-hearing conference will be granted to a party only under compelling circumstances, especially when a continuance has been previously requested by and granted to the party. Under no circumstances is the Board required to grant continuances.

21 NCAC 08C .0121 SERVICE OF SUBPOENAS

(a) Subpoenas shall be served as the officer issuing the subpoenas shall direct and as may be appropriate to the circumstances of the case. The Executive Director, Board counsel, or staff member designated by the Executive Director may serve subpoenas on behalf of the Board pursuant to G.S. 1A-1, Rule 45(e).

(b) Subpoenas shall be issued in duplicate with a "Return of Service" form attached to each copy. The person serving the subpoena shall fill out the attached "Return of Service" form for each copy and promptly return one copy of the subpoena and the completed "Return of Service" form to the Board office.

21 NCAC 08C .0122 OBJECTIONS TO SUBPOENAS

(a) A person who is subject to a subpoena or a party to the contested case may file an objection to the subpoena with the Board within ten days of the issuance of the subpoena.

(b) An objection to a subpoena must include a concise but complete statement of reasons why the subpoena should be revoked or modified. These reasons may include, for example, lack of relevancy of the evidence requested, lack of particularity in the description of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as the evidence is privileged or the appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought or would produce some other undue hardship.

(c) The person objecting to the subpoena must serve a copy of the objection upon the party who requested the subpoena. Service must be on or before the date the objection is filed with the Board's office and may be accomplished by the United States Postal Service.

21 NCAC 08C .0123 RESPONSES TO OBJECTIONS TO SUBPOENAS

(a) The person requesting the subpoena may file a written response to the objection to the subpoena with the Board within ten days of service of the objection.

(b) The person responding shall also serve a copy of the response upon the person who objected to the subpoena. Service must be on or before the date the response is filed with the Board's office and may be accomplished by the United States Postal Service.

21 NCAC 08C .0124 HEARINGS ON SUBPOENA CHALLENGES

(a) After receipt of an objection to a subpoena, the Board shall schedule a public hearing on the objection within a reasonable time and shall issue a notice of hearing to the person requesting the subpoena and to the person objecting to it. The Board may also give notice to all other parties to the contested case.

(b) The hearing on objections to a subpoena shall be limited to the issues properly raised by the objection and any response, and all parties to the contested case may present evidence at the hearing relevant to those issues.

(c) Promptly after the close of a hearing, the Board shall rule on the objection to the subpoena and shall issue a written decision. The copy of the decision will be issued to all parties to the hearing and will be made a part of the permanent record of the contested case.

21 NCAC 08C .0125 RECORDS OF CONTESTED CASES

A copy of the record of a contested case proceeding may be obtained by requesting such in writing from the Board.

SUBCHAPTER 08F - REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND CERTIFICATE APPLICANTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 08F .0101 TIME AND PLACE OF CPA EXAMINATIONS

(a) The Board shall hold the CPA examination twice a year.

(b) The dates of the CPA Examination are determined by the examination vendor(s).

(c) The Board shall announce the time and place for holding each CPA examination at least 60 days prior to the date thereof.

21 NCAC 08F .0102 TYPE OF CPA EXAMINATION

The Uniform CPA Examination prepared by the AICPA shall be the CPA examination used by the Board.

21 NCAC 08F .0103 FILING OF EXAMINATION APPLICATIONS AND FEES

(a) All applications for CPA examinations shall be filed with the Board, accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned.

(b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, such as:

- (1) minimum legal age;
- (2) education;
- (3) experience, if required in order to qualify for the examination; and
- (4) good moral character.
- (5) Any person born outside the United States shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or
  - (A) other bona fide evidence that the applicant is legally allowed to remain in the United States for the purposes of becoming a U.S. citizen; or
  - (B) a notarized affidavit of intention to become a U.S. citizen; or
  - (C) evidence that the applicant is a citizen of a foreign jurisdiction which extends to citizens of this state like or similar privileges to be examined.

(c) Official transcripts (originals – not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. However, no examination grades shall be released until an official transcript is filed confirming the information supplied in the college registrar's letter. All applicants submitting transcripts from foreign schools for consideration of degree and of meeting accountancy course requirements shall have had the transcript(s) evaluated by Foreign Academic Credential Service, Inc. (FACS) or a comparable educational evaluation service. Applicants shall determine that their transcripts contain all information required by these Rules.

(d) If experience is required to qualify for examination, affidavits shall be prepared and signed by employers on forms supplied by the Board.

(e) In order to document good moral character as required by G.S. 93-12(5) of this Rule, three certificates of good moral character signed by persons not related by blood or marriage to the applicant shall accompany the application.

(f) No additional statements and affidavits regarding experience and education shall be required for applications for re-examination.

(g) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of the final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued or pleaded *nolo contendere* to any criminal offense.

(h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.
(i) Two recent identical photographs shall accompany the application for the CPA examination. These photographs shall have been taken within the last six months. The photographs shall be of the applicant alone, 2x2 inches in size, with an image size from the bottom of the chin to the top of the head, including hair, of between 1 and 1-3/8 inches. Photographs shall be clear, front view, full face, taken in normal street attire without a hat or dark glasses, and printed on thin paper with a plain light background. They shall be capable of withstanding a mounting temperature of 225 degrees Fahrenheit (107 degrees Celsius). They may be in black and white or in color. Snapshots, most vending-machine prints, and magazine or full-length photographs are unacceptable. Photographs retouched so that the applicant's appearance is changed are unacceptable. Applicants shall write their names on the back of their photos.
(j) If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.
(k) Candidates shall file initial and re-exam applications to sit for the CPA Examination on forms provided by the Board.
(l) Examination fees will be valid for a six-month period from the date of the Notice to Schedule (NTS).

21 NCAC 08F .0105 CONDITIONING REQUIREMENTS

(a) Passing Grades. A candidate shall be required to pass all sections of the examination with a grade of 75 or higher on each section.
(b) Military Service. A candidate who is on active military service shall not have the time on active military service counted against Subparagraph (d)(1) of this Rule unless the candidate applies to take the examination during the active military service in which case each month a candidate sits shall be counted toward Subparagraph (d)(1) of this Rule.
(c) A candidate who has conditional credit prior to January 1, 1997, may continue to apply to sit for the examination as long as the conditional credit is valid. A candidate who no longer has valid conditional credit after January 1, 1997, shall be required to meet all education requirements in effect at the time of their subsequent application.
(d) A candidate is subject to the following conditioning requirements:

(1) A candidate shall be required to obtain a passing grade on all sections of the examination within an 18-month period;
(2) A candidate may sit for any section of the examination individually;
(3) A candidate may sit for each section of the examination up to four times during a one-year period but not more than one time in a three-month testing window as defined by the examination vendors(s);
(4) A candidate shall receive credit on the passage of his or her section(s) of the examination; such credit(s) shall be valid for an 18-month period which begins on the date the section(s) passed is (are) taken; and
(5) A candidate having earned conditional credits on the paper-and-pencil CPA Examination has until October 31, 2005, or 18 months after administration of the last paper-and-pencil examination to pass the remaining sections(s) before the credits earned under the paper-and-pencil examination expire.

21 NCAC 08F .0106 GRANTING EXAMINATION CREDIT FROM OTHER JURISDICTIONS

(a) The Board may grant candidates credit for passing parts of the AICPA Uniform CPA Examination in another jurisdiction or territory of the United States.
(b) To be considered for credit, the passing grades must meet the requirements of 21 NCAC 08F .0105. To transfer credit, the candidate must file an application with the Board on a form provided by the Board. Such application may be made simultaneously with the application to take the CPA examination.

21 NCAC 08F .0107 COMMUNICATION OF RESULTS OF CPA EXAMINATIONS

(a) The Board shall communicate to candidates in writing the result achieved in each of their examinations. Grades awarded to candidates shall not be released to third parties except by written consent of the candidate.

(b) In no event shall any information concerning answers of candidates be given to anyone other than the candidate.

(c) Examination grades shall be mailed to the candidates upon receipt by the Board.

21 NCAC 08F .0111 INELIGIBILITY DUE TO VIOLATION OF ACCOUNTANCY ACT

(a) A person may not be eligible to take the CPA examination or receive the North Carolina certificate of qualification as a CPA if the Board determines that the person has engaged in conduct that would constitute a violation of G.S. 93 or the Rules of Professional Ethics and Conduct.

(b) Any individual found to have engaged in conduct which subverts, or attempts to subvert the CPA Examination process may have his or her scores on the examination withheld and declared invalid, be disqualified from holding the CPA certification and may be subject to the imposition of other appropriate sanctions.

(c) Conduct which subverts or attempts to subvert the examination process includes but is not limited to:

(1) conduct which violates the standard of the test administration such as communicating with any other examinee during the administration of the examination;

(2) having in one's possession during the administration of the examination any books, notes, written or printed material, or data of any other kind, other than the distributed examination materials;

(3) failure to cooperate with testing officials;

(4) conduct which violates the credentialing process, such as falsifying or misrepresenting educational credentials or other information required for admission to the examination, impersonating an examinee, or having an impersonator take the examination on another's behalf;

(5) conduct which violates the nondisclosure prohibitions of the examination or aiding or abetting another in doing so; and

(6) retaking or attempting to retake an examination section by an individual holding a valid CPA certificate in this State or a candidate who has unexpired credit for having already passed the same examination section unless directed to do so by the Board.

21 NCAC 08F .0113 CANDIDATE'S REQUEST TO REVIEW CPA EXAMINATION

The Board may allow a North Carolina candidate pursuant to G.S. 93B-(8) to review his or her CPA Examination within 60 days after the release of the grades in question.

SECTION .0300 - EDUCATIONAL REQUIREMENTS FOR EXAMINATION

21 NCAC 08F .0302 EDUCATION AND WORK EXPERIENCE REQUIRED PRIOR TO CPA EXAM

(a) Under G.S. 93-12(5) there are two ways an applicant for the CPA examination can demonstrate the possession of sufficient education to become a CPA:

(1) the possession of a bachelor's degree in any subject, from a regionally accredited college or university, that either includes or is supplemented by a concentration in accounting as defined in 21 NCAC 8A .0309; and

(2) compliance with the requirements set forth in 21 NCAC 8F .0304, which provides for special examinations in lieu of formal education.

(b) Applicants who intend to demonstrate their possession of sufficient education to become a CPA by showing that they possess a bachelor's degree shall submit official transcripts with their application to take the CPA examination. Official transcripts shall show the grades the applicant received on courses completed

and shall also show degrees awarded. An official transcript bears the seal of the school and the signature of the registrar or assistant registrar.

(c) With regard to Paragraph (a)(1) of this Rule, the Board may approve an application to take the CPA examination prior to the receipt of a bachelor's degree, if:

(1) the concentration in accounting which shall be included in or supplement the bachelor's degree is already complete or is reasonably expected to be completed by the end of the school term within which the examination falls; and

(2) an applicant reasonably expects to receive the bachelor's degree within 120 days after the last day of the examination. However, if the applicant fails to receive the degree within the specified time, the CPA examination grades shall not be released and if the applicant wishes to retake the examination, the applicant shall reapply.

(d) With regard to Paragraph (a)(2) of this Rule, the applicant shall complete the work experience that is required by all candidates for certification, and set forth in 21 NCAC 8F .0401, prior to the date the applicant applies for the CPA examination.

21 NCAC 08F .0303 SEMESTER HOUR EQUIVALENT

One quarter hour of undergraduate study shall equal two-thirds of a semester hour.

21 NCAC 08F .0304 WAIVER OF EDUCATION REQUIRED PRIOR TO EXAMINATION

The Board shall waive the education requirements specified in 21 NCAC 08F .0302(a)(1) upon receipt of proof acceptable to the Board that the applicant has scored:

(1) in the 50th percentile rank or higher on each part of either the Graduate Record Examination or the Graduate Management Admission Test; and

(2) the applicant has enrolled for an advanced degree at a regionally accredited school and, prior to filing an application with the Board, has satisfactorily completed ten semester hours, or the equivalent, of graduate courses, including six semester hours in graduate accounting courses.

SECTION .0400 - EXPERIENCE

21 NCAC 08F .0401 WORK EXPERIENCE REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) G.S. 93-12(5)c sets forth work experience alternatives, one of which is required of candidates applying for CPA certification. In connection with those requirements, the following provisions apply:

(1) The work experience shall be acquired prior to the date a candidate applies for certification.

(2) All experience which is required to be under the direct supervision of a CPA shall be under the direct supervision of a CPA on active status.

(3) A candidate who applied for the CPA examination under the special examination exception set out in G.S. 93-12(5), and further described in 21 NCAC 08F .0302(a)(2) and (d) shall meet the work experience requirement prior to applying to take the CPA examination.

(b) The following provisions apply to all candidates seeking to meet the work experience requirement of G.S. 93-12(5)c.3 by working in the field of accounting.

(1) One year of work experience is 52 weeks of full-time employment. The candidate is employed full-time when the candidate is expected by the employer to work for the employer at least 30 hours each week for an indefinite period or for a set period of at least one year. Any other work is working part-time.

(2) All weeks of actual full-time employment are added to all full-time equivalent weeks in order to calculate how much work experience a candidate has acquired. Dividing that number by 52 results in the years of work experience the candidate has acquired.

(3) Full-time-equivalent weeks are determined by the number of actual part-time hours the candidate has worked. Actual part-time hours do not include hours paid for sick leave, vacation leave, attending continuing education courses or other time not spent directly performing accounting services. For each calendar week during which the candidate worked

actual part-time hours of 30 hours or more, the candidate receives one full-time-equivalent week. The actual part-time hours worked in the remaining calendar weeks are added together and divided by 30. The resulting number is the additional number of full-time-equivalent weeks to which the candidate is entitled.

(4) The candidate shall submit experience affidavits on a form provided by the Board from all of the relevant employers; provided that when such experience was not acquired while employed with a CPA firm, the candidate shall also submit details of the work experience and supervision on a form provided by the Board. Experience affidavits for part-time work shall contain a record of the actual part-time hours the candidate has worked for each week of part-time employment. Both the experience affidavit and the form for additional detail shall be certified by the employer's office supervisor or an owner of the firm who is a certificate holder.

(c) 21 NCAC 08F .0409 applies to teaching experience acquired pursuant to G.S. 93-12(5)c.2 and 4.

21 NCAC 08F .0409 SATISFACTION OF EXPERIENCE REQUIREMENT BY TEACHING

(a) Teaching Experience. The requirement of "four years experience teaching accounting," G.S. 93-12(5), means teaching accounting full-time for four years.

(1) Full-time teaching as described by the rules of the educational institution where the applicant taught will be accepted by the Board to be full-time teaching. However, in no case will less than 12 semester hours, or the equivalent, be accepted by the Board as full-time teaching.

(2) If the applicant has not taught accounting full-time for four years, credit will be allowed by the Board for teaching accounting less than full-time on a pro rata basis based upon the number of semester hours required for full-time teaching at the educational institution where the applicant taught. However, in no case can an applicant receive credit for a full-time teaching year for teaching done in less than one academic year or more credit than one full-time teaching year for teaching done within one calendar year.

(3) Courses outside the field of accounting will not be counted toward full-time teaching. Such courses include, but are not limited to: business law, finance, computer applications, personnel management, economics and statistics.

(4) Of the four years of full-time teaching experience, teaching accounting principles (below intermediate accounting) cannot be counted toward the educational requirement for more than the equivalent of two full-time years. The remaining two full-time teaching years must be taught in at least two different areas of advanced accounting such as auditing, income tax, intermediate financial accounting or advanced managerial accounting, and the applicant must have taught at least nine semester hours, or the equivalent, in at least two of the different areas.

The purpose of this Subparagraph is to render unacceptable as meaningful experience both the continuous teaching of the elementary accounting course and the continuous teaching of the advanced courses in only one area of accounting.

(b) Required Information. Applicants must submit with their application a letter from each institution where they taught, certified by the applicant's dean or department head at that institution. The letter must state:

(1) the number of credit hours which the applicant taught each year;

(2) the names and academic level of the courses taught; and

(3) the number of hours set by the rules of the institution as full-time teaching for each relevant year.

(c) Burden of Proof. An applicant having taught in an accredited community college or technical institute has the burden of proving that the credits earned by students taking those courses which the applicant taught would transfer to a four-year accredited college or university.

21 NCAC 08F .0410 EDUCATION REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) G.S. 93-12(5)a sets forth the education required of candidates applying for CPA certification. The 150 semester hours required shall include a concentration in accounting, as defined by 21 NCAC 08A .0309, and

other courses as required by the Board as follows: 24 semester hours of coursework which shall include one three semester hour course from at least eight of the following 10 fields of study:

(1) communications;
(2) computer technology;
(3) economics;
(4) ethics;
(5) finance;
(6) humanities/social science;
(7) international environment;
(8) law;
(9) management; or
(10) statistics.

(b) Anyone applying for CPA certification who holds a Master's or more advanced degree in accounting, tax law, economics, finance, business administration, or a law degree with an emphasis in taxation or accounting from an accredited college or university or the equivalent thereof shall be in compliance with the above.

SECTION .0500 - APPLICATIONS FOR CERTIFICATES

21 NCAC 08F .0502 APPLICATION FOR CPA CERTIFICATE

(a) A person applying for a certificate of qualification must file with the Board an application and an experience affidavit on forms provided by the Board and such other evidence as the Board may require in order to determine that the applicant has met the statutory and regulatory requirements.

(b) Three certificates of good moral character signed by CPAs shall be submitted with the application for a CPA certificate.

21 NCAC 08F .0504 CANDIDATES' ACCOUNTANCY LAW COURSE REQUIREMENT

(a) Within one year prior to applying for certification, all candidates for original or reciprocal certification must pass an open book examination on the North Carolina Accountancy Statutes and Rules, including the Rules of Professional Ethics and Conduct contained therein.

(b) In lieu of taking the examination, a candidate may complete an eight-hour CPE course on the subject of the examination within one year prior to applying for the CPA certificate. Such course or examination must meet the requirements of 21 NCAC 08G .0404(a). This course may count toward the candidate's annual CPE requirement.

SUBCHAPTER 08G - CONTINUING PROFESSIONAL EDUCATION (CPE)

SECTION .0400 - CPE REQUIREMENTS

21 NCAC 08G .0401 CPE REQUIREMENTS FOR CPAs

(a) In order for a CPA to receive CPE credit for a course:

(1) the CPA must attend or complete the course;
(2) the course must meet the requirements set out in 21 NCAC 08G .0404(a) or (c); and
(3) the course must increase the professional competency of the CPA.

(b) The Board registers sponsors of CPE courses. A CPE course provided by a registered sponsor is presumed to meet the CPE requirements set forth in 21 NCAC 08G .0404(a) if the sponsor has indicated that the course meets those requirements. However, it is up to the individual CPAs attending the course and desiring to claim CPE credit for it to assess whether it increases their professional competency.

(c) A course that increases the professional competency of a CPA is a course in an area of accounting in which the CPA practices or is planning to practice in the near future, or in the area of professional ethics or an area related to the profession.

(d) Because of differences in the education and experience of CPAs, a course may contribute to the professional competence of one CPA but not another. Each CPA must therefore exercise judgment in

selecting courses for which CPE credit is claimed and choose only those that contribute to that CPA's professional competence.

(e) Active CPAs must complete 40 CPE hours, computed in accordance with 21 NCAC 08G .0409 by December 31 of each year, except as follows:

(1) CPAs having certificate applications approved by the Board in April-June must complete 30 CPE hours during the same calendar year.

(2) CPAs having certificate applications approved by the Board in July-September must complete 20 CPE hours during the same calendar year.

(3) CPAs having certificate applications approved by the Board in October-December must complete 10 CPE hours during the same calendar year.

(f) There are no CPE requirements for retired or inactive CPAs.

(g) Any CPE hours completed during the calendar year in which the certificate is approved may be used for that year's requirement even if the hours were completed before the certificate was granted. When a CPA has completed more than the required number of hours of CPE in any one calendar year, the extra hours, not in excess of 20 hours, may be carried forward and treated as hours earned in the following year. A CPA may not claim CPE credit for courses taken in any year prior to the year of certification.

(h) Any CPE hours used to satisfy the requirements for change of status as set forth in 21 NCAC 08J .0105, for reinstatement as set forth in 21 NCAC 08J .0106, or for application for a new certificate as set forth in 21 NCAC 08I. 0104 may also be used to satisfy the annual CPE requirement set forth in Paragraph (e) of this Rule.

(i) It is the CPA's responsibility to maintain records substantiating the CPE credits claimed for the current year and for each of the four calendar years prior to the current year.

(j) A non-resident licensee may satisfy the annual CPE requirements including 21 NCAC 08G .0401 in the jurisdiction in which he or she is licensed and currently works or resides. If there is no annual CPE requirement in the jurisdiction in which he or she is licensed and currently works or resides, he or she must comply with (e) of this rule.

21 NCAC 08G .0403 QUALIFICATION OF CPE SPONSORS

(a) The Board registers sponsors of CPE courses and not courses. The Board will maintain a list of sponsors which have agreed to conduct programs in accordance with the standards for CPE set forth in this Subchapter. Such sponsors shall indicate their agreement by signing a CPE program sponsor agreement form provided by the Board. These sponsors are registered sponsors.

(b) Notwithstanding Paragraph (a) of this Rule, sponsors of continuing education programs which are listed in good standing on the National Registry of CPE Sponsors maintained by NASBA are considered to be registered CPE sponsors with the Board. These sponsors are not required to sign a CPE program sponsor agreement form with this Board.

(c) In the CPE program sponsor agreement with the Board, the registered sponsor shall agree to:

(1) allow the Board to audit courses offered by the sponsor in order to determine if the sponsor is complying with the terms of the agreement and shall refund the registration fee to the auditor if requested by the auditor;

(2) have an individual who did not prepare the course review each course to be sure it meets the standards for CPE;

(3) state the following in every brochure or other publication or announcement concerning a course:

(A) the general content of the course and the specific knowledge or skill taught in the course;

(B) any prerequisites for the course and any advance preparation required for the course and if none, that should be stated;

(C) the level of the course, such as basic, intermediate, or advanced;

(D) the teaching methods to be used in the course;

(E) the amount of sponsor recommended CPE credit a CPA who takes the course could claim; and

(F) the date the course is offered, if the course is offered only on a certain date, and, if applicable, the location;

(4) ensure that the instructors or presenters of the course are qualified to teach the subject matter of the course and to apply the instructional techniques used in the course;

(5) evaluate the performance of an instructor or presenter of a course to determine whether the instructor or presenter is suited to serve as an instructor or presenter in the future;

(6) encourage participation in a course only by those who have the appropriate education and experience;

(7) distribute course materials to participants in a timely manner;

(8) use physical facilities for conducting the course that are consistent with the instructional techniques used;

(9) assign accurately the number of CPE credits each participant may be eligible to receive by either:

(A) monitoring attendance at a group course; or

(B) testing in order to determine if the participant has learned the material presented;

(10) provide, before the course's conclusion, an opportunity for the attendees to evaluate the quality of the course by questionnaires, oral feedback, or other means, in order to determine whether the course's objectives have been met, its prerequisites were necessary or desirable, the facilities used were satisfactory, and the course content was appropriate for the level of the course;

(11) inform instructors and presenters of the results of the evaluation of their performance;

(12) systematically review the evaluation process to ensure its effectiveness;

(13) retain for five years from the date of the course presentation or completion:

(A) a record of participants completing course credit requirements;

(B) an outline of the course (or equivalent);

(C) the date and location of presentation;

(D) the participant evaluations or summaries of evaluations;

(E) the documentation of the instructor's qualifications; and

(F) the number of contact hours recommended for each participant;

(14) have a visible, continuous and identifiable contact person who is charged with the administration of the sponsor's CPE programs and has the responsibility and is accountable for assuring and demonstrating compliance with these rules by the sponsor or by any other organization working with the sponsor for the development, distribution or presentation of CPE courses;

(15) develop and promulgate policies and procedures for the management of grievances including, but not limited to, tuition and fee refunds;

(16) possess a budget and resources that are adequate for the activities undertaken and their continued improvement; and

(17) provide persons completing course requirements with written proof of completion indicating the participant's name, the name of the course, the date the course was held or completed, the sponsor's name and address, and the number of CPE hours calculated and recommended in accordance with 21 NCAC 08G .0409.

(d) Failure of a registered sponsor to comply with the terms of the CPE program sponsor agreement shall be grounds for the Board to terminate the agreement, to remove the registered sponsor's name from the list of registered sponsors and to notify the public of this action.

(e) Failure of a National Registry of CPE Sponsor to comply with the terms of this rule shall be grounds for the Board to disqualify the sponsor to be registered as a CPE sponsor with this Board and to notify NASBA and the public of this action.

21 NCAC 08G .0404 REQUIREMENTS FOR CPE CREDIT

(a) A CPA shall not be granted CPE credit for a course unless the course:

(1) is in one of the seven fields of study recognized by the Board and set forth in Paragraph (b) of this Rule;

(2) is developed by an individual who has education and work experience in the subject matter of the course; and

(3) uses instructional techniques and materials that are current and accurate.

(b) The seven fields of study recognized by the Board are:

(1) Accounting and Auditing
- (A) Accountancy
- (B) Accounting - Governmental
- (C) Auditing
- (D) Auditing - Governmental

(2) Consulting Services
- (A) Administrative Practice
- (B) Social Environment of Business

(3) Ethics
- (A) Behavioral Ethics
- (B) Regulatory Ethics

(4) Management
- (A) Business Law
- (B) Business Management and Organization
- © Finance
- (D) Management Advisory Services
- (E) Marketing

(5) Personal Development
- (A) Communications
- (B) Personal Development
- (C) Personnel/HR

(6) Special Knowledge and Applications
- (A) Computer Science
- (B) Economics
- (C) Mathematics
- (D) Production
- (E) Specialized Knowledge and Applications
- (F) Statistics

(7) Tax

(c) The following may qualify as acceptable types of continuing education programs, provided the programs comply with the requirements set forth in Paragraph (a) of this Rule:

(1) professional development programs of national and state accounting organizations;

(2) technical sessions at meetings of national and state accounting organizations and their chapters;

(3) courses taken at regionally accredited colleges and universities;

(4) educational programs that are designed and intended for continuing professional education activity conducted within an association of accounting firms; and

(5) correspondence courses that are designed and intended for continuing professional education activity.

(d) CPE credit may be granted for teaching a CPE course or authoring a publication as long as the preparation to teach or write increased the CPA's professional competency and was in one of the seven fields of study recognized by the Board and set forth in Paragraph (b) of this Rule.

(e) CPE credit shall not be granted for a self-study course if the material that the CPA must study to take the examination is not designed for CPE purposes. This includes periodicals, guides, magazines, subscription services, books, reference manuals and supplements which contain an examination to test the comprehension of the material read.
(f) A CPA may claim credit for a course offered by a non-registered sponsor provided that the course meets the requirements of 21 NCAC 08G .0403(c), 21 NCAC 08G .0404, and 21 NCAC 08G .0409. The CPA shall maintain documentation proving that the course met these standards.

21 NCAC 08G .0405 ADMINISTRATION OF REQUIREMENT
Forms for reporting CPE hours will be furnished by the Board. The Board may audit on a test basis information submitted by licensees who may apply for a renewal license.

21 NCAC 08G .0406 COMPLIANCE WITH CPE REQUIREMENTS
(a) All active CPAs shall file with the Board a completed CPE reporting form by the July 1 renewal date of each year.
(b) If a CPA fails to complete the CPE requirements prior to the end of the previous calendar year but has completed them by June 30, the Board may:

(1) issue a letter of warning for the first such failure within a five calendar year period; and
(2) deny the renewal of the CPA's certificate for a period of not less than 30 days and until the CPA meets the reinstatement requirements set forth in 21 NCAC 08J .0106 for the second such failure within a five calendar year period.

21 NCAC 08G .0409 COMPUTATION OF CPE CREDITS
(a) Group Courses: Non-College. CPE credit for a group course that is not part of a college curriculum shall be given based on contact hours. A contact hour shall be 50 minutes of instruction. One-half credits shall be equal to 25 minutes after the first credit hour has been earned in a formal learning activity. For example, a group course lasting 100 minutes shall be two contact hours and thus two CPE credits. A group course lasting 75 minutes shall be only one and one-half contact hours and thus one and one-half CPE credits. When individual segments of a group course shall be less than 50 minutes, the sum of the individual segments shall be added to determine the number of contact hours. For example, five 30-minute presentations shall be 150 minutes, which shall be three contact hours and three CPE credits. No credit shall be allowed for a segment unless the participant completes the entire segment.
(b) Completing a College Course. CPE credit for completing a college course in the college curriculum shall be granted based on the number of credit hours the college gives the CPA for completing the course. One semester hour of college credit shall be 15 CPE credits; one quarter hour of college credit shall be 10 CPE credits; and one continuing education unit (CEU) shall be 10 CPE credits. However, under no circumstances shall CPE credit be given to a CPA who audits a college course.
(c) Self Study. CPE credit for a self-study course shall be given based on the average number of contact hours needed to complete the course. The average completion time shall be allowed for CPE credit. A sponsor must determine, on the basis of pre-tests, the average number of contact hours it takes to complete a course. CPE credit for self-study courses shall be limited so that a CPA completes at least eight hours of non-self study each year.
(d) Instructing a CPE Course. CPE credit for teaching or presenting a CPE course for CPAs shall be given based on the number of contact hours spent in preparing and presenting the course. No more than 50 percent of the CPE credits required for a year shall be credits for preparing for and presenting CPE courses. CPE credit for preparing for and presenting a course shall be allowed only once a year for a course presented more than once in the same year by the same CPA.
(e) Authoring a Publication. CPE credit for published articles and books shall be given based on the number of contact hours the CPA spent writing the article or book. No more than 25 percent of a CPA's required CPE credits for a year shall be credits for published articles or books. An article written for a CPA's client or business newsletter is not applicable for this CPE credit.

(f) Instructing a College Course. CPE credit for instructing a graduate level college course shall be given based on the number of credit hours the college gives a student for successfully completing the course, using the calculation set forth in Paragraph (b) of this Rule. Credit shall not be given for instructing an undergraduate level course. In addition, no more than 50 percent of the CPE credits required for a year shall be credits for instructing a college course and, if CPE credit shall also be claimed under Paragraph (d) of this Rule, no more than 50 percent of the CPE credits required for a year shall be credits claimed under Paragraph (d) and this Paragraph. CPE credit for instructing a college course shall be allowed only once for a course presented more than once in the same year by the same CPA.

21 NCAC 08G .0410 PROFESSIONAL ETHICS AND CONDUCT CPE

(a) As part of the annual CPE requirement, all active CPAs shall complete CPE on professional ethics and conduct as set out in 21 NCAC 08N. They shall complete either two hours in a group study format or four hours in a self-study format. These courses shall be approved by the Board pursuant to 21 NCAC 08G .0400. This CPE shall be offered by a CPE sponsor registered with the Board pursuant to 21 NCAC 08G .0403(a) or (b).

(b) A non-resident licensee whose primary office is in North Carolina must comply with Paragraph (a) of this Rule. All other non-resident licensees may satisfy Paragraph (a) of this Rule by completing the ethics requirements in the jurisdiction in which he or she is licensed as a CPA and works or resides. If there is no ethics CPE requirement in the jurisdiction where he or she is licensed and currently works or resides, he or she must comply with Paragraph (a) of this Rule.

SUBCHAPTER 08H - RECIPROCITY

SECTION .0100 - REQUIREMENTS

21 NCAC 08H .0101 RECIPROCAL CERTIFICATES

(a) A person from another jurisdiction who desires to offer or render professional services as a CPA to his or her employer or a client in this state shall meet all the requirements imposed on an applicant under G.S. 93-12(5) or the requirements of G.S. 93-12(6).

(b) The fee for a reciprocal certificate shall be the maximum amount allowed by G.S. 93-12(7a).

(c) An applicant for a reciprocal certificate shall meet the following requirements:

(1) The applicant has the legal authority to use the CPA title and to practice public accountancy in a jurisdiction.

(2) The applicant has received a passing score on each part of the Uniform CPA Examination.

(d) An applicant for change in status, reissuance, or reinstatement of a reciprocal certificate that was inactive, forfeited, or retired more than 10 years before the date of reapplication, must comply with all current requirements for a reciprocal certificate.

21 NCAC 08H .0102 TEMPORARY PERMIT

(a) The Board may grant temporary permits only to applicants for reciprocal certificates pending their qualification under 21 NCAC 8H .0101 and application to the Board on forms provided by the Board.

(b) Upon approval of a temporary permit, the Board will issue the applicant a statement confirming that the CPA is in good standing in the state issuing the CPA's certificate and is entitled temporarily to use the CPA title and engage in the public practice of accountancy in North Carolina for a stated period. The stated period shall expire 120 days after issue or upon issuance of the individual's reciprocal certificate, whichever comes first.

21 NCAC 08H .0104 NOTICE TO BOARD OF DISCIPLINE BY OTHER AGENCY

Any applicant for or holder of a temporary permit or reciprocal certificate issued by this Board shall also comply with the reporting requirements listed in 21 NCAC 8N .0208.

21 NCAC 08H .0105 USE OF CPA TITLE

(a) A person who holds a CPA certificate from another jurisdiction, territory or district but not from this Board and who temporarily enters North Carolina for the sole purpose of:

(1) teaching either a college or a CPE course;
(2) delivering any other lecture, or
(3) moderating any panel discussion

may use the CPA title provided that, in every instance of any kind in which the CPA title is used, the state, territory or district granting the CPA title is disclosed.

(b) A person who holds a CPA certificate from another state, territory or district and who temporarily enters this state for the sole purpose of rendering advisory or consulting services to persons employed by the same employer as the CPA (including parent, sister, or subsidiary entities) may use the CPA title.

(c) Out-of-state CPAs neither domiciled nor employed in North Carolina may enter the state for the sole purpose of performing a peer review for a North Carolina licensee and shall not be required to secure a temporary permit to conduct said engagement.

21 NCAC 08H .0106 NON-RESIDENT NOTIFICATION

(a) An individual whose principal place of business is outside this State must notify the Board that he or she intends to perform or offers to perform services in this State as a CPA no later than 30 days after the intent to perform or offer to perform services. Such notification shall be made on a form supplied by the Board.

(b) Notification to the Board shall be valid until December 31 of each year at which time the individual must renew his or her notification by January 31 or his or her privilege to perform or offer to perform services in this state as a CPA is terminated.

SUBCHAPTER 08I - REVOCATION OF CERTIFICATES AND OTHER DISCIPLINARY ACTION

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 08I .0101 DISCIPLINARY ACTION

(a) Any person may petition the Board for appropriate disciplinary action against a CPA.

(b) The petition shall set forth in simple language the facts upon which the petition is based. It shall bear an affidavit of the petitioner stating that he or she believes the facts stated in the petition are true and that he or she is prepared to prove them at a hearing.

(c) The petition shall be filed in the office of the Board. The Board's professional standards staff shall conduct any appropriate investigation. Based upon its investigation, the professional standards staff may prepare a proposed Hearing Notice. A Professional Standards Committee, appointed by the President of the Board, shall determine whether the allegations in the proposed Hearing Notice, if proven, would warrant a contested case proceeding pursuant to G.S. 150B-38 - 150B-42.

(d) The Board may publish or announce the disciplinary action against a CPA in such manner and for such period as it deems appropriate.

21 NCAC 08I .0102 PROCEDURE WHEN PETITION AGAINST BOARD MEMBER OR EMPLOYEE

If the person against whom a petition for disciplinary action is filed is a Board member or a Board employee, the Secretary-Treasurer or Executive Director shall immediately notify that person and every member of the Board of the petition. The person against whom the petition was filed shall not participate in considering or acting on the petition.

21 NCAC 08I .0104 MODIFICATION OF DISCIPLINE AND NEW CERTIFICATE

(a) A person or CPA firm that has been disciplined by the Board may apply to the Board for modification of the discipline at any time after the effective date of the Board's decision imposing it; however, if any previous application has been made with respect to the same discipline, no additional application shall be considered before the lapse of one year following the Board's decision on that previous application. Provided, however,

that an application to modify permanent revocation shall not be considered until after five years from the date of the original discipline, nor more often than three years after the Board's last decision on any prior application for modification.

(b) The application for modification of discipline or for a new certificate shall be in writing, shall set out and, as appropriate, shall demonstrate good cause for the relief sought. The application for an individual shall be accompanied by at least three supporting recommendations, made under oath, from CPAs who have personal knowledge of the activities of the applicant since the discipline was imposed. The application for a CPA firm shall be accompanied by at least three supporting recommendations, made under oath, for each CPA partner, CPA member, or CPA shareholder from CPAs who have personal knowledge of the activities of the CPA partner, CPA member, or CPA shareholder since the discipline was imposed.

(c) "Good cause" as used in Paragraph (b) of this Rule means that the applicant is completely rehabilitated with respect to the conduct which was the basis of the discipline. Evidence demonstrating such rehabilitation shall include evidence:

(1) that such person has not engaged in any conduct during the discipline period which, if that person had been licensed or registered during such period, would have constituted the basis for discipline pursuant to G.S. 93-12(9);

(2) that, with respect to any criminal conviction which constituted any part of the previous discipline, the person has completed the sentence imposed; and

(3) that, with respect to a court order, restitution has been made to any aggrieved party.

(d) In determining good cause, the Board may consider all the applicant's activities since the disciplinary penalty was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the applicant was in good standing with the Board, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity. For the purpose of this Paragraph, "applicant" shall, in the case of a CPA firm, include CPA partners, CPA members, or CPA shareholders.

(e) Any person who applies for a modification of discipline and for a new certificate after revocation shall, in addition to the other requirements of this Section, comply with all qualifications and requirements for initial certification which exist at the time of the application.

(f) No application for a new certificate or for modification of discipline shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or suspended sentence, any of which are imposed as a result of having been convicted or plead to a criminal charge.

(g) An application shall ordinarily be ruled upon by the Board on the basis of the recommendations and evidence submitted in support thereof. However, the Board may make additional inquiries of any person or persons, or request additional evidence it deems appropriate.

(h) As a condition for a new certificate or modification of discipline, the Board may impose terms and conditions it considers suitable.

21 NCAC 08I .0105 REVOCATION OF CERTIFICATES

(a) When a certificate is revoked either for a specific period of time or permanently, the certificate holder shall return the certificate to the Board office within 15 days of receipt of notice of revocation.

(b) Pursuant to the provisions of 21 NCAC 08I. 0004, the Board may issue a new certificate under a new number to anyone whose certificate has been revoked.

SUBCHAPTER 08J - RENEWALS AND REGISTRATIONS

SECTION .0100 - REQUIREMENTS

21 NCAC 08J .0101 ANNUAL RENEWAL OF CERTIFICATE, FORFEITURE, AND REAPPLICATION

(a) All active CPAs shall renew their certificates annually by the first day of July. The fee for such renewal is the maximum amount allowed by statute.

(b) To renew a certificate a CPA shall submit to the Board:

(1) a properly completed certificate renewal application form;
(2) a properly completed CPE report, as required by 21 NCAC 08G .0406(a); and
(3) the annual renewal fee.

(c) Upon failure of a CPA to comply with any applicable part of Paragraph (b) of this Rule by July 1, the Board shall send notice of such failure in the form of a demand letter to the CPA at the most recent mailing address the Board has on file. Completed renewal application packages shall be postmarked with proper postage not later than 30 days after the mailing date of the demand letter, unless that date falls on a weekend, in which case the renewal package must be postmarked or received in the Board office on the next business day. For renewal packages sent via the U.S. Postal Service, only a U.S. Postal Service cancellation shall be considered as the postmark. If the renewal package is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark. Subsequent failure of the CPA to comply with any applicable part of Paragraph (b) of this Rule within 30 days after such notice is mailed automatically results in forfeiture of the CPA's certificate, as required by G.S. 93-12(15).

(d) Upon forfeiture of a certificate, the certificate holder is no longer a CPA and the Board shall send notice of such forfeiture to the certificate holder by certified mail to the most recent mailing address the Board has on file. The certificate holder shall return the certificate to the Board office within 15 days after receipt of notice of forfeiture or, if the certificate has been destroyed or lost, shall submit an affidavit, on a form supplied by the Board, within 15 days of receipt of such notice that the certificate has been destroyed or has been lost and shall be returned to the Board if found.

(e) A person who has forfeited a certificate pursuant to G.S. 93-12(15) for failure to renew his or her certificate may apply for reissuance under 21 NCAC 08J .0006.

(f) If a check or credit card authorization for the annual renewal fee fails to clear the bank, the annual renewal shall be deemed incomplete and returned.

21 NCAC 08J .0105 RETIRED AND INACTIVE STATUS: CHANGE OF STATUS

(a) A CPA may apply to the Board for change of status to retired status or inactive status provided the CPA meets the description of the appropriate status as defined in 21 NCAC 08A .0301. Application for any status change may be made on the annual certificate renewal form or another form provided by the Board.

(b) A CPA who does not meet the description of inactive or retired as defined in 21 NCAC 08A .0301 may not be or remain on inactive or retired status.

(c) A CPA on retired status may change to active status by:
(1) paying the certificate renewal fee for the license year in which the application for change of status is received; and
(2) furnishing the Board with evidence of satisfactory completion of 40 hours of acceptable CPE courses during the 12 month period immediately preceding the application for change of status. Eight of the required hours must be credits derived from a course or examination in North Carolina accountancy statutes and rules (including the Code of Professional Ethics and Conduct contained therein) as set forth in 21 NCAC 08G .0401(a).

(d) A CPA on retired status may request change to inactive status by application to the Board.

(e) Any individual on inactive status may change to active status by complying with the requirements of 21 NCAC 08J .0006(c).

21 NCAC 08J .0106 FORFEITURE OR INACTIVATION OF CERTIFICATE AND REISSUANCE OR REINSTATEMENT

(a) A certificate holder who determines that the certificate of qualification issued by the Board is no longer needed or desired may request inactive status by application to the Board.

(b) A person who is inactive or has forfeited a certificate is no longer a CPA and thus is not subject to the renewal fee or CPE requirements contained in these Rules.

(c) A person who desires to reinstate an inactive certificate or reissue a forfeited certificate shall make application and provide the following to the Board:
(1) payment of the current certificate application fee;

(2) three certificates of moral character and endorsements as to eligibility signed by CPAs holding valid certificates granted by any state or territory of the United States or the District of Columbia; and

(3) evidence of satisfactory completion of the CPE requirement described in 21 NCAC 08J .0005(c)(2).

(d) The certificate may be reinstated or reissued if determined by the Board that the person meets the requirements as listed in Paragraph (c) of this Rule.

21 NCAC 08J .0107 MAILING ADDRESSES OF CERTIFICATE HOLDERS AND CPA FIRMS

All certificate holders and CPA firms shall notify the Board in writing within 30 days of any change in address or business location.

21 NCAC 08J .0108 CPA FIRM REGISTRATION

(a) All CPA firms shall register with the Board within 30 days after opening a North Carolina office or beginning a new CPA firm unless they are a professional corporation, professional limited liability company, or registered limited liability partnership, in which case they shall register prior to formation pursuant to 21 NCAC 08K .0104 and .0301.

(b) In addition to the registration required by Paragraph (a) of this Rule, all CPA firms shall renew annually by January 31 with the Board upon forms provided by the Board.

(c) The information provided by the registration shall include:

(1) Either an application for exemption from peer review, a request to be deemed in compliance with peer review or registration for peer review, pursuant to 21 NCAC 08M .0105;

(2) For all CPA firms not exempt from the peer review program, with the registration immediately following its review, the information required by 21 NCAC 08M .0106(a);

(3) For all North Carolina offices, an office registration form indicating the name of the office supervisor, the location of the office and its telephone number;

(4) For all partnerships or registered limited liability partnerships, a list of all resident and nonresident partners of the partnership;

(5) For all professional limited liability companies, the information set forth in 21 NCAC 08K .0104(d);

(6) For all incorporated CPA firms, the information set forth in 21 NCAC 08K .0104(d);

(7) For all CPA firms, the appropriate registration fees as set forth in 21 NCAC 08J .0110; and

(8) For all new CPA firms, the percentage of ownership held individually by each owner who has five percent or more of ownership:

(A) in the new CPA firm; and

(B) at the year-end in each CPA firm in which that owner was an owner during the preceding two years.

(9) For all changes in ownership of a CPA firm, the percentage of ownership held individually by each owner who has five percent or more of ownership.

(d) All information provided for registration with the Board shall pertain to events of and action taken during the year preceding the year of registration. The last day of the preceding calendar year is the "year-end."

(e) With regard to Paragraph (c)(3) of this Rule, one representative of a CPA firm may file all documents with the Board on behalf of the CPA firm's offices in North Carolina. However, responsibility for compliance with this Rule shall remain with each office supervisor.

(f) With regard to Paragraph (c)(4) or (c)(5) of this Rule, one annual listing by a representative of the partnership, registered limited liability partnership, or professional limited liability company shall satisfy the requirement for all owners of the CPA firm. However, each owner shall remain responsible for compliance with this Rule. The absence of a filing under Paragraph (c)(4) or (c)(5) of this Rule shall be construed to mean that no partnership, registered limited liability partnership, or professional limited liability company exists.

(g) Notice that a CPA firm has dissolved or any change in the information required by Paragraph (c)(3) of this Rule shall be delivered to the Board's office within 30 days after the change or dissolution occurs. A

professional corporation or professional limited liability company which is dissolving shall deliver the Articles of Dissolution to the Board's office within 30 days of filing with the Office of the Secretary of State.
(h) Upon written petition by a CPA firm, the Board may grant the CPA firm a conditional registration for a period of 60 days or less, if the CPA firm shows that circumstances beyond its control prohibited it from registering with the Board, completing a peer review or notifying the Board of change or dissolution pursuant to Paragraphs (a), (b), (c), and (g) of this Rule. The Board may grant a second extension under continued extenuating circumstances.
(i) A complete registration, as required by 21 NCAC 08J .0108(b) and (c), shall be postmarked with proper postage or received in the Board office not later than the last day of January unless that date falls on a weekend or federal holiday, in which case that day shall be the next business day. Only a U.S. Postal Service cancellation shall be considered as the postmark. If a registration is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark.

21 NCAC 08J .0110 REGISTRATION FEES

The annual registration fees shall be as follows:

(1) For all professional corporations or professional limited liability companies, twenty-five dollars ($25.00); and

(2) For all non-incorporated CPA firms which have offices both within and outside the state of North Carolina, whether sole proprietorships, partnerships, or registered limited liability partnerships, an amount equal to two thousand five hundred dollars ($2,500.00) or the number of CPA members of the CPA firm multiplied by ten dollars ($10.00), whichever is less.

21 NCAC 08J .0111 COMPLIANCE WITH CPA FIRM REGISTRATION

If a CPA firm fails to comply with any part of 21 NCAC 08J .0108, or 08J .0110 the Board may take disciplinary action against the CPA firm's members. Such discipline may include:

(1) a conditional license upon such conditions as the Board may deem appropriate for non-compliance of less than 60 days;

(2) a conditional license and one hundred dollar ($100.00) civil penalty for non-compliance in excess of 60 days but not more than 120 days;

(3) a suspension of each member's CPA certificate for a period of not less than 30 days for non-compliance in excess of 120 days.

SUBCHAPTER 08K - PROFESSIONAL CORPORATIONS AND PROFESSIONAL LIMITED LIABILITY COMPANIES

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 08K .0104 REGISTRATION AND RENEWAL

(a) Domestic CPA professional corporations or professional limited liability companies must be formed and all CPA professional corporations or professional limited liability companies must be operated in accordance with the requirements set out in G.S. 55B and 57C. Before any CPA professional corporation or professional limited liability company can offer to perform or perform any professional services in this state, it must register with the Board.
(b) Initial registration.

(1) Domestic CPA Corporation or Professional Limited Liability Company. In order to register initially with this Board, the incorporators of a domestic CPA corporation or professional limited liability company, prior to incorporation of the CPA firm, must:

(A) prepare and file with the Board the articles of incorporation along with any supporting documents and appropriate checks for fees payable to the Secretary of State;

(B) complete and file with the Board the application for professional corporation or professional limited liability company registration form along with any supporting documents; and

(C) pay to the Board an initial registration fee of fifty dollars ($50.00).

(2) Foreign CPA Corporation or Foreign Limited Liability Company. To register initially with the Board, the officers of a foreign corporation or foreign limited liability company, prior to performing services or offering to perform services in North Carolina, must submit to the Board:

(A) on an application for registration form provided by the Board, a list of its present shareholders or members and the state or territory issuing the CPA certificate, or the equivalent, of each shareholder or member and the number of each certificate or equivalent; and

(B) the documents required by G.S. 55A-61, 55A-62, and 57C-7.

(c) In addition to its initial registration, every CPA corporation or professional limited liability company, whether domestic or foreign, must register annually pursuant to 21 NCAC 08J .0108.

(d) The application for registration by a CPA corporation or professional limited liability company shall provide the following information:

(1) the name and address of the professional corporation or professional limited liability company;

(2) the address of each office operated or maintained by the corporation or professional limited liability company;

(3) the names and addresses of all the officers, directors, shareholders, or members; and

(4) the names and addresses of all the employees and managers of the corporation or professional limited liability company licensed by the Board under the provisions of G.S. 93.

21 NCAC 08K .0105 SUPPLEMENTAL REPORTS

(a) The Board may request in writing such supplemental reports as it deems appropriate from any professional corporations or professional limited liability companies registered with the Board pursuant to G.S. 55B, 57C, and these rules. The professional corporation or professional limited liability company shall file such reports with the Board=s office within 30 days from the date it received the request.

(b) In addition to the supplemental reports required by 21 NCAC 08J .0108(g), professional corporations or professional limited liability companies registered with the Board pursuant to G.S. 55B and 57C shall file a certified copy of all amendments to the articles of incorporation or articles of organization prior to the effective date of each amendment. They shall also file a copy of any amendment to the by-laws, certified to be a true copy by the secretary or an assistant secretary of the corporation or professional limited liability company, prior to adoption of the amendment.

SECTION .0200 - PRACTICE PROCEDURES OF PROFESSIONAL CORPORATIONS AND PROFESSIONAL LIMITED LIABILITY COMPANIES

21 NCAC 08K .0201 CORPORATE AND PROFESSIONAL LIMITED LIABILITY COMPANY NAMES

(a) The corporate name of a professional corporation registered under these Rules shall contain the wording "corporation," "incorporated," "limited," "company," "professional corporation," or "professional association," or an abbreviation of one of the foregoing: "Corp.," "Inc.," "Ltd.," "Co.," "P.C.," or "P.A."

(b) The corporate name of a professional limited liability company registered under these Rules shall contain the wording "professional limited liability company," "professional ltd. liability co.," "professional limited liability co.," or "professional ltd. liability company," or an abbreviation of one of the foregoing: "P.L.L.C." or "PLLC."

(c) The use of "CPA" or "Certified Public Accountant(s)" in the corporate name is encouraged, but not required. Any name shall also meet the requirements in 21 NCAC 08N .0302 and .0307.

SECTION .0300 - REGISTERED LIMITED LIABILITY PARTNERSHIPS

21 NCAC 08K .0301 REGISTERED LIMITED LIABILITY PARTNERSHIPS

(a) Any Registered Limited Liability Partnership created pursuant to and in compliance with G.S. 59 shall also comply with all accountancy laws and rules pertaining to partnerships.

(b) Before any CPA registered limited liability partnership may perform or offer to perform any professional services in this state, it shall file with the Board the certificate of registration of the Secretary of State and appropriate fees payable to the Secretary of State.

SUBCHAPTER 08M - PEER REVIEW PROGRAM

SECTION .0100 - GENERAL PEER REVIEW REQUIREMENTS

21 NCAC 08M .0105 PEER REVIEW REQUIREMENTS

(a) A CPA or CPA firm providing any of the following services to the public shall participate in a peer review program:

(1) audits;
(2) reviews of financial statements;
(3) compilations of financial statements; and
(4) agreed-upon procedures.

(b) A CPA or CPA firm not providing any of the services listed in Paragraph (a) of this Rule is exempt from peer review until the issuance of the first report provided to a client.

(c) A CPA, a new CPA firm or a CPA firm exempt from peer review now providing any of the services in Paragraph (a) of this Rule shall furnish to the peer review program their first peer review report, the letter of comments, the letter of response, and any work papers required for the peer review program within 24 months of the issuance of the first report provided to a client.

(d) Participation in and completion of one of the following peer review programs is required:

(1) AICPA Center for Public Company Audit Firms;
(2) AICPA Peer Review Program; or
(3) Any other peer review program found to be substantially equivalent to Subparagraph (1) or (2) of this Paragraph in advance by the Board.

(e) CPA firms shall not rearrange their structure or act in any manner with the intent to avoid participation in peer review.

(f) A CPA firm which does not have offices in North Carolina and which has not provided any services as listed in Paragraph (a) of this Rule to North Carolina clients is not required to participate in a peer review program.

(g) Subsequent peer reviews of a CPA firm are due three years and six months from the year end of the 12 month period of the first peer review unless granted an extension by the peer review program.

21 NCAC 08M .0106 COMPLIANCE

(a) A CPA firm registered for peer review shall provide to the Board the following:

(1) Peer review due date;
(2) Year end date;
(3) Final Letter of Acceptance from peer review program within 60 days of the date of the letter; and
(4) A package to include the Peer Review Report, Letter of Comments, Letter of Response and Final Letter of Acceptance for all adverse and second modified reports issued by a peer review program within 60 days of the date of the Final Letter of Acceptance.

(b) A peer review is not complete until the Final Letter of Acceptance is issued by the peer review program with the new due date.

(c) If a CPA firm fails to comply with 21 NCAC 08M .0105(c), (d), or (g), the Board may take disciplinary action against the CPA firm's members which may include:

(1) a conditional license and one hundred dollars ($100.00) civil penalty upon conditions as the Board may deem appropriate for non-compliance of less than 60 days;
(2) a conditional license and two hundred fifty dollars ($250.00) civil penalty for non-compliance in excess of 60 days but not more than 120 days; and
(3) a suspension of each member's CPA certificate for a period of not less than 30 days and a civil penalty of five hundred dollars ($500.00) for non-compliance in excess of 120 days.

21 NCAC 08M .0107 ETHICAL DUTIES OF REVIEWER
(a) A reviewer shall be independent with respect to the reviewed CPA firm and comply with the AICPA Standards for Performing and Reporting on Peer Reviews.
(b) Information concerning the participating CPA firm or its clients or personnel that is obtained as a consequence of the review is confidential and shall not be disclosed to anyone not involved in the peer review process.

SUBCHAPTER 08N - PROFESSIONAL ETHICS AND CONDUCT

SECTION .0100 - SCOPE AND APPLICABILITY

21 NCAC 08N .0101 SCOPE OF THESE RULES
(a) The rules in this Subchapter are the rules of professional ethics and conduct which G.S. 93-12(9) authorizes the Board to adopt. As such, they complement the other statutory causes for discipline set out in G.S. 93-12(9)(a) through (d) and other provisions of G.S. 93, 55B, 57C, and 59-84. These Rules cover a broad range of behavior and do not enumerate every possible unethical act.
(b) In the interpretation and enforcement of these Rules, the Board will give consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by the boards of other jurisdictions and by appropriately authorized ethics committees of professional organizations.

21 NCAC 08N .0102 APPLICABILITY AND ORGANIZATION OF RULES
These Rules are generally applicable to all certificate holders. Rules in Section .0200 of this Subchapter relate to CPAs whether or not employed in the public practice of accountancy. Rules in Section .0300 of this Subchapter pertain to CPAs using the CPA title in connection with providing products or services to clients. Rules in Section .0400 of this Subchapter pertain to CPAs whenever engaged in attest services.

21 NCAC 08N .0103 RESPONSIBILITY FOR COMPLIANCE BY OTHERS
A CPA and CPA firm shall be responsible for assuring compliance with the rules in this Subchapter by anyone who is the CPA's partner, fellow shareholder, member, officer, director, licensed employee, unlicensed employee or agent or unlicensed principal, or by anyone whom the CPA supervises. A CPA or CPA firm shall not permit others (including affiliated entities) to carry out on the CPA's behalf, with or without compensation, acts which if carried out by the CPA would be a violation of these Rules.

SECTION .0200 - RULES APPLICABLE TO ALL CPAs

21 NCAC 08N .0201 INTEGRITY
The reliance of the public and the business community on sound financial reporting and advice on business affairs imposes on the accounting profession an obligation to maintain high standards of technical competence, morality, and integrity. To this end, a CPA shall at all times maintain independence of thought and action, hold the affairs of clients in strict confidence, strive continuously to improve professional skills, observe generally accepted accounting principles and standards, promote sound and informative financial reporting, uphold the dignity and honor of the accounting profession, and maintain high standards of personal conduct.

21 NCAC 08N .0202 DECEPTIVE CONDUCT PROHIBITED

(a) Deception Defined. A CPA shall not engage in deceptive conduct. Deception includes fraud or misrepresentation and representations or omissions which a CPA either knows or should know have a capacity or tendency to deceive. Deceptive conduct is prohibited whether or not anyone has been actually deceived.

(b) Prohibited Deception. Prohibited conduct under this Section includes but is not limited to deception in:

(1) obtaining or maintaining employment;
(2) obtaining or keeping clients;
(3) obtaining or maintaining certification, retired status, or exemption from peer review;
(4) reporting CPE credits;
(5) certifying the character or experience of exam or certificate applicants;
(6) implying abilities not supported by education, professional attainments, or licensing recognition;
(7) asserting that services or products sold in connection with use of the CPA title are of a particular quality or standard when they are not;
(8) creating false or unjustified expectations of favorable results;
(9) using or permitting another to use the CPA title in a form of business not permitted by the accountancy laws or rules;
(10) permitting anyone not certified in this state (including one licensed in another state) to unlawfully use the CPA title in this state or to unlawfully operate as a CPA firm in this state; or
(11) falsifying a review, report, or any required program or checklist of any peer review program.

21 NCAC 08N .0203 DISCREDITABLE CONDUCT PROHIBITED

(a) Discreditable Conduct. A CPA shall not engage in conduct discreditable to the accounting profession.

(b) Prohibited Discreditable Conduct. Discreditable conduct includes but is not limited to:

(1) acts that reflect adversely on the CPA's honesty, integrity, trustworthiness, good moral character, or fitness as a CPA in other respects;
(2) stating or implying an ability to improperly influence a governmental agency or official;
(3) failing to comply with any order issued by the Board; or
(4) failing to fulfill the terms of a peer review engagement contract.

21 NCAC 08N .0204 DISCIPLINE BY FEDERAL AND STATE AUTHORITIES

(a) Violations of Other Authorities' Laws or Rules. A CPA shall not act in a way that would cause said CPA to be disciplined by federal or state agencies or boards for violations of laws or rules on ethics. CPAs who engage in activities regulated by other federal or state authorities (including but not limited to the following agencies: IRS, Department of Revenue, SEC, State Bar, North Carolina Secretary of State, PCAOB, NASD, Department of Insurance, GAO, HUD, State Auditor, State Treasurer, or Local Government Commission) must comply with all such authorities' ethics laws and rules.

(b) Prima Facie Evidence. A conviction or final finding of unethical conduct by a competent authority is prima facie evidence of a violation of this Rule.

(c) Notice to the Board Required. A CPA shall notify the Board in writing within 30 days of any conviction or finding against him or her of unlawful conduct by any federal or state court or regulatory authority.

21 NCAC 08N .0205 CONFIDENTIALITY

(a) Nondisclosure. A CPA shall not disclose any confidential information obtained in the course of employment or a professional engagement except with the consent of the employer or client.

(b) Exceptions. This Rule shall not be construed:

(1) to relieve a CPA of any report obligations pertaining to Section .0400 of this Subchapter; or
(2) to affect in any way the CPA's compliance with a validly issued subpoena or summons enforceable by this Board or by order of a court; or

(3) to preclude the CPA from responding to any inquiry made by the AICPA Ethics Division or Trial Board, by a duly constituted investigative or disciplinary body of a state CPA society, or under state statutes; or

(4) to preclude the disclosure of confidential client information necessary for the peer review process or for any quality review program; or

(5) to preclude the CPA from assisting the Board in enforcing the accountancy statutes and rules; or

(6) to affect a CPA's disclosure of confidential information to state or federal authorities when the CPA concludes in good faith based upon professional judgment that a crime is being or is likely to be committed; or

(7) to affect a CPA's disclosure of confidential information when such disclosure is required by state or federal laws or regulations.

21 NCAC 08N .0206 COOPERATION WITH BOARD INQUIRY

A CPA shall fully cooperate with the Board in connection with any inquiry it shall make. Full cooperation includes fully responding in a timely manner to all inquiries of the Board or representatives of the Board and claiming Board correspondence from the U.S. Postal Service.

21 NCAC 08N .0207 VIOLATION OF TAX LAWS

A CPA shall not knowingly violate any state or federal tax laws in handling the CPA's personal business affairs, or the business affairs of an employer or client, or the business affairs of any company owned by the CPA.

21 NCAC 08N .0208 REPORTING CONVICTIONS, JUDGMENTS, AND DISCIPLINARY ACTIONS

(a) Criminal Actions. A CPA shall notify the Board within 30 days of any conviction or finding of guilt of, pleading of *nolo contendere,* or receiving a prayer for judgment continued to any criminal offense.

(b) Civil Actions. A CPA shall notify the Board within 30 days of any judgment or settlement in a civil suit, bankruptcy action, administrative proceeding, or binding arbitration, the basis of which is grounded upon an allegation of professional negligence, gross negligence, dishonesty, fraud, misrepresentation, incompetence, or violation of any federal or state tax law and which was brought against either the CPA or a North Carolina office of a CPA firm of which the CPA was a managing partner.

21 NCAC 08N .0209 ACCOUNTING PRINCIPLES

(a) Generally Accepted Accounting Principles. A CPA shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from an accounting principle which has a material effect on the statements taken as a whole, unless the CPA can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading.

(b) Statements of Financial Accounting Standards. The Statements of Financial Accounting Standards, together with those Accounting Research Bulletins and Accounting Principles Board Opinions which are not superseded by action of the FASB, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered generally accepted accounting principles for the purposes of Paragraph (a) of this Rule.

(c) Departures. In such cases the CPA's report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(d) Copies of Standards. Copies of the Statements of Financial Accounting Standards may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the FASB, High Ridge Park, Post Office Box 3821, Stamford, CT 06905-0821 as part of the "FASB Accounting Standards." They are available at cost, which is approximately thirty-four dollars ($34.00) in paperback form or three hundred eighty-three dollars ($383.00) in looseleaf subscription form.

21 NCAC 08N .0210 FORECASTS

(a) Forecast of Future Transactions. A CPA shall not permit the CPA's name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the CPA vouches for the achievability of the forecast.

(b) Applicable Standards. A CPA shall not render services associated with prospective financial statements unless the CPA has complied with the standards for accountants' services on prospective financial information.

(c) Statements on Standards. The Statements on Standards for Accountants' Services on Prospective Financial Information issued by the AICPA, including subsequent amendments and editions, are adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for services on prospective financial information for the purposes of Paragraph (b) of this Rule.

(d) Departures. Departures from the statements listed in Paragraph (c) of this Rule must be justified by those who do not follow them as set out in the statements.

(e) Copies of Standards. Copies of the Statements on Standards for Accountants' Services on Prospective Financial Information may be inspected in the offices of the Board as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars ($28.00) in paperback form or two hundred dollars ($200.00) in looseleaf subscription form.

21 NCAC 08N .0211 RESPONSIBILITIES IN TAX PRACTICE

(a) Standards for Tax Services. A CPA shall not render services in the area of taxation unless the CPA has complied with the standards for tax services.

(b) Statements on Standards for Tax Services. The Statements on Standards for Tax Services issued by the AICPA, including subsequent amendments and editions, are hereby incorporated by reference, as provided by

G.S. 150B-21.6, and shall be considered as the standards for tax services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the standards.

(d) Copies of Standards. Copies of the Statements on Standards for Tax Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars ($28.00) in paperback form or two hundred dollars ($200.00) in looseleaf subscription form.

21 NCAC 08N .0212 COMPETENCE

A CPA shall perform professional services competently and shall:

(1) undertake only those engagements which the CPA or CPA's firm can reasonably expect to complete with professional competence;
(2) exercise due professional care in the performance of an engagement;
(3) adequately plan and supervise an engagement; and
(4) obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

21 NCAC 08N .0213 OTHER RULES

A CPA shall not willfully violate any other rule in this Chapter nor any other provision of the Accountancy Statutes, the Professional Corporation Act, the Partnership Act, the Taxation Act, or the North Carolina Limited Liability Company Act.

21 NCAC 08N .0214 OUTSOURCING TO THIRD-PARTY SERVICE PROVIDERS

(a) A CPA shall provide a written disclosure to the client that he or she is using a third-party provider to assist the CPA in providing any professional services to the client.

(b) A CPA shall provide annual disclosure in a written statement of the services to be rendered by the third-party provider as well as the third-party provider's name, address, and phone number. The written statement shall be dated, signed by both the CPA and client in advance of the outsourcing, and a copy provided to the client.

(c) A CPA outsourcing professional services to a third-party provider is responsible for insuring a third-party provider is in compliance with all rules of Professional of Conduct and Ethics in 21 NCAC 08N.

SECTION .0300 - RULES APPLICABLE TO ALL CPAS WHO USE THE CPA TITLE IN OFFERING OR RENDERING PRODUCTS OR SERVICES TO CLIENTS

21 NCAC 08N .0301 PROFESSIONAL JUDGMENT

(a) Professional Judgment. A CPA shall not subordinate the CPA's professional judgment to non-CPAs.

(b) Tax Practice. In tax practice, the CPA may resolve doubt in favor of the CPA's client as long as there is reasonable support for the CPA's position.

21 NCAC 08N .0302 FORMS OF PRACTICE

(a) Authorized Forms of Practice. A CPA who uses CPA in or with the name of the business or offers or renders attest or assurance services in the public practice of accountancy to clients shall do so only through a registered sole proprietorship, partnership, Professional Corporation, Professional Limited Liability Company, or Registered Limited Liability Partnership.

(b) Authorized Ownership. A CPA firm may have an ownership of up to 49 percent by non-CPAs. A CPA firm shall have ownership of at least 51 percent and be controlled in law and fact by holders of valid CPA certificates who have the unrestricted privilege to use the CPA title and to practice public accountancy in a jurisdiction and at least one of whom shall be licensed by this Board.

(c) CPA Firm Registration Required. A CPA shall not offer or render professional services through a CPA firm which is in violation of the registration requirements of 21 NCAC 08J .0108, 08J .0110, or 08M .0101.

(d) Supervision of CPA Firms. Every North Carolina office of a CPA firm registered in North Carolina shall be actively and locally supervised by a designated actively licensed North Carolina CPA whose primary responsibility and a corresponding amount of time shall be work performed in that office.

(e) CPA Firm Requirements for CPA Ownership. A CPA firm and its designated supervising CPA shall be held accountable for the following in regard to a CPA owner:

(1) A CPA owner shall be a natural person or a general partnership or a limited liability partnership directly owned by natural persons.

(2) A CPA owner shall actively participate in the business of the CPA firm.

(3) A CPA owner who, prior to January 1, 2006, is not actively participating in the CPA firm may continue as an owner until such time as his or her ownership is terminated.

(f) CPA Firm Requirements for Non-CPA Ownership. A CPA firm and its designated supervising CPA partner shall be held accountable for the following in regard to a non-CPA owner:

(1) a non-CPA owner shall be a natural person or a general partnership or limited liability partnership directly owned by natural persons;

(2) a non-CPA owner shall actively participate in the business of the firm or an affiliated entity as his or her principal occupation;

(3) a non-CPA owner shall comply with all applicable accountancy statutes and the administrative code;

(4) a non-CPA owner shall be of good moral character and shall be dismissed and disqualified from ownership for any conduct that, if committed by a licensee, would result in a discipline pursuant to G.S. 93-12(9);

(5) a non-CPA owner shall report his or her name, home address, phone number, social security number and Federal Tax ID number (if any) on the CPA firm's registration; and

(6) a non-CPA owner's name may not be used in the name of the CPA firm or held out to clients or the public that implies the non-CPA owner is a CPA.

21 NCAC 08N .0303 OBJECTIVITY AND CONFLICTS OF INTEREST

(a) Personal Financial Interest in Advice. When offering or rendering accounting or related financial, tax, or management advice, a CPA shall be objective and shall not place the CPA's own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the CPA's client or the public in any context in which a client or the public can reasonably expect objectivity from one using the CPA title.

(b) Expectation of Objectivity Presumed. If the CPA uses the CPA title in any way to obtain or maintain a client relationship, the Board will presume the reasonable expectation of objectivity.

(c) Acceptance of a Commission or Referral Fee. A CPA shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the CPA also performs for that client:

(1) an audit or review of a financial statement; or

(2) a compilation of a financial statement when the CPA expects, or reasonably might expect, that a third party will use the financial statement and the CPA's compilation report does not disclose a lack of independence; or

(3) an examination of prospective financial information.

This prohibition applies during the period in which the CPA is engaged to perform any of the services listed in Subparagraph (c)(2) of this Rule and the period covered by any historical financial statements involved in such listed services.

(d) Acceptance of a Contingent Fee.

(1) The offering or rendering of professional services for, or the receipt of, a contingent fee by a CPA is not prohibited except for engaging to render or rendering by a CPA:

(A) of professional services for any person for whom the CPA also performs attest services, during the period of the attest services engagement and the period covered by any historical financial statements involved in such attest services; and

(B) for the preparation of original or amended tax returns or claims for tax refunds.

(2) 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.

(e) A CPA shall communicate in advance to a client the scope of services or products to be rendered or referred for which the CPA will receive a commission, referral, or contingent fee. A CPA shall provide disclosure in a written statement within ten business days of the service or product to be rendered or referred with the commission, referral, or contingent fee to be charged or received by the CPA.

21 NCAC 08N .0304 CONSULTING SERVICES STANDARDS

(a) Standards for Consulting Services. A CPA shall not render consulting services unless the CPA has complied with the standards for consulting services.

(b) Statements on Standards for Consulting Services. The Statements on Standards for Consulting Services (including the definition of such services) issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for consulting services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Standards for Consulting Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately ten dollars ($10.00) in paperback form or two hundred dollars ($200.00) in looseleaf subscription form.

21 NCAC 08N .0305 RETENTION OF CLIENT RECORDS

(a) Return upon Demand. A CPA must return client records in his or her possession to the client after a demand is made for their return. The records must be returned immediately upon demand unless circumstances make some delay reasonable in order to retrieve a closed file or to extract the CPA's work papers described in Paragraph (f) of this Rule. If the records cannot be returned immediately upon demand, the CPA shall immediately notify the client of the date the records will be returned. Nothing in this Rule shall be interpreted to require a CPA to pay delivery costs when the records are returned to the client.

(b) Who may Demand Client Records. If the client is a partnership, records shall be returned upon request to any of its general partners. If the client is a limited partnership or a registered limited liability partnership, records shall be returned upon request to its general partner(s) and the managing partner or his or her designated individual respectively. If the client is a corporation, records shall be returned upon request to its president. If the client is a limited liability company, records shall be returned upon request to the manager. Joint records shall be returned upon request to any party.

(c) Return of Original Records. If the engagement is terminated prior to completion or the CPA's work product has neither been received nor paid for the by the client, the CPA is only required to return those records originally given to the CPA by the client.

(d) Retention to Force Payment. A CPA shall not retain a client's records in order to force payment of any kind.

(e) Work Papers Included in Client Records. Work papers are usually the CPA's property and need not be surrendered to the client. However, in some instances work papers will contain data which should properly be reflected in the client's books and records but for convenience have not been duplicated therein with the result that the client's records are incomplete. In such instances, the portion of the work papers containing such data constitutes part of the client's records, and copies shall be given to the client along with the rest of the client's records. Work papers considered part of the client's records include but are not limited to:

(1) Worksheets in lieu of original entry (e.g., listings and distributions of cash receipts or cash disbursements on columnar work paper);

(2) Worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers, or similar types of depreciation records;

(3) All adjusting and closing journal entries and supporting details not fully set forth in the journal entry; and

(4) Consolidating or combining journal entries and worksheets and supporting detail used in arriving at final figures incorporated in an end product such as financial statements or tax returns.

(f) Work Papers Belonging to the CPA. Work papers developed by the CPA incident to the performance of an engagement which do not result in changes to the client's records, or are not in themselves part of the records ordinarily maintained by such clients, are solely the CPA's work papers and are not the property of the client. For example, the CPA may make extensive analyses of inventory or other accounts as part of the selective audit procedures. These analyses are considered to be a part of the CPA's work papers, even if the analyses have been prepared by client personnel at the request of the CPA. Only to the extent these analyses result in changes to the client's records would the CPA be required to furnish the details from the work papers in support of the journal entries recording the changes, unless the journal entries themselves contain all necessary details.

(g) Reasonable Fees for Copies. Nothing in this Rule shall be construed to require the CPA to furnish a client with copies of the client's records already in the client's possession. However, if the client asserts that such records have been lost, or are otherwise not in the client's possession, the CPA shall furnish copies of the records and may charge a reasonable fee.

(h) Retention of Work Product and Work Papers. A CPA shall ensure that the work product and the work papers created in the performance of an engagement for a client are retained for a minimum of five years after the date of issuance of the work product unless the CPA is required by law to retain such records for a longer period.

21 NCAC 08N .0306 ADVERTISING OR OTHER FORMS OF SOLICITATION

(a) Deceptive Advertising. A CPA shall not seek to obtain clients by advertising or using other forms of solicitation in a manner that is deceptive.

(b) Specialty Designations. A CPA may advertise the nature of services provided to clients but the CPA shall not advertise or indicate a specialty designation or other title unless the CPA has met the requirements of the granting organization for the separate title or specialty designation and the individual is currently on active status and in good standing with the granting organization for the separate title or specialty designation.

(c) The CPA firm shall offer to perform or advertise professional services only in the exact name of the CPA firm as registered with the Board.

(d) Any CPA or CPA firm offering to or performing professional services via the internet shall include the following information on the internet:

(1) CPA business or CPA firm name;
(2) principal place of business;
(3) business phone; and
(4) North Carolina certificate number and North Carolina as state of certification.

(e) The use of the phrase "certified public accountant(s)" or "CPA(s)" in the name of any business entity on letterhead, reports, business cards, brochures, office signs, telephone directories, or any other advertisements or forms or solicitation is prohibited except for registered CPA firms.

21 NCAC 08N .0307 CPA FIRM NAMES

(a) Deceptive Names Prohibited. A CPA or CPA firm shall not trade upon the CPA title through use of any name that would have the capacity or tendency to deceive. The name of one or more former members of the CPA firm, as defined in 21 NCAC 08A .0301, may be included in the CPA firm name. The name of a non-CPA owner in a CPA firm name is prohibited.

(b) Style of Practice. It is considered misleading if a CPA firm practices under a name or style which would tend to imply the existence of a partnership or registered limited liability partnership or a professional corporation or professional limited liability company of more than one CPA shareholder or CPA member or an association when in fact there is no partnership nor is there more than one CPA shareholder or CPA member of a CPA firm. For example, no CPA firm having just one CPA owner may have as a part of its name the words "associates," "group," or "company" or their abbreviations. It is also considered misleading if a CPA renders non-attest professional services through a non-CPA firm using a name that implies any non-licensees are CPAs.

(c) Any CPA firm that has continuously used an assumed name approved by the Board prior to April 1, 1999, may continue to use the assumed name, so long as the CPA firm is owned only by the individual practitioner, partners, or shareholders who obtained Board approval for the assumed name. A CPA firm (or a successor firm by sale, merger, or operation of law) may continue to use the surname of a retired or deceased partner or shareholder in the CPA firm's name so long as that use is not deceptive.

21 NCAC 08N .0308 VALUATION SERVICES STANDARDS

(a) Standards for Valuation Services. A CPA shall not render valuation services of a business, a business ownership interest, security, or intangible asset unless the CPA has complied with the standards for valuation services.

(b) Statements on Standards for Valuation Services. The Statements on Standards for Valuation Services (including the definition of such services) issued by the AICPA, including amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for valuation services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the standards listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the statements on standards for valuation services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are

available at cost, which is approximately ten dollars ($10.00) in paperback form or two hundred dollars ($200.00) in loose leaf subscription form.

SECTION .0400 - RULES APPLICABLE TO CPAs PERFORMING ATTEST SERVICES

21 NCAC 08N .0401 PUBLIC RELIANCE

The rules in this Section apply to any CPA who engages in the attest or assurance services as defined in 21 NCAC 08A .0301(b). CPAs who engage in such services are also subject to the Peer Review requirements of Subchapter 08M.

21 NCAC 08N .0402 INDEPENDENCE

(a) A CPA, or the CPA's firm, who is performing an engagement in which the CPA, or the CPA's firm, will issue a report on financial statements of any client (other than a report in which lack of independence is disclosed) must be independent with respect to the client in fact and appearance.

(b) Independence shall be considered to be impaired if, during the period of the professional engagement, a covered person:

- (1) had or was committed to acquire any direct or material indirect financial interest in the client;
- (2) was a trustee of any trust or executor or administrator of any estate that had or was committed to acquire any direct or material indirect financial interest in the client; and
  - (A) The covered person had the authority to make investment decisions for the trust or estate; or
  - (B) The trust or estate owned more than 10 percent of the client's outstanding equity securities or other ownership interests or the value of the trust's or estate's holdings in the client exceeded 10 percent of the total assets of the trust or estate;
- (3) had a joint or closely held investment that was material to the covered person; or
- (4) had any loan to or from the client or any officer or director of the client, or any individual owning 10 percent or more of the client's outstanding equity securities or other ownership interests.

(c) Independence shall be considered to be impaired if during the period of the professional engagement, a shareholder, a member, a partner or professional employee of the firm, his or her immediate family, or any group of such persons acting together owned more than five percent of a client's outstanding equity securities or other ownership interests.

(d) Independence shall be considered to be impaired if, during the period covered by the financial statements, or during the period of the professional engagement, a shareholder, a member, a partner or professional employee of the firm was simultaneously a:

- (1) Director, officer, employee, or in any capacity equivalent to that of a member of management of the client;
- (2) Promoter, underwriter, or voting trustee of the client; or
- (3) Trustee for any pension or profit-sharing trust of the client.

(e) "Covered person" is:

- (1) A person on the attest engagement team;
- (2) A person in a position to influence the attest engagement;
- (3) A partner or manager who provides nonattest services to the attest client beginning once he or she provides 10 hours of nonattest services to the client within any fiscal year and ending on the later of the date:
  - (A) the firm signs the report on the financial statements for the fiscal year during which those services were provided; or
  - (B) he or she no longer expects to provide 10 or more hours of nonattest services to the attest client on a recurring basis;
- (4) A partner in the office in which the lead attest engagement partner primarily practices in connection with the attest engagement;
- (5) The firm, including the firm's employee benefit plans; or

(6) An entity whose operating, financial, or accounting policies can be controlled (as defined by generally accepted accounting principles (GAAP) for consolidation purposes) by any of the individuals or entities described in Paragraphs (a) through (e) of this Rule or by two or more such individuals or entities if they act together;

(f) The impairments of independence listed in this Rule are not intended to be all-inclusive.

21 NCAC 08N .0403 AUDITING STANDARDS

(a) Standards for Auditing Services. A CPA shall not render auditing services unless the CPA has complied with the applicable generally accepted auditing standards.

(b) Statements on Auditing Standards. The Statements on Auditing Standards issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered generally accepted auditing standards for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Auditing Standards may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars ($28.00) in paperback form or two hundred dollars ($200.00) in looseleaf subscription form.

21 NCAC 08N .0404 ACCOUNTING AND REVIEW SERVICES STANDARDS

(a) Standards for Accounting and Review Services. A CPA shall not render accounting and review services unless the CPA has complied with the standards for accounting and review services.

(b) Statements on Standards for Accounting and Review Services. The Statements on Standards for Accounting and Review Services issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for accounting and review services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Standards for Accounting and Review Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars ($28.00) in paperback form or two hundred dollars ($200.00) in looseleaf subscription form.

21 NCAC 08N .0405 GOVERNMENTAL ACCOUNTING STANDARDS

(a) Standards for Governmental Accounting. A CPA shall not permit the CPA's name to be associated with governmental financial statements for a client unless the CPA has complied with the standards for governmental accounting.

(b) Statements on Governmental Accounting and Financial Reporting Services. The Statements on Governmental Accounting and Financial Reporting Services issued by the GASB, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for governmental accounting for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Governmental Accounting and Financial Reporting Standards, including technical bulletins and interpretations, may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the GASB, Post Office Box 9125, Dept. 285, Stamford, CT 06925. They are available at cost, which is approximately forty-seven dollars and fifty cents

($47.50). In addition to the basic set, an updating subscription service is available for approximately sixty-five dollars ($65.00) annually.

21 NCAC 08N .0406 ATTESTATION STANDARDS

(a) Standards for Attestation Services. A CPA shall not render attestation services unless the CPA has complied with the applicable attestation standards.

(b) Statements on Standards for Attestation Engagements. The Statements on Standards for Attestation Engagements issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered attestation standards for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Standards for Attestation Engagements may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately thirty dollars ($30.00) in paperback form or two hundred dollars ($200.00) in looseleaf subscription form.

21 NCAC 08N .0407 COMPETITIVE BIDDING

Regarding an invitation for competitive bids on attest services, it shall be discreditable for a CPA or CPA firm to knowingly offer to perform said services below cost for the purposes of injuring or destroying competition; provided, it shall not be a violation to do so in order to meet competition. Nothing herein shall be construed to prohibit competitive bidding nor establish a minimum price of any CPA service.

21 NCAC 08N .0408 PEER REVIEW STANDARDS

A CPA who is engaged to perform a peer review shall not violate the rules or standards as set in Subchapter 08M of the peer review program under which the review is made or the engagement contract connected with that peer review.

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