

LCB File No. R056-05

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

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

AUTHORITY:

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 proceedings; 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 15, inclusive, of this regulation. Definitions, unless the context otherwise requires, the words and terms defined have the meanings ascribed to them in those sections.

Sec. 2. *General Provisions and Purpose of Program* [Effective January 1, 2008]

The purpose of the program is to improve the quality of financial reporting and to assure that the public can rely on the fairness of presentation of financial information on which public accounting firms issue reports. The program emphasizes education and rehabilitation rather than disciplinary action. Appropriate education programs or procedures will ordinarily be recommended or required where reporting does not comply with appropriate professional standards. When a practitioner is unwilling or unable to comply with such standards, or a practitioner's professional work is substandard as to warrant disciplinary action, such action may be resorted to as the appropriate means of protecting the public interest.

Sec. 3. *“Practice monitoring findings” means all determinations and reports involving the evaluation of the practitioner including, but not limited to the following:*

- (a) The peer review report;*
- (b) Letters of comments;*
- (c) Letters of response;*
- (d) Letters of acceptance; and*
- (e) Any other report provided by the monitoring program.*

Sec. 4. *“Evaluation” means the processes used by the practice monitoring program administrator to ensure a practitioner is complying with the then applicable standards of the profession.*

Sec. 5. *“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. 6. *Requirements for Review; Submission of reports: Contents; time for submission; exemption from requirements* [Effective January 1, 2008]

1. *A practitioner that performs audit, review and compilation services shall engage in a practice monitoring program, conforming to the standards of the AICPA peer review program, or a program deemed comparable in the opinion of the board at least once every three years.*

2. *Except as otherwise provided in this section, a practitioner shall submit to the Board a copy of the practice monitoring findings.*

3. *A practitioner who does not perform audit, review or compilation services shall report that fact to the Board on a transmittal form. The transmittal 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 9, inclusive, only for that period during which audit, review or compilation services are not performed.*

4. *A practitioner previously exempted from a practice monitoring program, must engage in a practice monitoring program within eighteen (18) months of the date the practitioner enters into an engagement to perform audit, review or compilation services. A practitioner may submit practice monitoring findings performed in accordance with the requirements of this chapter issued within two years prior to the scheduled evaluation.*

5. *A practitioner that accepts an audit, review or compilation engagement as set forth in subsection 1 of this section, is subject to a practice monitoring program and must notify the Board within 60 days of the acceptance of an engagement and undergo a evaluation as set forth in subsection 4 of this section.*

6. *A practitioner licensed by the Board for the first time is not required to provide the Board his practice monitoring findings until his annual permit is filed for the next fiscal year.*

7. *The Board may contact the administering entity of the practice monitoring programs to verify the validity of the practice monitoring findings submitted by the practitioner.*

8. *The Board may, for good cause, extend the deadlines for compliance with this Chapter to practitioners who would otherwise be required to comply.*

Sec. 7. Selection and Notification: Adoption of cycle to review reports [Effective January 1, 2008]

1. *The Board will adopt a 3-year cycle for the practice monitoring program and will assign one-third of the practitioners licensed in this State to each year of the cycle. Each year the Board will review the practice monitoring findings submitted by practitioners pursuant to the provisions of sections 2 to 9 inclusive, to determine whether the practitioners have complied with applicable standards of reporting.*

2. *In April of each calendar year, the Board will notify each selected practitioner of the due date for submission of practice monitoring findings or exemption transmittal forms.*

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. Confidentiality of Reports

1. *The practice monitoring findings and any subsequent documentation submitted to the Board pursuant to sections 2 to 9 inclusive, are confidential.*

2. *Copies of documents provided to show compliance with this Chapter are privileged and shall be purged from the Board's files in accordance with the Board's retention schedules.*

3. *Individual actions taken by the Board pursuant to sections 2 to 9 which do not result in the Board's initiating formal disciplinary action are not considered public action and shall not be made part of the Board's public record.*

Sec. 9. *Disciplinary Action by Board*

1. If the Board determines that the practice monitoring findings of a practitioner are deficient or marginal with respect to applicable professional standards, the Board may require the practitioner to:

- (a) Correct such deficiencies within a specified time period;*
- (b) Provide detailed action to ensure that similar occurrences will not recur;*
- (c) Undergo an additional practice monitoring program prior to the next regularly scheduled evaluation.*
- (d) Successfully complete continuing education as specified by the board;*
- (e) Maintain a minimum library of source material;*
- (f) Provide copies of interim practice monitoring findings; or*
- (g) Submit future audit, review or compilation reports to the Board for review before they are issued to the clients for a specified period to be determined by the Board.*

2. The board may initiate disciplinary action against the practitioner for professional conduct.

3. If a practitioner does not agree with the practice monitoring findings and recommendations, the Board may issue a formal complaint and conduct a hearing pursuant to NRS 628.390 and 628.410.

Sec. 10 *A practitioner shall report to the Board, on a form prescribed by the Board, not more than 45 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 decision 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 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.

(d) Any other federal or state agency for conduct of the practitioner relating to the provision of professional services.

(e) Any agency of this State, another state or territory, or the Federal Government authorized to regulate taxes, insurance or securities.

4. Except as otherwise provided in this subsection, any 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 only notify the Board, pursuant to this subsection, of a civil judgment or award directly involving the firm's 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 any foreign jurisdiction; or

(b) A misdemeanor crime if the offense is dishonesty, deceit or fraud, under the laws of any state or of the United States.

Sec. 11. NAC 628.080 is hereby amended to read as follows:

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 ~~[waiver of the examination]~~ *licensure as a certified public accountant* 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 Uniform CPA Examination scores from another state and waive the manner in which the scores were obtained for individuals seeking licensure as a certified public accountant.*

~~[3.]~~ 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 12. NAC 628.120 is hereby amended to read as follows:

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]~~

(c ~~fe~~) 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. 13. NAC 628.210 is hereby amended to read as follows:

1. Except as otherwise provided in 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 *that includes 4 hours in professional ethics.* ~~[of which at least 20 hours were completed in each year.]~~ *A minimum of twenty hours must be completed in each year when 60 or more hours are provided in the previous 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.]~~

2. *Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the practitioner's principal office is located by signing a statement to that effect on the renewal application of this state. If a non-resident practitioner's principal office state has no CPE requirements for renewal of a certificate, the non-resident practitioner must comply with all CPE requirements for renewal of a certificate in this state.*

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

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 ~~is~~ *problems*, military service, foreign residence, retirement or other good cause.

Sec. 14. NAC 628.250 is hereby amended to read as follows:

1. ~~[Applicants]~~ *An applicant* for *the* renewal of ~~[permits]~~ *a permit* to practice issued pursuant to NRS 628.380 must file with their application~~s~~ a signed statement listing the *number of hours* ~~[programs]~~ of continuing education for which they claim credit. ~~[The statement must include:]~~ *The applicant shall maintain a record of the classes of continuing education completed by the applicant, including, 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 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. 15. NAC 628.500 is hereby amended to read as follows:

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 existed on June 1, 2000,]~~ 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 Rule 505, Appendix B of the section 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.htm>*, free of charge.

REPEALED

NAC 628.050 The following section is hereby repealed:

~~[All examination papers remain the property of the person who prepares the examination and will not be returned to the applicant for examination for certification as a certified public accountant. If the person who prepared the examination does not object, the board may authorize an applicant to review and inspect his examination. An applicant who wishes to review and inspect his examination must submit to the board an application for review [and inspection] which must be accompanied by a check payable to the "Nevada State Board of Accountancy" in the amount of the fee prescribed in NAC 628.120.]~~