

STATE OF WISCONSIN
ACCOUNTING EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : ACCOUNTING EXAMINING BOARD
ACCOUNTING EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 03-071)

ORDER

An order of the Accounting Examining Board to repeal Accy 1.103, 1.202 (2), 1.203 (2), 1.302 (1) (intro) and (a), 1.405 (1) (c), 4.04, 4.05, 4.07, 4.09 (2) (d), 4.10, 5.01, 5.05 to 5.07, 5.08 (2) and (3), 5.11, and 9.01 (4); to renumber Accy 1.302 (1) (c), (e), (g) and (i), and (7), 4.08, 5.04, 5.10 and 9.01 (5) to (9); to renumber and amend Accy 1.202 (1), 1.203 (1), 1.302 (1) (b), (d), (f), (h), (j) and (k), 1.302 (2) to (6), 1.401 (2) (an), (ao), (b), (bm), (c) and (d), 4.06, 4.09, 4.11, 5.02, 5.03, 5.08, 5.09, and 5.12; to consolidate, renumber and amend Accy 1.301 (4) (intro) and (4) (a), Accy 1.401 (2) (am) (intro.) and (2) (am) 1., Accy 1.405 (1) (intro.) and (1) (a), and Accy 1.405 (3) (intro.) and (3) (a); to amend Accy Subchapter I (title), 1.101 Note, 1.102, 1.201 (1) (intro.), (1) (a) to (d), and (2) (a) to (d), 1.204, 1.205 (title), (intro.), and (1) to (3), 1.301 (1), (2) (a), (c) and (d) and (3), 1.401 (1), (2) (intro.), and (2) (a) (intro.), 1.402, 1.404 (1), (2) (a), (2) (b) (intro.), (2) (b) 1. to 3., (2) (c) and (d), 1.405 (2), 1.406, Chapter Accy 4 (title), 4.01, 4.02 (title) and 4.02, 4.03 (title) and 4.03, 4.035 (title), 7.02 (2) and (3), 7.03 (2), 7.035 (title) and (intro.), 7.05 (1) (b) 3., 7.06, and 8.04 (1) and (3); to repeal and recreate Accy 1.001, 1.002, and 1.201 (1) (e); to create Accy 1.003 (intro), (1), (6), (8), (10), and (15), 4.037, and 5.02 (2) (a) to (c) relating to definitions, deleting antiquated provisions related to public accountants, and changes to the requirements for individual and firm certified public accountant licenses.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: Wis. Stat. §§ 15.08 (5) (b), 227.11 (2), and 442.01 (1).

Statutes interpreted: Wis. Stat. § ch. 442.

This rule-making order of the Accounting Examining Board (Board) makes terminology and other changes to the rules to clarify the rules and conform the rules to the changes made in Wis. Stat. ch. 442 by 2001 Wisconsin Act 16.

As reflected in the current Wis. Stat. ch. 442, 2001 Wisconsin Act 16 deleted antiquated provisions related to public accountants and made changes to the requirements for individual and firm certified public accountant (CPA) licenses. Among other changes, 2001 Wisconsin Act 16 required an applicant for a CPA certificate to have one year of public accounting experience or

its equivalent instead of two years as previously required. The act permitted limited ownership of firms by persons who are not licensed as CPAs.

In general, the proposed rules:

- Remove the term “public accountant” from the rules. Public accountants are no longer licensed following enactment of Sections 3606pb through 3606vz of 2001 Wisconsin Act 16,
- Use the term “certified public accountant” in place of “accountant.”
- Modify restrictions on firm names to reflect the law change permitting part ownership of firms by unlicensed individuals in Section 3606tn of 2001 Wisconsin Act 16.
- Revise the applicant experience requirement to reflect the statutory change to “. . . at least one year of public accounting experience or its equivalent, the sufficiency of the experience or the equivalency to be judged by the examining board.” Wis. Stat. § 442.04 (5).

Sections Accy 1.001 and 1.002 on applicability of the rules is repealed and recreated in order to clearly and affirmatively describe the responsibilities of a CPA. A CPA shall follow the administrative rules of the examining board. A certified public accountant may also be held responsible for compliance with the rules of the examining board by an associate in a firm who is under his or her supervision or who is a member of the firm. Persons with ownership interest in a CPA-related business must also follow the rules of the Board in the operation of the CPA-related business. A person who operates a business and is licensed as a CPA and who holds himself or herself out to the public as a CPA shall follow the rules of the Board in the operation of any business.

Proposed Wis. Admin. Code § Accy 1.003 defines terms used throughout the board’s rules.

Standards identified in Wis. Admin. Code § Accy 1.202 (2) and 1.203 (2) are repealed because these interpretations are included in existing standards, viz. Wis. Admin. Code § Accy 1.205.

Modifications are made throughout the Board’s rules to correct capitalization of proper nouns.

TEXT OF RULE

SECTION 1. Subchapter I (title) is amended to read:

SUBCHAPTER I (title)

APPLICABILITY AND DEFINITIONS

SECTION 2. Accy 1.001 is repealed and recreated to read:

Accy 1.001 Applicability of rules of conduct to certified public accountants. (1) Chapters Accy 1 to 9 apply to a person who practices as a certified public accountant in this state.

(2) A certified public accountant may be held responsible for compliance with the rules of the examining board by any person associated with the certified public accountant in a firm who is either under his or her supervision or is a member of the firm.

(3) A certified public accountant shall not permit others to carry out acts on his or her behalf, either with or without compensation, which, if carried out by the certified public accountant, would violate chapters Accy 1 to 9.

SECTION 3. Accy 1.002 is repealed and recreated to read:

Accy 1.002 Applicability of rules of conduct to certified public accountants who have a significant influence over a CPA-related business or who advertise as a CPA. (1) A person licensed as a certified public accountant that has significant influence over a CPA-related business is considered to be practicing as a certified public accountant in the CPA-related business and all persons with ownership interest in the business shall follow the rules of the examining board in the operation of the CPA-related business.

(2) A person who operates a business and is licensed as a certified public accountant and who advertises or otherwise holds out as a certified public accountant shall follow the rules of the examining board in the operation of any business.

SECTION 4. Accy 1.003 (intro), (1), (6), (8), (10), and (15) are created to read:

Accy 1.003 Definitions. As used in chs. Accy 1 to 9:

(1) "Attest service" means any of the following:

(a) An audit or any other engagement that is performed or intended to be performed in accordance with the statements incorporated by reference in s. Accy 1.205 (1).

(b) A review of a financial statement that is performed or intended to be performed in accordance with the statements incorporated by reference in s. Accy 1.205 (2).

(c) An examination of prospective financial information that is performed or intended to be performed in accordance with the statements incorporated by reference in s. Accy 1.205 (3).

(6) "CPA-related business" means a business that performs for clients any of the professional services related to accounting, tax, personal financial planning, or litigation support services or those services for which standards are established relating to audits, compilations and reviews of financial statements and examinations or compilations of prospective financial information.

(8) "Firm" means a proprietorship, partnership, limited liability partnership, corporation, service corporation, or limited liability company.

(10) "Member of a firm" means a director, manager, employee, officer, owner, shareholder, principal, or partner of a firm.

(15) "Significant influence" means the ability of an investor to exercise significant influence over operating and financial policies of an investee. The extent of ownership is not conclusive. Direct or indirect ownership of 20% or more of an investee creates a presumption that the investor has significant influence in an investee. Ownership of less than 20% of a CPA-related business creates a presumption that the certified public accountant does not have significant influence in the CPA-related business. An ability to exercise significant influence may be indicated in several ways; representation on the board of directors, participation in policy making processes, material intercompany transactions, interchange of managerial personnel, technological dependency, and the extent of ownership by an investor in relation to the concentration of other shareholdings.

Note: Examples of indications that an investor may be unable to exercise significant influence over the operating and financial policies of an investee include:

(a) Opposition by the investee, such as litigation or complaints to government regulatory authorities, challenges the investor's ability to exercise significant influence.

(b) The investor and investee sign an agreement under which the investor surrenders significant rights as a shareholder.

(c) Majority ownership of the investee is concentrated among a small group of shareholders who operate the investee without regard to the views of the investor.

(d) The investor needs or wants more financial information to apply the equity method than is available to the investee's other shareholders, for example, the investor wants quarterly financial information from an investee that publicly reports only annually, tries to obtain that information, and fails.

(e) The investor tries and fails to obtain representation on the investee's board of directors.

SECTION 5. Accy 1.101 Note is amended to read:

Note: Definitions of terms used in the independence standards, ET Section 101, are included in ET Section 92 of the Code of Professional Conduct published by the American Institute of Certified Public Accountants and available at the Internet site <http://www.aicpa.org/about/code/def92.htm> and in the same printed volume as ET Section 101. Copies of the ~~Statements~~ Standards described above are on file in the offices of the Accounting Examining Board, the Secretary of State, and the Revisor of Statutes.

SECTION 6. Accy 1.102 is amended to read:

Accy 1.102 Integrity and objectivity. No person licensed to practice as a certified public accountant, ~~or public accountant,~~ as defined in the statutes, shall knowingly misrepresent facts, and when engaged in the practice of public accounting, including the rendering of tax and management advisory services, shall not subordinate his or her judgment to others. In tax practice, a member may resolve doubt in favor of the client as long as there is reasonable support for that position.

SECTION 7. Accy 1.103 is repealed.

SECTION 8. Accy 1.201 (1) (intro.), (1) (a) to (d) and (2) (a) to (d) are amended to read:

(1) All persons licensed to practice as a certified public accountant ~~or public accountant,~~ as defined in the statutes, shall comply with the following general standards as interpreted by bodies designated by the American institute of certified public accountants council, and must justify any departures therefrom.

(a) *Professional competence.* A certified public accountant ~~or public accountant~~ shall undertake only those engagements which the certified public accountant ~~or public accountant~~ or the firm can reasonably expect to complete with professional competence.

(b) *Due professional care.* A certified public accountant ~~or public accountant~~ shall exercise due professional care in the performance of an engagement.

(c) *Planning and supervision.* A certified public accountant ~~or public accountant~~ shall adequately plan and supervise an engagement.

(d) *Sufficient relevant data.* A certified public accountant ~~or public accountant~~ shall obtain sufficient relative data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

(2) Interpretations of s. Accy 1.201, not intended to be all-inclusive, are as follows:

(a) A certified public accountant ~~or public accountant~~ who accepts a professional engagement implies that he or she has the necessary competence to complete the engagement according to professional standards, applying the certified public accountant's ~~or public accountant's~~ knowledge and skill with reasonable care and diligence, but the certified public accountant ~~or public accountant~~ does not assume a responsibility for infallibility of knowledge or judgment.

(b) Competence in the practice of public accounting involves both the technical qualifications of the certified public accountant ~~or public accountant~~ and his or her staff and the ability to supervise and evaluate the quality of the work performed. Competence relates both to knowledge of the profession's standards, techniques and the technical subject matter involved, and to the capability to exercise sound judgment in applying such knowledge to each engagement.

(c) The certified public accountant ~~or public accountant~~ may have the knowledge required to complete an engagement professionally before undertaking it. In many cases, however, additional research or consultation with others may be necessary during the course of the engagement. This does not ordinarily represent a lack of competence, but rather is a normal part of the professional conduct of an engagement.

(d) However, if a certified public accountant ~~or public accountant~~ is unable to gain sufficient competence through these means, he or she should suggest, in fairness to the client and the public, the engagement of someone competent to perform the needed service, either independently or as an associate.

SECTION 9. Accy 1.201 (1) (e) is repealed and recreated to read:

(e) *Forecasts.* A certified public accountant shall not permit the certified public accountant's name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the certified public accountant vouches for the achievability of the forecast. This paragraph does not prohibit a certified public accountant from preparing, or assisting a client in the preparation of, forecasts of the results of future transactions. When a certified public accountant's name is associated with such forecasts, there shall be the presumption that such data may be used by parties other than the client. Therefore, full disclosure must be made of the sources of the information used and the major assumptions made in the preparation of the statements and analyses, and character of the work performed by the member, and the degree of the responsibility he or she is taking.

SECTION 10. Accy 1.202 (1) is renumbered 1.202 and amended to read:

Accy 1.202 Auditing standards. A person licensed to practice as a certified public accountant ~~or public accountant, as defined in the statutes,~~ shall not permit the certified public accountant's ~~or public accountant's~~ name to be associated with financial statements in such a manner as to imply that the certified public accountant ~~or public accountant~~ is acting as an independent public accountant unless the certified public accountant ~~or public accountant~~ has

complied with the applicable generally accepted auditing standards promulgated by the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants. Statements on auditing standards used by the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants auditing standards executive committee are, for purposes of this rule, considered to be interpretations of the generally accepted auditing standards, and departures from such statements must be justified by those who do not follow them.

SECTION 11. Accy 1.202 (2) is repealed.

SECTION 12. Accy 1.203 (1) is renumbered 1.203 and amended to read:

Accy 1.203 Accounting principles. No person licensed to practice as a certified public accountant, ~~or public accountant, as defined in the statutes,~~ shall 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 promulgated by the body designated by the council of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants to establish such principles which has a material effect on the statements taken as a whole, unless he or she can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In such cases the 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.

SECTION 13. Accy 1.203 (2) is repealed.

SECTION 14. Accy 1.204 is amended to read:

Accy 1.204 Other technical standards. A person licensed to practice as a certified public accountant ~~or public accountant, as defined by the statutes,~~ shall comply with other technical standards promulgated by bodies designated by the American ~~institute of certified public accountants council~~ Institute of Certified Public Accountants Council to establish such standards, and departures ~~therefrom~~ must be justified by those who do not follow them.

SECTION 15. Accy 1.205 (title), (intro.) and (1) to (3) are amended to read:

Accy 1.205 (title) ~~Accounting standards~~ **Standards for auditing, accounting and review services, and attestation engagements.** (intro.) The following standards of the accounting profession shall be used by certified public accountants in Wisconsin:

(1) ~~The statements on auditing standards~~ Statements on Auditing Standards issued as of June 1, 2001-2003 by the ~~auditing standards board~~ Auditing Standards Board of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants and published as AICPA ~~professional standards~~ Professional Standards, volume 1 by the American ~~institute of certified public accountants, inc.,~~ Institute of Certified Public Accountants, Inc., New York, New York are incorporated by reference into this section.

(2) ~~The statements on standards for accounting and review services~~ Statements on Standards for Accounting and Review Services issued as of June 1, ~~2001~~ 2003 by the Accounting and Review Services Committee of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants and published as AICPA ~~professional standards~~ Professional Standards, volume 2 by the American ~~institute of certified public accountants, inc.,~~ Institute of Certified Public Accountants, Inc., New York, New York are incorporated by reference into this section.

(3) ~~The statement on standards for attestation engagements~~ Statements on Standards for Attestation Engagements issued as of June 1, ~~2001~~ 2003, by the ~~auditing standards board~~ Auditing Standards Board, the Accounting and Review Services Committee, and the Consulting Services Executive Committee of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants and published as AICPA ~~professional standards~~ Professional Standards, volume 2 by the American ~~institute of certified public accountants, inc.,~~ Institute of Certified Public Accountants, Inc., New York, New York is incorporated by reference into this section.

SECTION 16. Accy 1.301 (1), (2) (a), (c) and (d), and (3) are amended to read:

Accy 1.301 Confidential client information. (1) No person licensed to practice as a certified public accountant, ~~or public accountant, as defined in the statutes,~~ shall disclose any confidential information obtained in the course of a professional engagement except with the consent of the client or through the due process of law.

(2) (a) To relieve such a person of the obligations under ss. Accy 1.202 and 1.203.

(2) (c) To prohibit review of such a person's professional practices as a part of voluntary quality review under authorization of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants or the Wisconsin ~~society of certified public accountants~~ Society of Certified Public Accountants, or

(2) (d) To preclude a certified public accountant ~~or public accountant~~ from responding to an inquiry made by the ~~ethics division of the trial board~~ Professional Ethics Division of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants, by the duly constituted investigative or disciplinary body of a state ~~CPA society of certified public accountants,~~ or under any state statutes.

(3) Members of the ethics division and trial board of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants and professional practice reviewers under American ~~institute of certified public accountants~~ Institute of Certified Public Accountants authorization, or their state society counterparts, shall not disclose any confidential client information which comes to their attention from such persons in disciplinary proceedings or otherwise in carrying out their official responsibilities. However, this prohibition shall not restrict the exchange of information with an aforementioned duly constituted investigative or disciplinary body.

SECTION 17. Accy 1.301 (4) (intro.) and (4) (a) are consolidated, renumbered Accy 1.301 (4) and amended to read:

(4). ~~Interpretations of s. Accy 1.301, not intended to be all inclusive, are as follows: (a) Confidential information and technical standards.~~ The prohibition in sub. (1) against disclosure of confidential information obtained in the course of a professional engagement does not apply to disclosure of such information when required to properly discharge the certified public accountant's responsibility according to the profession's standards. The prohibition would not apply, for example, to disclosure, as required by section 561 of Statement on Auditing Standards No. 1, of subsequent discovery of facts existing at the date of the auditor's report which would have affected the auditor's report had the auditor been aware of such facts.

SECTION 17. Accy 1.302 (1) (intro) and (a) are repealed.

SECTION 18. Accy 1.302 (1) (c), (e), (g) and (i) are renumbered Accy 1.003 (3), (5), (9) and (12).

SECTION 19. Accy 1.302 (1) (b), (d), (f), (h), (j) and (k) are renumbered Accy 1.003 (2), (4), (7), (11), (13) and (14) and as renumbered are amended to read:

(2) "Audit" means an examination of financial statements of a person by a certified public accountant ~~or public accountant~~, conducted in accordance with generally accepted auditing standards, to determine whether, in the opinion of the certified public accountant ~~or public accountant~~, the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

(4) "Compilation of a financial statement" means a presentation of information in the form of a financial statement that is the representation of any other person without the undertaking of the certified public accountant ~~or public accountant~~ to express any assurance on the statement.

(7) "Examination of prospective financial information" means an evaluation by a certified public accountant ~~or public accountant~~ of a forecast or projection, the support underlying the assumptions in the forecast or projection, whether the presentation of the forecast or projection is in conformity with professional presentation guidelines, or, whether the assumptions in the forecast or projection provide a reasonable basis for the forecast or projection.

(11) "Person" means any natural person, ~~corporation, partnership, unincorporated firm~~, association, or other legal entity.

(13) "Referral fee" means compensation for recommending or referring any service of a certified public accountant ~~or public accountant~~ to any person.

(14) "Review" means to perform an inquiry and analytical procedures that permit a certified public accountant ~~or public accountant~~ to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

SECTION 20. Accy 1.302 (2) to (6) are renumbered Accy 1.302 (1) to (5), and amended to read:

Accy 1.302 (1) CONTINGENT FEES. Except as provided in sub. (3), a certified public accountant ~~or public accountant~~ may charge a contingent fee provided the accountant and the client make a contingent fee agreement in writing, signed by the client, which states the method by which the fee is to be determined and describes all costs and expenses to be charged to the client. Upon conclusion of the contingent fee matter, the accountant shall provide the client with a written statement showing the fee and all the costs and expenses charged to the client.

(2) CERTAIN CONTINGENT FEES PROHIBITED. No certified public accountant ~~or public accountant~~ may receive a contingent fee from any person for whom the accountant performs attest services during the period of the attest services engagement or the period covered by any historical financial statements involved in the attest services.

(3) COMMISSIONS. Except as provided in sub. (5), a certified public accountant ~~or public accountant~~ may receive a commission provided that at the time the referral or recommendation is made, the accountant informs the client in writing of the amount and reason for the commission.

(4) CERTAIN COMMISSIONS PROHIBITED. No certified public accountant ~~or public accountant~~ may receive a commission from any person for whom the accountant performs attest services, or may receive a commission for any products or services sold to any person for whom the accountant performs attest services, during the period of the attest services or the period covered by any historical financial statement involved in the attest services.

(5) REFERRAL FEES. No certified public accountant ~~or public accountant~~ may receive a referral fee unless all of the following apply:

(a) The certified public accountant who accepts the referral fee discloses to the client, in writing, at the time the referral is made, the amount of and reason for the referral fee.

(b) The certified public accountant who pays the referral fee discloses to the client, in writing, within 30 days after the referral is made, the amount of and reason for the referral fee.

SECTION 21. Accy 1.302 (7) is renumbered Accy 1.302 (6).

SECTION 22. Accy 1.401 (1), (2) (intro.), and (2) (a) (intro.) are amended to read:

Accy 1.401 Acts discreditable. (1) No person licensed to practice as a certified public accountant, ~~or public accountant~~, as defined in the statutes, shall commit an act discreditable to the profession.

(2) (intro.) Interpretations of ~~s. Accy 1.401~~ this section, not intended to be all-inclusive, are as follows:

(a) *Client's records and accountant's workpapers.* (intro.) Retention of client records after a demand is made for them is an act discreditable to the profession in violation of ~~s. Accy 1.401~~ this section. It would be a violation of the code to retain a client's records to enforce payment. A certified public accountant's ~~or public accountant's~~ working papers are his or her property and need not be surrendered to the client. However, in some instances working papers will contain data which should properly be reflected in the client's books and records but which for convenience have not been duplicated therein, with the result that the client's records are incomplete. In such instances, the portion of the working papers containing such data constitutes part of the client's records, and copies should be made available to the client upon request. If a certified public accountant ~~or public accountant~~ is engaged to perform certain work for a client and the engagement is terminated prior to the completion of such work, the certified public accountant ~~or public accountant~~ is required to return or furnish copies of only those records originally given to the certified public accountant ~~or public accountant~~ by the client. Examples of working papers that are considered to be the client's records would include:

SECTION 23. Accy 1.401 (2) (am) (intro) and (2) (am) 1. are consolidated, renumbered as Accy 1.401 (2) (b) and amended to read:

Accy 1.401 (2) (b) *Working papers.* Any working papers developed by the certified public accountant ~~or public accountant~~ 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 considered to be solely "accountant's working papers" and are not the property of the client, ~~for example:~~ 1. For example, The certified public accountant ~~or public accountant~~ may make extensive analyses of inventory or other accounts as part of the selective audit procedures. Even if such analyses have been prepared by client personnel at the request of the certified public accountant ~~or public accountant~~, they nevertheless are considered to be part of the accountant's working papers. Only to the extent such analyses result in changes to the client's records would the certified public accountant ~~or public accountant~~ be required to furnish the details from the working papers in support of the journal entries recording such changes, unless the journal entries themselves contain all necessary details.

SECTION 24. Accy 1.401 (2) (an), (ao), (b), (bm), (c) and (d) are renumbered as Accy 1.401 (2) (c), (d), (e), (f), (g) and (h), and as renumbered Accy 1.401 (2) (c), (d), (e) (intro.), (e) 2., (f) and (g) are amended to read:

(c) *Duty discharged.* Once the certified public accountant ~~or public accountant~~ has returned the client's records or furnished the copies of such records and/or necessary supporting data, the obligation has been discharged in this regard and it is not necessary to comply with any subsequent requests to again furnish such records.

(d) *Copies to the client.* If the certified public accountant ~~or public accountant~~ has retained copies of a client's records already in possession of the client, the certified public accountant ~~or public accountant~~ is not required to return such copies to the client.

(e) *Conviction of a crime.* (intro.) Conviction of a crime the circumstances of which substantially relate to the practice of accounting is an act discreditable to the profession in violation of ~~s. Accy 1.401~~ this section. As enumerated below, the board shall act as follows:

2. On conviction for willful failure to file an income tax return or other document which the certified public accountant ~~or public accountant~~ as an individual is required by law to file, for filing a false or fraudulent income tax return or other document, on his or her or a client's behalf, or for willful aiding in the preparation and/or presentation of a false or fraudulent income tax return of a client, or the willful making of a false representation in connection with the determination, collection or refund of any tax, whether it be in his or her own behalf or in behalf of a client, the board will initiate charges in every instance.

(f) A certified public accountant ~~or public accountant~~ shall notify the board in writing within 60 days after being convicted of a crime.

(g) *Receiving fees for services not performed.* The deliberate receipt and retention of a fee from a client for services not performed when the client has been given reason to believe that there should be performance, or the withholding of services and receiving a retainer or fee when the services agreed upon have knowingly been withheld, are acts discreditable to the profession. (The amount or rate of charge for services is a contractual matter between the certified public accountant ~~or public accountant~~ and the client, and except as related to the provision, the board does not have authority to set or regulate fees or for taking jurisdiction in such matters. In this paragraph the term "services not performed" means situations in which the actual work for which payment is received is not done.)

(h) *Discrimination in employment practices.* Discrimination based on race, color, religion, sex, age or national origin in hiring, promotion or salary practices is presumed to constitute an act discreditable to the profession in violation of this section.

SECTION 25. Accy 1.402 is amended to read:

Accy 1.402 Advertising or other forms of solicitation. No certified public accountant ~~or public accountant~~ may advertise or solicit a client in a manner that is false, fraudulent, misleading or deceptive.

SECTION 26. Accy 1.404 (1), (2) (a), (2) (b) (intro.), (2) (b) 1. to 3., (2) (c) and (d) are amended to read:

Accy 1.404 Incompatible occupations. (1) A person who is engaged in practice as a certified public accountant, ~~or public accountant~~, as defined in the statutes, shall not concurrently engage in any business or occupation which would create a conflict of interest rendering professional services.

(2) (a) Engaging concurrently with the practice of public accounting in any business or occupation inconsistent with the certified public accountant's ~~or public accountant's~~ responsibilities under the Wisconsin rules of conduct would constitute involvement in an incompatible occupation prohibited by sub. (1).

(b) The ~~above~~ proscription ~~in sub. (1) would apply~~ applies to any business or occupation which:

1. Detracts from the public image of the profession, as for example, on legal grounds, or involves conduct which would constitute an act discreditable to the profession, ~~or,~~

2. Impairs the certified public accountant's ~~or public accountant's~~ objectivity in rendering professional services to clients, ~~or,~~

3. Inherently involves responsibilities which are likely to conflict with the certified public accountant's ~~or public accountant's~~ responsibility to others arising out of the client-certified public accountant ~~or public accountant~~ relationship.

(c) A conflict of interest exists when a certified public accountant ~~or public accountant~~ or firm of such persons who are licensed to practice in Wisconsin becomes associated with or employed by a nonlicensed individual or firm offering accounting, tax, or consulting services, such as those customarily provided by certified public accountants ~~or public accountants~~, in a manner and with representation or implication that third parties could interpret or conclude that attest certified public accountant ~~or public accountant~~ services are performed or offered by both the nonlicensed individual or firms and the certified public accountant ~~or public accountant~~. A conflict of interest also exists if the services of the licensed certified public accountant ~~or public accountant~~ or firm of such persons can be influenced or decisions altered by the noncertified associate or employer.

(d) A conflict of interest exists when a certified public accountant ~~or public accountant~~ who is not licensed permits his or her status as a certified public accountant ~~or public accountant~~ to be used or publicized in a manner or situation that third parties could assume or conclude that attest certified public accountant ~~or public accountant~~ services are being performed or offered by or through nonlicensed individuals or firms.

SECTION 27. Accy 1.405 (1) (intro.) and (1) (a) are consolidated, renumbered Accy 1.405 (1) and amended to read:

Accy 1.405 (1) Individuals or firms may practice as a certified public accountant in any form of business organization form permitted by state law. ~~(a) No person licensed to practice as a certified public accountant or public accountant, as defined in the statutes, may practice under a firm name which is misleading as to the type of organization. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation, provided that such persons were licensed or eligible to be licensed in accordance with requirements for all partners or shareholders of the successor partnership or corporation. Also a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporation name for up to 2 years after becoming a sole practitioner or shareholder.~~

SECTION 28. Accy 1.405 (1) (c) is repealed.

SECTION 29. Accy 1.405 (2) is amended to read:

(2) No person or firm engaged in practice as a certified public accountant ~~or public accountant, as defined in ss. 442.02 and 442.07, Stats.,~~ may use a business name or designation that is misleading as to the number of individuals with an equity in the firm. A sole proprietor may not use a name implying multiple ownership such as "& Co." or "& Company" or "& Associates," or "Firm" or "Associates" or "Company," and a firm with multiple ownership may not use the name so that multiple ownership is not disclosed. A firm with multiple ownership may not imply in the firm's name that there are owners of the firm in addition to those specifically mentioned in the firm's name when no additional owners exist.

SECTION 30. Accy 1.405 (3) (intro.) and (3) (a) are consolidated, renumbered Accy 1.405 (3) and amended to read:

Accy 1.405 (3) ~~Interpretations of s. Accy 1.405~~ An interpretation of this section, not intended to be all-inclusive, ~~are as follows:~~ (a) ~~*Investment in commercial accounting corporation.*~~ A is that a certified public accountant or public accountant in the practice of public accounting may have a financial interest in a commercial corporation which performs for the public services of a type performed by certified public accountants or public accountants and whose characteristics do not conform to resolutions of ~~The council~~ Council of the American ~~institute of certified public accountants~~ Institute of Certified Public Accountants, provided such interest is not material to the corporation's net worth, and the certified public accountant's ~~or public accountant's~~ interest in and relation to the corporation is solely that of an investor.

SECTION 31. Accy 1.406 is amended to read:

Accy 1.406 Practice while suspended. No person who is licensed to practice as a certified public accountant, ~~or public accountant, as defined in the statutes,~~ who has been

suspended, shall practice as a certified public accountant ~~or public accountant~~ during the period of such suspension.

SECTION 32. Chapter Accy 4 (title) is amended to read:

~~BIENNIAL REGISTRATION FIRM LICENSES~~

SECTION 33. Accy 4.01 is amended to read:

Accy 4.01 More than one office. A ~~proprietorship, partnership or corporation~~ firm with more than one office in Wisconsin is required to ~~register~~ be licensed only once.

SECTION 34. Accy 4.02 (title) and 4.02 are amended to read:

Accy 4.02 (title) ~~Individual and firm registration.~~ Firm license. All Wisconsin resident partners, stockholders and others with an equity interest in a firm of public accountants or certified public accountants shall register as individuals. In addition, all resident firms with which they are associated shall register except as specified in s. Accy 4.03. ~~An application for registration shall be granted or denied within 30 business days after receipt of a completed application.~~ A firm shall meet the ownership requirements of Wis. Stat. § 442.08 (2) (c) 2. and be licensed as a certified public accountant if any member of the firm practices as a certified public accountant in Wisconsin other than on a temporary basis as described in Wis. Stat. § 442.025(4).

SECTION 35. Accy 4.03 (title) and 4.03 are amended to read:

Accy 4.03 (title) ~~Individual registration of~~ Firm license required for sole proprietor. ~~A~~ An individual practicing as a sole proprietor practicing in his or her own name shall register be licensed as an individual. One so registered licensed may shall also register be licensed as a firm. An application for registration shall be granted or denied within 30 business days after receipt of a completed application.

SECTION 36. Accy 4.035 (title) is amended to read:

Accy 4.035 (title) Requirements for late renewal of individual licenses; reinstatement.

SECTION 37. Accy 4.037 is created to read:

Accy 4.037 Licensure application requirements for firms. A firm that files an application for licensure shall submit an application that:

- (1) Identifies each office of the firm that is located in this state.

(2) If any person who holds an ownership interest in the firm is not a licensed certified public accountant, designates an individual licensed as a certified public accountant in Wisconsin as the individual responsible for the firm's compliance ch. 442, Stats.

(3) Demonstrates, to the satisfaction of the department, each of the following:

a. That all attest services provided by the firm in this state are under the charge of an individual licensed as a certified public accountant.

b. That more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country.

c. That each person who holds an ownership interest in the firm and who does not hold a certificate or license to practice as a certified public accountant is an individual who actively participates in the firm or an affiliated entity.

d. That the applicant has satisfied the peer review requirements in s. 442.087, Stats., and ch. Accy 9.

SECTION 38. Accy 4.04 and 4.05 are repealed:

SECTION 39. Accy 4.06 is renumbered Accy 4.04 and as renumbered is amended to read:

Accy 4.04 Firms without office in this state. Firms without a bona fide office in this state, as described in sub. Accy 4.06 (2), may apply for registration be licensed if there is a licensed Wisconsin certified public accountant designated as the individual responsible for the firm's compliance with ch. 442, Stats., the manager for the Wisconsin engagement or engagements. ~~All other nonresident partners, stockholders and others with an equity interest in the firm must have certified public accountant certificates in good standing and be licensed to practice in the state of their resident office.~~

SECTION 40. Accy 4.07 is repealed.

SECTION 41. Accy 4.08 is renumbered Accy 4.05.

SECTION 42. Accy 4.09 (2) (d) is repealed.

SECTION 43. Accy 4.09 is renumbered Accy 4.06, and as renumbered 4.06 (1) is amended to read:

Accy 4.06 (1) Out-of-state firms with a bona fide Wisconsin office, as ~~defined~~ described in sub. (2), but with no Wisconsin resident ~~partners~~ member of a firm ~~or stockholder~~, may be ~~registered~~ licensed to practice in Wisconsin provided that there is a licensed Wisconsin certified public accountant designated as ~~resident manager for the Wisconsin practice office~~ the individual responsible for the firm's compliance with ch. 442, Stats., and all of the ~~partners or stockholders~~

~~members of the firm of the out of state practice office with responsibility for the Wisconsin practice office are licensed in Wisconsin. Firms so licensed must have designated one or more partners or stockholders from the out of state office responsible for the practice from the bona fide Wisconsin office, as the managing partner(s) or stockholder(s) for the Wisconsin practice. All other non resident partners and others with an equity interest in the firm (in other out of state practice offices) must hold certified public accountant certificates in good standing and be licensed to practice in the state of their resident office.~~

SECTION 44. Accy 4.10 is repealed.

SECTION 45. Accy 4.11 is renumbered Accy 4.07, and as renumbered Accy 4.07 (title), (1) and (2) are amended to read:

Accy 4.07 (title) ~~Changes~~ Change in member of a firm.

(1) The board is to be notified in writing of ~~prospective changes in proprietors, partners or stockholders~~ the members of the firm or firm name ~~for continuing practice units or is to be notified of the consummation of such changes~~ no later than 30 days after the change.

(2) Reorganizations, mergers, or comparable changes in which a new ~~practice unit~~ firm is created ~~must~~ shall make application and the new ~~practice unit~~ firm licensed before practice can be commenced.

SECTION 46. Accy 5.01, 5.05, 5.06, 5.07 and 5.11 are repealed.

SECTION 47. Accy 5.02 is renumbered Accy 5.01, and as renumbered is amended to read:

Accy 5.01 Review dates. Following the successful passing of the written uniform CPA examination and upon written request by a candidate, a candidate's experience ~~will~~ shall be reviewed by the board. The written request shall include employer verification statements and information on experience to update the experience data already in the candidate's file. Such evaluation will determine whether the candidate qualifies at that time under the requirement of ~~1¹/₂ years of accounting experience equivalent to that of a senior in public practice having at least one year of public accounting experience or its equivalent, the sufficiency of the experience or the equivalency to be judged by the examining board.~~ The board shall inform the candidate if additional experience is needed. Upon gaining the required additional experience, the candidate shall notify the board and provide verification.

SECTION 48. Accy 5.03 is renumbered Accy 5.02, and as renumbered Accy 5.02 (title), (1) and (2) (intro.) are amended to read:

Accy 5.02 (title) ~~Time of~~ Experience evaluation. (1) The board shall evaluate public accounting experience and equivalent experience at each regularly scheduled board meeting. Evaluations ~~can~~ may be made at special meetings, but normally will not be scheduled at such meetings.

(2) The board ~~will~~ shall review the candidate's experience on written request by the candidate. Among the areas of experience that may be considered by the board are the following:

SECTION 49. Accy 5.02 (2) (a) to (c) are created to read:

Accy 5.02 (2) (a) Experience in accounting in industry and government may be considered equivalent to public accounting when it requires high levels of knowledge, competence and judgment.

(b) Experience in teaching accounting may be considered equivalent to public accounting when it is at an advanced and specialized level of accounting. Courses taught in areas other than accounting do not qualify as public accounting experience.

(c) Experience in law may be considered equivalent to public accounting when it is at a level with responsibility for independent accounting decisions and requires high levels of accounting knowledge, competence and judgment.

SECTION 50. Accy 5.04 is renumbered Accy 5.03.

SECTION 51. Accy 5.08 (2) and (3) are repealed.

SECTION 52. Accy 5.08 (1), (4) and (5) are renumbered Accy 5.04 (1), (2) and (3), and as renumbered Accy 5.04 (1) and (2) are amended to read:

Accy 5.04 Experience; general. (1) The nature and level of an ~~employee's~~ employee's position or job title and position description is considered.

(2) Part-time employment can be counted proportionately, but normally is given little weight ~~at the senior level~~. If part-time employment is combined with full-time employment, the full-time employment is normally given the most weight.

SECTION 53. Accy 5.09 is renumbered Accy 5.05, and as renumbered Accy 5.05 is amended to read:

Accy 5.05 Bookkeeping and elementary individual tax return preparation. Bookkeeping and elementary individual tax return preparation are generally not considered to be qualifying experience ~~at the level of either a junior or senior in public practice~~.

SECTION 54. Accy 5.10 is renumbered Accy 5.06.

SECTION 55. Accy 5.12 is renumbered Accy 5.07, and as renumbered Accy 5.07 is amended to read:

Accy 5.07 Judgment. Experience evaluations, ~~prior guidelines notwithstanding,~~ are based on the judgment of the board as to ~~the amount of experience necessary for a given candidate to attain 1¹/₂ years of experience at the level of a senior in public practice.~~

SECTION 56. Accy 7.02 (2) and (3) are amended to read:

(2) Regional equivalents of the ~~north central association of colleges and schools~~ North Central Association of Colleges and Schools are the ~~New England association of schools and colleges~~ Association of Schools and Colleges, ~~middle states association of colleges and secondary schools~~ Middle States Association of Colleges and Secondary Schools, ~~northwest association of schools and colleges~~ Northwest Association of Schools and Colleges, ~~southern association of colleges and schools~~ Southern Association of Schools and Colleges, and ~~western association of schools and colleges~~ Western Association of Schools and Colleges.

(3) A "resident major in accounting" is a course of study identified by a school accredited by the ~~north central association of colleges and schools~~ North Central Association of Colleges and Schools or its regional equivalent as a major in accounting. Where more than one course of accounting study is offered by a school, the course of study for public accounting shall be the defined "resident major in accounting."

SECTION 57. Accy 7.03 (2) is amended to read:

(2) An applicant for a certificate as a certified public accountant shall submit to the board an official transcript or transcripts of all academic work completed evidencing the awarding of a bachelor's or higher degree and a written request for an equivalency evaluation. Course work for equivalency may be accepted only if completed at an institution accredited by the ~~north central association of colleges and schools~~ North Central Association of Colleges and Schools or its regional equivalent or if it could be transferred to an accredited institution for credit toward the institution's accounting major.

SECTION 58. Accy 7.035 (title) and (intro) is amended to read:

Accy 7.035 (Title) Education requirement effective January 1, 2001 required to take the examination. (intro.) Pursuant to s. 442.04 (4), Stats., after December 31, 2000, a A person may not take the examination leading to the certificate to practice as a certified public accountant unless the person has, as part of the 150 semester hours education, met one of the following conditions:

SECTION 59. Accy 7.05 (1) (b) 3. is amended to read:

Accy 7.05 (1) (a) 3. The applicant has practiced in good standing ~~at the senior level, as accepted under ch. Accy 5,~~ for at least 5 years following initial licensure within the 10 years immediately preceding application under this section; or the applicant has practiced public accounting for at least 5 years following initial licensure and demonstrates that he or she has participated in a program of continuing professional education which is satisfactory to the board.

SECTION 50. Accy 7.06 is amended to read:

Accy 7.06 Public information. The board will release statistical studies of ~~grades earned on test results of~~ each certified public accountant examination by ~~each subject area and Wisconsin school at which educational qualification of candidates to write exists.~~ ~~Individual grades will not be released.~~ Reports will be designed to provide schools and the public with information on candidate success.

SECTION 60. Accy 8.04 (1) and (3) are amended to read:

(1) Education qualifications in foreign countries are not comparable to those in Wisconsin. As no foreign school is accredited by the ~~north central association of colleges and schools~~ North Central Association of Colleges and Schools or its regional equivalent, evidence of acceptance without deficiency into a graduate program in a school accredited by the ~~north central association of colleges and schools~~ North Central Association of Colleges and Schools or its regional equivalent will be accepted as evidence of equivalence for a bachelor's or higher degree. The education acquired must constitute the reasonable equivalence of a resident major in accounting as set forth in s. Accy 7.03.

(3) Experience must ~~be at the level of a senior in public practice and~~ include practice using United States related techniques as noted in sub. (2). Experience will be considered on its merit without restriction as to where it was acquired, so long as it is relevant to United States practice.

SECTION 61. Accy 9.01 (4) is repealed.

SECTION 62. Accy 9.01 (5), (6), (7), (8) and (9) are renumbered Accy 9.01 (4), (5), (6), (7) and (8).

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Wis. Stats.

Dated _____

Agency _____

Chairperson
Accounting Examining Board

FISCAL ESTIMATE

This rule modification updates the terms in the Rules of the Accounting Examining Board. The Department of Regulation and Licensing will revise and reprint books of the Administrative

Code. Revising code books costs \$500.00 for staff time and materials to revise the printed code and post on the Department's web site.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.

ACCY CR 03-071 (Housekeeping) Final Rule 02-27-04