

**REVISED PROPOSED REGULATION OF THE  
NEVADA STATE BOARD OF ACCOUNTANCY**

**LCB File No. R056-05**

September 30, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-15, 17 and 18, NRS 628.120 and 628.386; §16, NRS 628.120 and 628.160.

A REGULATION relating to accountants; revising the requirements for continuing education; revising the provisions relating to a program to review the quality of financial reports; requiring a practitioner to report certain convictions, judgments or results of administrative hearings; revising the rules of professional conduct; and providing other matters properly relating thereto.

**Section 1.** Chapter 628 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 11, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 2 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Evaluation” means the process conducted pursuant to the practice-monitoring program established pursuant to sections 2 to 11, inclusive, of this regulation to ensure that a practitioner complies with the Code of Professional Conduct adopted by reference pursuant to NAC 628.500.*

**Sec. 4.** *“Practice-monitoring findings” means the determinations and reports developed as the result of an evaluation of a practitioner conducted pursuant to a practice-monitoring program including, without limitation:*

*1. A peer review report;*

2. *A letter of comment;*
3. *A letter of response;*
4. *A letter of acceptance; and*
5. *Any other report or determination developed as a result of the evaluation of a practitioner conducted pursuant to a practice-monitoring program.*

**Sec. 5.** *“Practice-monitoring program” means a program to monitor the practice of a practitioner conducted pursuant to sections 2 to 11, inclusive, of this regulation.*

**Sec. 6.** *“Transmittal form” means the document distributed by the Board to be used in submitting reports for evaluation or to advise the Board that no reports were issued by the practitioner in the previous year.*

**Sec. 7. 1.** *The Board will review the reports submitted by practitioners pursuant to sections 2 to 11, inclusive, of this regulation to determine whether the practitioners have complied with applicable standards of reporting on a 3-year cycle and will assign one-third of the practitioners in this State to each year of the cycle.*

*2. During the month of April of each calendar year, the Board will notify each practitioner who is required for that year to submit to the Board a copy of the practice monitoring findings or a transmittal form indicating that no audit, review or compilation reports were issued by the practitioner in the previous year.*

*3. The 3-year cycle established pursuant to this section does not affect the requirements for the annual renewal of office registrations or permits contained in NRS 628.370 and 628.380.*

**Sec. 8. 1.** *Except as otherwise provided in subsection 4, a practitioner who performs the services of audit, review and compilation shall engage in a practice-monitoring program,*

*which is approved by the Board, to ensure that he is maintaining the standards of the profession.*

*2. If a practitioner engages in a practice-monitoring program, the practitioner shall submit to the Board the practice-monitoring findings of the practice-monitoring program on or before May 1 of each year in which he is assigned to submit the practice-monitoring findings pursuant to section 7 of this regulation. The Board may extend the deadline for the submission of practice-monitoring findings to the Board by a practitioner.*

*3. The Board may verify the validity of the practice-monitoring findings submitted by the practitioner.*

*4. A practitioner who does not perform the services of audit, review and compilation shall report these facts to the Board on a transmittal form. The form must be accompanied by an affirmation by the practitioner that the statements contained in the form are true. The practitioner is exempt from the requirements of sections 2 to 11, inclusive, of this regulation only for that period during which the practitioner does not perform the service of audit, review and compilation. If a practitioner who is exempt from engaging in a practice-monitoring program pursuant to this subsection enters into an engagement to perform the services of audit, review and compilation, the practitioner must notify the Board not more than 60 days after the date of entering into such engagement and must engage in a practice-monitoring program not more than 18 months after the date upon which he enters into the engagement.*

*5. A practitioner licensed by the Board for the first time is not required to submit practice-monitoring findings to the Board until his application for the renewal of his annual permit is submitted filed for the next year.*

**Sec. 9. 1.** *If the Board determines that the practice-monitoring findings submitted by a practitioner are deficient or marginal with respect to any applicable professional standard, the Board may require the practitioner to:*

- (a) Correct any deficiency within a specific period;*
- (b) Provide a plan to ensure that a similar occurrence will not occur;*
- (c) Submit to the Board practice-monitoring findings more frequently than the practitioner was scheduled to submit such findings to the Board;*
- (d) Successfully complete continuing education that is specified by the Board;*
- (e) Maintain a library of reference material; or*
- (f) Submit to the Board the reports developed as a result of the practitioner engaging in the services of audit, review and compilation before such reports are provided to the clients of a practitioner.*

**2.** *If a practitioner refuses to comply with the requirements of the Board, the Board may initiate disciplinary action against the practitioner pursuant to NRS 628.390.*

**Sec. 10. 1.** *Any practice-monitoring finding or other documentation submitted to the Board pursuant to sections 2 to 11, inclusive, of this regulation is confidential.*

**2.** *All documentation submitted to the Board pursuant to sections 2 to 11, inclusive, of this regulation must be destroyed when the process of review is complete.*

**3.** *Any action taken by the Board pursuant to sections 2 to 11, inclusive, of this regulation which does not result in the Board initiating disciplinary action against a practitioner pursuant to NRS 628.390 is confidential.*

**Sec. 11.** *A practitioner shall report to the Board, on a form prescribed by the Board, not more than 30 days after:*

- 1. The practitioner receives an adverse peer review or inspection report.*
- 2. The practitioner receives the second of two consecutive modified peer reviews or inspection reports.*
- 3. The imposition against the practitioner of a disciplinary action, including, without limitation, a censure, a reprimand, a sanction, probation, a civil penalty, a fine, a consent decree or an order for the suspension, revocation or modification of a license, certificate, permit or right to practice by:*
  - (a) The Securities and Exchange Commission;*
  - (b) The Internal Revenue Service;*
  - (c) Any agency of another state authorized to regulate the practice of accountancy in that state for any cause except:*
    - (1) The failure to pay by the date due a fee for a license, certificate, permit or right to practice; or*
    - (2) The failure to comply with a requirement for continuing education; or*
  - (d) Any other federal or state agency for conduct of the practitioner relating to the provision of professional services.*
- 4. Except as otherwise provided in this subsection, any settlement, award or judgment of \$150,000 or more against the practitioner for a claim of or action for gross negligence, violation of a specific standard of practice, fraud or misappropriation of money in the practice of accounting. If the practitioner is a firm of certified public accountants, the practitioner shall notify the Board, pursuant to this subsection, only of a settlement, award or judgment involving the practice of public accounting in this State.*

*5. The practitioner is charged with, is convicted of or pleads nolo contendere to, or has an order of deferred prosecution entered, in a case involving the practitioner for:*

*(a) A felony under the laws of any state or of the United States; or*

*(b) A crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States.*

**Sec. 12.** NAC 628.080 is hereby amended to read as follows:

628.080 1. The examination for a certificate as a certified public accountant will not be waived for an applicant whose certificate as a certified public accountant was based in whole or in part on the entitlement of the applicant to practice public accounting in a foreign country unless the applicant has passed an equivalent examination approved by the Board.

2. Every applicant for *a certificate as a certified public accountant who wishes to obtain a* waiver of the examination must file his application upon a form provided by the Board, accompanied by the prescribed fee. ~~[If the Board waives the examination, it will not issue a certificate as a certified public accountant until it has received confirmation from the jurisdiction which issued the certificate that the certificate upon which the waiver is based is current and valid.]~~

3. *The Board may accept the scores of an applicant from the Uniform Certified Public Accountant Examination taken in another state and waive the requirement for taking the examination in this State.*

4. An applicant must submit proof that he has completed at least 20 hours of continuing education within 12 months before the date of filing his application. ~~[for waiver of the examination.]~~

**Sec. 13.** NAC 628.120 is hereby amended to read as follows:

628.120 1. The following fees for examinations are prescribed by the Board:

(a) For an initial examination for a certificate as a certified public accountant, the Board will establish each year a fee that will not exceed \$500.

(b) For reexamination, the Board will establish each year a fee for each section that will not exceed \$100.

(c) ~~For review and inspection of examination papers.....~~ \$100

~~—(d) For proctoring the Uniform Certified Public Accountant Examination  
administered in this State and taken by a nonresident applicant if that applicant is  
not required to pay the Board a fee for the examination.....~~ \$250

~~—(e)~~ For the transfer of the examination grades of an applicant to another state  
or jurisdiction of the United States ..... \$50

2. The following fees for applications are prescribed by the Board:

(a) For an application for a certificate as a certified public accountant by  
reciprocity or pursuant to passing the Uniform Certified Public Accountant  
Examination administered in this State or in another jurisdiction..... \$200  
plus the actual cost of the investigation required pursuant to NAC 628.019,  
which will not exceed \$75.

(b) For an application for registration of a corporation, limited-liability  
company or partnership..... \$200

3. The following other fees are prescribed by the Board:

(a) For a temporary permit to a nonresident accounting firm:

The proprietor, partner, member or shareholder responsible for the conduct of  
the engagement..... \$200

Each additional person employed in the conduct of the engagement during the period of the permit .....	\$25
(b) For filing an annual report for a corporation, limited-liability company or partnership.....	\$125
(c) For the late filing of an annual report of a corporation, limited-liability company or partnership.....	\$100
(d) For reinstatement into public practice from retired or inactive status .....	\$250
(e) For the late filing of the annual renewal of a permit to practice public accounting, after January 31 of each year.....	\$100
(f) For an individual evaluation of experience pursuant to subsection 2 of NAC 628.060, in addition to any reasonable costs of travel actually incurred by the Board and imposed pursuant to subsection 3 of NAC 628.060 .....	\$1,000
(g) For registering a fictitious name.....	\$100
(h) A uniform fee for an annual permit or an annual renewal of a permit to practice public accounting will be established by the Board each year. The fee will not exceed \$200 and will be prorated if an initial annual permit is obtained during the year.	

4. Any fee paid pursuant to this section must be paid in the currency of the United States.

**Sec. 14.** NAC 628.210 is hereby amended to read as follows:

628.210 1. Except as otherwise provided in *subsection 2 and* NAC 628.110, an applicant for the renewal of a permit to engage in the practice of public accounting must ~~[show that he has completed]~~ *complete* at least 80 hours of continuing education during the 2 years immediately preceding the date for renewal of the permit, of which at least ~~[20 hours were]~~ :

(a) *Twenty hours must be* completed in each year ~~[-~~



~~—2.— Except as otherwise provided in NAC 628.110, an applicant who has previously held a permit, but whose permit has, at the time of application, lapsed, must adhere to the educational requirements in subsection 1 during the 2 years immediately preceding the date he applies for the permit.~~

~~—3.] ; and~~

*(b) Four hours must be in professional ethics.*

2. An applicant seeking the first annual renewal of an initial permit is exempt from the requirements of NAC 628.210 to 628.250, inclusive.

*3. If an applicant for renewal of a permit to engage in the practice of public accounting is permitted, certified or licensed to engage in the practice of public accounting in another state and resides in that state shall be deemed to comply with the continuing education requirements of subsection 1 if the applicant complies with the continuing education requirements of that state.*

4. The requirements of NAC 628.210 to 628.250, inclusive, may be waived by the Board for reasons of personal hardship , including , *without limitation*, health ~~[,]~~ *problems*, military service, foreign residence, retirement or other good cause.

**Sec. 15.** NAC 628.250 is hereby amended to read as follows:

628.250 1. ~~[Applicants]~~ *An applicant* for *the* renewal of ~~[permits]~~ *a permit* to practice issued pursuant to NRS 628.380 must ~~[file with their applications a signed statement listing the programs of]~~ *list on the application the number of hours of* continuing education ~~[for which they claim credit. The statement must include:]~~ *completed by the applicant during the previous calendar year. The applicant shall maintain a record of the classes of continuing education*

*completed by the applicant for 4 years after the applicant files the application. The application must include, without limitation:*

- (a) The name of the sponsoring organization;
- (b) The location of the program;
- (c) The title of the program or a description of its content;
- (d) The dates attended; and
- (e) The number of hours of credit claimed ~~[-~~

~~—2. The~~ *by the* applicant .

*2. In addition to the record required to be maintained pursuant to subsection 1, the applicant* is responsible for documenting the acceptability of the program and the validity of the credits. The documentation must be retained for 4 years after the applicant files ~~the signed statement pursuant to subsection 1 in which he claims credit for the program.]~~ *an application for the renewal of a permit to practice issued pursuant to NRS 628.380.* The documentation must consist of one of the following:

- (a) A certificate of completion.
- (b) A copy of the outline of the course prepared by the sponsor of the course along with the information required by subsection 1.
- (c) For courses taken for academic credit at accredited universities and colleges, evidence of the satisfactory completion of the course . ~~[is required.]~~ For noncredit courses, a statement of the hours of attendance signed by the instructor . ~~[is required.]~~
- (d) For formal programs for independent study or self-study, written evidence of completion . ~~[is required.]~~
- (e) Any other documentation acceptable to the Board.

3. The Board will verify information submitted by an applicant for a permit on the basis of a test. If the Board determines that the requirement for continuing education has not been met, the Board may grant additional time for the deficiencies to be corrected.

**Sec. 16.** NAC 628.500 is hereby amended to read as follows:

628.500 1. The Board hereby adopts by reference the ~~[Rules]~~ Code of Professional Conduct adopted by the American Institute of Certified Public Accountants, as ~~[those rules]~~ that Code existed on June 1, ~~[2000,]~~ 2003, with the following exceptions:

(a) References to “member” are amended to refer to “practitioner.”

(b) The definition of “financial statements” in ET Section 92 is amended to read as follows:

(1) “Financial statements” means:

(I) Any statements or footnotes related thereto that purport to demonstrate the financial condition of a person at a particular time or the change in a person’s financial condition during a particular period; or

(II) Any statements prepared using a cash or other comprehensive basis of accounting.

(2) The term includes balance sheets, statements of income, statements of retained earnings, statements of cash flows and statements of changes in equity.

(3) The term does not include incidental financial data that is included in reports concerning advisory services for management made to support recommendations to a client, tax returns or schedules in support of a tax return, or the statement, affidavit or signature of the person who prepares a tax return.

(c) The definition of “practice of public accounting” in ET Section 92 is amended to have the meaning ascribed to it in NRS 628.023.

(d) The disclosure required pursuant to Section B of Rule 503 must:

(1) Include the amount of the commission expressed in dollars or the method, described in plain language, used to calculate the commission;

(2) Include the name of the person or entity paying the commission;

(3) Be written;

(4) Be made on or before the date of referral or recommendation; and

(5) Be signed and dated.

(e) The statement, affidavit or signature of the preparer of a tax return does not constitute an opinion on a financial statement, and the preparer of the tax return is not required to make a disclaimer of such an opinion.

*(f) The Board does not adopt by reference pursuant to this section Appendix B of the ET Appendixes of the Code of Professional Conduct.*

2. A copy of the ~~[Rules]~~ Code of Professional Conduct may be obtained:

(a) By mail from the American Institute of Certified Public Accountants, ~~[P.O. Box 2209,]~~ *Attn: Order Department, Harborside Financial Center, 201 Plaza Three,* Jersey City, New Jersey ~~[07303-2209,]~~ *07311*, at a cost of ~~[\$13.50]~~ *\$13.75* for a printed copy ; ~~[or \$10 for a copy on CD-ROM;]~~ or

(b) On-line from the American Institute of Certified Public Accountants at its website at ~~[<<http://www.aicpa.org/>>]~~ *<<http://www.aicpa.org/about/code/index.html>>*, free of charge.

**Sec. 17.** NAC 628.261, 628.271, 628.275, 628.281, 628.285, 628.295, 628.301, 628.310, 628.320, 628.340, 628.350, 628.360, 628.370, 628.380, 628.390, 628.400, 628.410 and 628.420 are hereby repealed.

**Sec. 18.** This regulation becomes effective on January 1, 2008.

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## TEXT OF REPEALED SECTIONS

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**628.261 Definitions. (NRS 628.120, 628.386)** As used in NAC 628.261 to 628.420, inclusive, unless the context otherwise requires, the words and terms defined in NAC 628.271 to 628.301, inclusive, have the meanings ascribed to them in those sections.

**628.271 “Level I report” defined. (NRS 628.120, 628.386)** “Level I report” means a report which contains no deficiencies or minor deficiencies and is classified as acceptable.

**628.275 “Level II report” defined. (NRS 628.120, 628.386)** “Level II report” means a report which contains deficiencies, such as departures from technical reporting or accounting standards, which do not render the report materially inaccurate or misleading and is classified as marginal.

**628.281 “Level III report” defined. (NRS 628.120, 628.386)** “Level III report” means a report which:

1. Is materially inaccurate or misleading;
2. Violates one or more significant reporting standards;
3. Seriously departs from generally accepted accounting principles; or
4. Does not include material disclosures necessary for a fair presentation,

↪ and is classified as substandard.

**628.285 “Office” defined. (NRS 628.120, 628.386)** “Office” means each place of business in this State where a practitioner engages in the practice of public accounting.

**628.295 “Report” defined. (NRS 628.120, 628.386)** “Report” means a copy of an audit, a review and a compilation issued by a practitioner and the financial statements and disclosures related thereto.

**628.301 “Transmittal form” defined. (NRS 628.120, 628.386)** “Transmittal form” means the document distributed by the Board to be used in submitting reports for evaluation or to advise the Board that no reports were issued by the practitioner in the previous year.

**628.310 Adoption of cycle to review reports. (NRS 628.120, 628.386)**

1. The Board will adopt a 3-year cycle to review the reports submitted by practitioners pursuant to NAC 628.320 to determine whether the practitioners have complied with applicable standards of reporting and will assign one-third of the practitioners in this State to each year of the cycle.

2. The 3-year cycle established pursuant to this section does not affect the requirements for the annual renewal of office registrations or permits contained in NRS 628.370 and 628.380.

**628.320 Submission of reports: Contents; time for submission; exemption from requirements. (NRS 628.120, 628.386)**

1. Except as otherwise provided in this section, a practitioner shall submit to the Board a copy of a report, consisting of one copy of an audit, a review and a compilation, which he issued to a client in the previous 12 months, including full disclosure compilations, if issued. The reports must be submitted on or before May 1 of the year in which the practitioner is required to submit his reports.

2. A practitioner licensed by the Board for the first time is not required to file reports until his annual permit is filed for the next fiscal year.

3. A practitioner who does not issue reports shall report that fact to the Board on a transmittal form. The form must be accompanied by an affirmation by the practitioner that the statements contained in the form are true. The practitioner is exempt from the requirements of NAC 628.261 to 628.420, inclusive, only for that period during which reports are not being issued.

4. Reports submitted to the Board must:

(a) Be selected by the practitioner.

(b) Be annual reports, if issued. If annual reports are not issued, other periodic reports must be submitted.

(c) Not indicate the identity of the client.

5. The Board may exempt a practitioner from the requirements of NAC 628.261 to 628.420, inclusive, if the practitioner engages in a practice monitoring program, which is approved by the Board, to ensure that he is maintaining the standards of the profession.

**628.340 Provision of notice to comply. (NRS 628.120, 628.386)** The Board will send notice to each practitioner that he must comply with the requirements of NAC 628.320 at the time he is notified that his permit to engage in the practice of public accounting in this State must be renewed.

**628.350 Procedure upon receipt of report; initial review and action by coordinator. (NRS 628.120, 628.386)**

1. Upon receipt of a report from a practitioner, the Board will assign a number to it and, to maintain confidentiality, delete the identity of the practitioner for the purposes of review.

2. The Board will designate a coordinator who is a certified public accountant proficient in accounting and auditing procedures to review initially the reports received.

3. If the coordinator determines that a practitioner complied with applicable standards of reporting, he shall so notify the practitioner. The coordinator may assign reports from a practitioner to a reviewer for further review.

**628.360 Qualifications and duties of reviewer. (NRS 628.120, 628.386)**

1. A reviewer must:

- (a) Be proficient in accounting and auditing procedures; and
- (b) Have successfully completed a program of training approved by the Board.

2. A reviewer shall maintain the confidentiality of all reports reviewed.

3. A reviewer shall submit his comments to the coordinator for consideration after he has completed a detailed review of a report.

**628.370 Review by coordinator; notice of classification of report; response by practitioner. (NRS 628.120, 628.386)**

1. The coordinator shall give written notice to a practitioner who submitted a level I report that it has been classified as a level I report and may include in his notice suggestions for corrective action.

2. The coordinator shall give written notice to a practitioner who submitted a level II report that the report has been classified as a level II report and include in his notice recommendations for improving the quality of the reporting. The coordinator may require the practitioner to respond to the notice.



3. The coordinator shall give written notice to a practitioner who submitted a level III report that the report has been classified as a level III report and include in his notice a summary of the deficiencies noted. The coordinator shall require the practitioner to respond to the notice.

**628.380 Review of comments and responses; letter of constructive comments; final report of coordinator. (NRS 628.120, 628.386)**

1. Upon receipt of a response from a practitioner who submitted a level III report, the coordinator shall review the comments received.
2. A letter of constructive comments must be mailed to the practitioner regarding his departures from applicable standards of reporting. The letter must include authoritative citations to support the coordinator's conclusions.
3. The coordinator shall encourage practitioners to submit any arguments concerning the findings of the coordinator.
4. The coordinator shall prepare a final report for presentation to the Board, including any comments submitted by the practitioner, and recommend whether a review conducted at the office of the practitioner is necessary.

**628.390 Review by Board. (NRS 628.120, 628.386)**

1. Upon receipt of the coordinator's final report, the Board will determine whether a review must be conducted at the office of the practitioner.
2. If such a review must be conducted, the Board will schedule a date with the practitioner for the review of his reports and related work papers.
3. The review must be conducted in compliance with standards established by the Board.
4. A final report of the review must be submitted to the coordinator and practitioner.

**628.400 Disciplinary action by Board. (NRS 628.120, 628.386)**

1. A practitioner whose report is classified as a level III report and who agrees with that classification may be:
  - (a) Required to complete successfully specific courses of continuing education;
  - (b) Required to submit future reports for review for a specified period before they are issued to clients; or
  - (c) Subject to such other disciplinary action as the Board may take.
2. If a practitioner does not agree with the classification or the recommendations of the Board, the Board may issue a formal complaint and conduct a hearing pursuant to NRS 628.390 and 628.410.

**628.410 Time for submission of additional reports. (NRS 628.120, 628.386)**

1. A practitioner whose reports are classified as level I or level II is not required to submit reports for review for 3 years.
2. A practitioner whose reports are classified as level III reports shall comply with the requirements of NAC 628.320 for the following year. If the reports submitted for the following year are classified as level I or level II, the practitioner must then again be placed in the 3-year cycle established by the Board.

**628.420 Confidentiality; destruction of documentation when process of review completed. (NRS 628.120, 628.386)** The classification of any report and any documentation submitted to the Board pursuant to NAC 628.320 is confidential. All documentation submitted to the Board pursuant to NAC 628.320, except the transmittal form and affirmation required pursuant to subsection 3 of NAC 628.320, must be destroyed when the process of review is complete. The process of review is considered complete under the following circumstances:

1. If the report of a practitioner submitted pursuant to NAC 628.320 is classified as level I, the process of review is considered complete when the practitioner receives written notice of the classification from the coordinator.

2. If the report of a practitioner submitted pursuant to NAC 628.320 is classified as level II, the process of review is considered complete when the practitioner receives written notice of the classification from the coordinator, unless the practitioner is required to respond to the notice. If a practitioner is required to respond to the notice that his report is classified as level II, the process of review is considered complete when the coordinator receives the practitioner's response.

3. If the report of a practitioner submitted pursuant to NAC 628.320 is classified as level III, and the practitioner agrees with the classification, the process of review is considered complete when:

(a) The Board determines what disciplinary action, if any, will be taken against the practitioner and the practitioner complies with the order of the Board concerning the disciplinary action, unless the practitioner seeks administrative review of the Board's determination; or

(b) The practitioner has exhausted all administrative and judicial remedies.

4. If the report of a practitioner submitted pursuant to NAC 628.320 is classified as level III, and the practitioner does not agree with the classification, the process of review is considered complete when:

(a) The charges against the practitioner are not sustained by the Board; or

(b) The practitioner has exhausted all administrative and judicial remedies.