

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b>  RECEIVED 2000 OCT 30 AM 11:36 REVIEW COMMISSION I RC Number: <b>2096</b>	
(1) Agency <b>Department of State, Bureau of Professional and Occupational Affairs, State Board of Accountancy</b>			
(2) I.D. Number (Governor's Office Use) <b>16A-555</b>			
(3) Short Title <b>Continuing Education Program Sponsors</b>			
(4) PA Code Cite <b>49 Pa. Code §§11.1, 11.4, 11.64, 11.65, 11.69a, 11.70, 11.71, 11.71a and 11.72</b>		(5) Agency Contacts & Telephone Numbers  Primary Contact: <b>Steven Wennberg, Board Counsel</b> <b>783-7200</b>  Secondary Contact: <b>Joyce McKeever, Deputy Chief Counsel, 783-7200</b>	
(6) Type of Rulemaking (check one)  <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. <p>The regulations (1) require previously approved continuing education program sponsors to apply for and obtain reapproval to maintain their eligibility to offer continuing education programs after April 30, 2001; (2) require program sponsors to biennially renew their approval beginning January 1, 2004; (3) modify procedures for program sponsor approval and withdrawal of approval; (4) enlarge the responsibilities of program sponsors to include program development; (5) provide for off-site reviews (audits) of continuing education programs; (6) grant deemed approval status to program sponsors registered with the National Association of State Boards of Accountancy; and (7) establish fees for reapproval of previously approved program sponsor, initial program sponsor approval, and biennial renewal of approval.</p>			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  <p>Section 3(10) of the CPA Law, 63 P.S. §9.3(10), empowers the Board to promulgate regulations relating to continuing education, including the qualifications of program sponsors. Section 6 of the CPA Law, 63 P.S. §9.6, empowers the Board to fix fees by regulation.</p>			

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

**The regulations are not mandated by federal or state law, regulation or court order. However, the regulations are consistent with recommendations of the Legislative Budget and Finance Committee in its April 1993 Performance Audit of the Board.**

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

**The regulations are necessary to ensure that the continuing education programs offered to the Board's licensees are of the highest caliber.**

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

**The principal risk associated with nonregulation is that the Board's licensees may receive substandard continuing education.**

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

**The regulations will directly benefit the Board's nearly 20,000 licensed certified public accountants and public accountants, who rely on continuing education to maintain and enhance their public accounting skills.**

### Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The regulations' strengthened monitoring of program sponsors through offsite reviews (audits) may result in some program sponsors having their approvals withdrawn by the Board for noncompliance with Board regulations. The Board cannot quantify the number of program sponsors that may be so affected, but believes their numbers will be small. A less significant adverse impact of the regulations will be the removal from the ranks of approved program sponsors those firms, organizations and entities that have discontinued offering continuing education programs to licensees. The Board estimates that the number of inactive or "lapsed" program sponsors is approximately 1,000, which represents about one-half of the previously approved program sponsors.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All previously approved program sponsors, as well as prospective program sponsors, will be required to comply with the regulations. As of June 12, 2000, there were 2,052 program sponsors that had been approved since 1979.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In developing the regulations, the Board solicited input from the Pennsylvania Institute of Certified Public Accountants and the Pennsylvania Society of Public Accountants, two major program sponsors whose memberships comprise significant percentages of the Board's licensees. The Board also published a notice in the Pennsylvania Bulletin soliciting input from other previously approved program sponsors as well as prospective program sponsors.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Previously approved program sponsors that submit their reapproval applications by April 30, 2001, will be required to pay a reapproval fee of \$120. New program sponsor applicants and previously approved program sponsors that submit their reapproval applications after April 30, 2001, will be required to pay an approval / reapproval fee of \$145. Beginning January 1, 2004, approved program sponsors will be required to pay a biennial renewal of approval fee of \$120. The Board cannot estimate other costs associated with compliance, such as the submission of more detailed documentation of course outlines, instructor qualifications, etc.; the Board believes, however, that these costs will not be significant.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

**The regulations will not result in costs or savings to local government.**

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

**The regulations will not result in costs or savings to state government.**

# Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY +1	FY +2	FY +3	FY +4	FY +5
<b>SAVINGS:</b>	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>						
Regulated	\$127,750	\$7,250	\$7250	\$148,250	\$7,250	\$7,250
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The Board estimates that during Fiscal Year 2000-01 approximately 1,000 previously approved program sponsors will pay the \$120 fee for reapproval in connection with their applications to become approved under the new regulatory scheme that will take effect May 1, 2001; the Board also expects that at least 50 new / previously approved program sponsor applicants will pay the \$145 approval / reapproval fee during each of the Fiscal Years 2000-01, 2001-02, 2002-03, 2003-04, 2004-05 and 2005-06. The biennial renewal cycle will begin January 1 of each even-numbered year, starting with January 1, 2004; the Board estimates that 1,175 program sponsors will pay the \$120 fee for biennial renewal of approval during Fiscal Year 2003-04.

1,000 previously approved program sponsors x \$120 = \$120,000	(FY 2000-01)
50 new / previously approved program sponsors x \$145 = \$7,250	(FY 2000-01)
50 new / previously approved program sponsors x \$145 = \$7,250	(FY 2001-02)
50 new / previously approved program sponsors x \$145 = \$7,250	(FY 2002-03)
50 new previously approved program sponsors x \$145 = \$7,250	(FY 2003-04)
1,175 program sponsors x \$120 = \$141,000	(FY 2003-04)
50 new / previously approved program sponsors x \$145 = \$7,250	(FY 2004-05)
50 new / previously approved program sponsors x \$120 = \$7,250	(FY 2005-06)

# Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Accountancy	\$579,731.92	\$636,828.58	\$714,838.10 (est.)	\$684,000 (est.)

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

**The regulations will benefit licensees by helping to ensure that course offerings of continuing education program sponsors are of the highest caliber. The importance of this benefit outweighs the \$\$120-145 biennial cost to each program sponsor.**

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

**A nonregulatory alternative was not available to the Board. The CPA Law mandates that continuing education requirements be codified by regulation.**

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

**Because the regulation only amends an existing regulatory scheme, the Board did not consider an alternative regulatory scheme.**

### Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

**There are no federal standards applicable to continuing education program sponsors.**

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

**Based on the findings of the LBFC's Performance Audit, the Board believes that the regulations compare favorably with the program sponsor regulations of neighboring states. The regulations will not put Pennsylvania program sponsors at a competitive disadvantage with program sponsors in other states because the regulations apply equally to in-state providers and out-of-state providers. Moreover, Pennsylvania's large population of licensed certified public accountants and public accountants provides a strong incentive for active program sponsors to continue operating in Pennsylvania, even in the face of new fees and stricter monitoring.**

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations

**The regulations will not affect other existing or proposed regulations of the Board or of any other state agency.**

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

**The Board has not scheduled public hearings or informational meetings in connection with final rulemaking. The Board intends to notify all currently approved program sponsors of the new regulations through individualized mailings by December 31, 1999.**

### Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

**The regulations will require selected program sponsors to submit to in-depth off-site reviews (audits) of their continuing education programs.**

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

**The regulations will grant deemed approval status to program sponsors that are members in good standing of the National Association of State Boards of Accountancy's National Registry of Continuing Professional Education Sponsors. NASBA-registered program sponsors are subject to strict approval requirements, including on-site observation of course offerings. As of October 1999, there were about 40 NASBA-registered program sponsors located in Pennsylvania.**

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

**The regulations will take effect upon final publication in the Pennsylvania Bulletin. Program sponsors, including those previously approved, will have to meet new approval requirements in order to offer continuing education programs after April 30, 2001.**

(31) Provide the schedule for continual review of the regulation.

**The Board intends to conduct an annual review of the regulations to evaluate their continued effectiveness.**



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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

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State Board of Accountancy

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-555

DATE OF APPROVAL

DATE OF ADOPTION:

BY: Thomas J. Baumgartner  
Thomas J. Baumgartner, CPA

8/30/00  
DATE OF APPROVAL

(Deputy General Counsel  
(Chief Counsel,  
~~Independent Agency~~  
(Strike inapplicable  
title)

TITLE: Chairman  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- [ ] Check if applicable  
Copy not approved.  
Objections attached.  
[ ] Check if applicable. No Attorney General approval or objection within 30 days after submission.

ORDER OF FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF ACCOUNTANCY  
(49 PA CODE, CHAPTER 11)

CONTINUING EDUCATION PROGRAM SPONSORS

### **PREAMBLE**

The State Board of Accountancy (Board), by this order, amends Chapter 11, to read as set forth in Annex A, by revising §§11.1, 11.4, 11.64, 11.65, 11.71, and 11.72; by adding §11.69a and 11.71a; and by deleting §11.70.

The amendments revise the Board's regulatory scheme for approving sponsors of continuing education programs for certified public accountants and public accountants. Specifically, the amendments (1) require previously approved program sponsors to apply for and obtain reapproval to maintain their eligibility to offer continuing education programs after April 30, 2001; (2) require program sponsors to biennially renew their approval beginning January 1, 2004; (3) modify procedures for program sponsor approval and withdrawal of approval; (4) require program sponsors to be responsible for the development of continuing education programs as well as their presentation; (5) provide for comprehensive offsite reviews of selected program sponsors to ensure compliance with continuing education standards; (6) establish fees for program sponsor approval / reapproval and biennial renewal of approval; and (7) exempt program sponsors registered with the National Association of State Boards of Accountancy (NASBA) from having to meet Board approval requirements.

### **Summary of Comments and Responses to Proposed Rulemaking**

The Board published a notice of proposed rulemaking on February 19, 2000 (30 Pa. B. 888), following which the Board entertained public comment for a period of 30 days. The Board received comments from the Pennsylvania Institute of Certified Public Accountants (PICPA), which supported the proposed amendments, and the Governor's Office of the Budget, which raised concerns about some of the proposed amendments.

The Board received comments from the House Professional Licensure Committee (House Committee) on March 21, 2000, and the Independent Regulatory Review Commission (IRRC) on April 20, 2000, as part of their review of the proposed regulations under the Regulatory Review Act. The Board did not receive comments from the Senate Committee on Consumer Protection and Professional Licensure (Senate Committee), which also reviewed the proposed regulations pursuant to the Regulatory Review Act.

Following is a summary of the comments that the Board received during proposed rulemaking and of the changes the Board has made to the proposed amendments in response to the comments.

#### ***§11.4 (Fees)***

Proposed §11.4 established fees of \$145 for approval of a program sponsor and \$120 for

biennial renewal of program sponsor approval. As more fully discussed below, the Board has extended the implementation date of the new regulatory scheme from January 1, 2001, to May 1, 2001, and has simplified the reapproval procedure for previously approved program sponsors who apply for reapproval prior to May 1, 2001. The revised approval procedure eliminates the need for Board review of timely filed applications of previously approved program sponsors; accordingly, the Board has reduced the reapproval fee for those previously approved program sponsors from \$145 to \$120 to reflect the decreased expense. New program sponsor applicants and previously approved program sponsor applicants that submit their reapproval applications after April 30, 2001, will pay the \$145 fee. The \$120 renewal fee, which will be biennially assessed upon all approved program sponsors beginning with the biennial period commencing January 1, 2004, remains unchanged.

*§ 11.64 (Sources of continuing education credit)*

Proposed §11.64 set forth the various sources of continuing education credit and provided that continuing education credit will be awarded only for program sponsors approved as of the effective date in §11.69a (relating to approval of program sponsor). The IRRC noted that §11.64 misstated §11.69a's proposed effective date as May 1, 2000, instead of January 1, 2001. The Board has amended §11.64 to reflect the revised effective date of May 1, 2001.

*11.69a (Approval of program sponsor)*

1.) Deadline for reapproval of previously approved program sponsors. Proposed §11.69a(a) provided that, except for those exempt as NASBA-registered program sponsors under §11.69a(b), parties desiring to offer continuing education programs after December 31, 2000, must obtain approval pursuant to this section; the Board's approximately 2,000 previously approved program sponsors would have to apply for reapproval if they desire to offer continuing education programs after December 31, 2000. In its notice of proposed rulemaking, the Board estimated that about 1,000 of the previously approved program sponsors are still offering continuing education programs to licensees.

The House Committee and the IRRC questioned whether the December 31, 2000, deadline affords sufficient time for previously approved program sponsors to apply for reapproval and for the Board to process the applications.

In response to these concerns, the Board has extended the deadline for reapproval from December 31, 2000, to April 30, 2001, and has streamlined the procedures for reapproval under §11.69a. The Board anticipates that final approval of the amendments under the Regulatory Review

Act will occur by mid-December 2000. Immediately upon final approval of the amendments, the Board will send applications for program sponsor reapproval to all previously approved program sponsors. The only information that will be required on the application are the sponsor's name and address, the title and source of continuing education credit as set forth in §11.64, and a list of current or planned program offerings. The applications will be routinely processed by Board staff, and will not require review or evaluation by the Board. The Board has revised §11.69a(a) to provide that qualifying applications for reapproval that are post-marked by April 30, 2001, but not processed by Board staff until after April 30, 2001, will be considered timely filed. The Board has further revised §11.69a(a) to provide that the Board will not deny continuing education credit to licensees who take courses after April 30, 2001, from previously approved programs sponsors whose timely filed qualifying applications for reapproval are being processed by Board staff.

The primary purpose for reapproval is to determine which of the program sponsors that the Board has approved since 1979 are still active providers. All reapproved program sponsors, as well all program sponsors whose initial approval occurs after April 30, 2001, will be subject to offsite reviews of their continuing education programs under §11.71a (relating to offsite review of program sponsor) to ensure their compliance with Board regulations.

2.) Contents of approval application. Proposed §11.69a(c) required applications for program sponsor approval to include the following information: name and address of program sponsor; title and source of continuing education credit; names, titles and degrees of instructors; dates, locations and schedules of programs; program outlines and objectives; instruction and evaluation methods; admission requirements; and attendance certification methods. This information would assist the Board in making informed assessments about the qualifications of prospective program sponsors. The IRRC observed that some of the required information – such as program dates, locations and schedules and the names and credentials of instructors – might be unknown or subject to change at the time of application, and suggested that the Board consider allowing approved program sponsors to submit any changes, deletions or amendments to the information required in §11.69a(c) as they occur. The Office of the Budget, which is an approved program sponsor and offers a wide array of continuing education programs for auditors in various Commonwealth agencies, also commented that specific program offerings, dates, locations and instructors may not be known at the time of application for reapproval.

As noted above, the Board has reconsidered the necessity of requiring all the information in proposed §11.69a(c) from previously approved program sponsors at the time of application for reapproval. In order to minimize delays in the reapproval process and to lessen potential disruptions to licensees who have scheduled courses after April 30, 2001, with previously approved program sponsors, the Board will require previously approved program sponsors who submit their reapproval

applications by April 30, 2001, to provide only basic identifying information plus a list of current program offerings or planned program offerings, if known. New program sponsor applicants and previously approved program sponsor applicants that submit reapproval applications after April 30, 2001, will have to provide the more detailed information. As a result of the concerns raised by the IRRC and the Office of the Budget, the Board has eliminated the requirement that program sponsor applicants provide the specific dates, locations, schedules and faculty for each current or planned program offering; this information will be requested only of those approved program sponsors that are selected for offsite reviews under §11.71a.

3.) Board review of application. Proposed §11.69a(e) provided that applications for approval under this section would be reviewed by the Board's Continuing Education Committee (CEC), which would make recommendations to the full Board for approval or disapproval. Disapproved applicants would receive written notification of the grounds for disapproval and would be afforded an opportunity to submit revised applications.

Consistent with its desire to simplify the reapproval process, the Board does not consider it is necessary to have either the full Board or the CEC participate in the review of applications for reapproval of previously approved program sponsors who submit their applications by April 30, 2001, and therefore has modified §11.69a(e) accordingly. New program sponsor applicants and previously approved program sponsor applicants who submit reapproval applications after April 30, 2001, will continue to be evaluated by the full Board based on the CEC's review.

The IRRC recommended that the Board provide time frames for the CEC's review of program sponsor applications and for the submission of revised applications by disapproved applicants. The Board does not believe time frames are required. The CEC and the full Board have not experienced any difficulties in timely evaluating the 50-75 program sponsor applications that have been submitted annually in recent years; nor has any program sponsor applicant ever raised concerns about not receiving a timely decision on its application. The Board also does not believe it is necessary to establish a deadline for disapproved applicants to submit revised applications; applicants should be afforded as much time as is necessary to make the necessary changes to submit qualifying applications.

*§11.71. (Responsibilities of program sponsor)*

Proposed §11.71 prescribed the responsibilities of program sponsors in the areas of disclosures to prospective participants, selection and evaluation of instructors, limitations on program enrollments, adequacy of facilities, program evaluation, retention of records, certificates of completion and promotional materials. Proposed §11.71 also imposed on program sponsors new

responsibilities relating to the development of programs.

The Office of the Budget expressed concerns about its ability to satisfy the enhanced duties of program sponsors. The Office of the Budget relies on nearly two dozen pre-qualified vendors to develop program materials and to select instructors for its many program offerings. As the Board noted in its proposed rulemaking, while the regulations charge program sponsors with the ultimate responsibility for ensuring compliance with program requirements, program sponsors are not prevented from contracting with other parties for technical assistance in complying with such requirements.

The IRRC questioned the need for the requirements, set forth in §11.71(9) and (10), that program sponsors retain attendance records and course outlines for five years. A five-year record retention period is necessary in order that licensees who undergo a Board audit of their continuing education hours will have access to records that corroborate the continuing education information provided to the Board at the time of license renewal. Because of due process requirements, audit procedures that result in the filing of disciplinary charges may not be concluded for up to three years after the end of the two-year continuing education reporting period that is the subject of the audit.

Proposed §11.71(4) required program sponsors to review their program materials “periodically” to ensure that the materials reflect currently accepted practice standards. The IRRC recommended that the Board establish a more specific time frame for this review. The Board has revised §11.71(4) to require program sponsors to review their program materials annually.

The IRRC also recommended editorial changes to proposed §11.71(1) and (6), to improve understanding and readability. The Board has revised §11.71(1) and (6) to include those changes.

*§11.71a (Offsite review of program sponsor)*

Proposed §11.71a provided that program sponsors are subject to offsite reviews of their continuing education programs to ensure compliance with Board regulations. An offsite review involves an in-depth audit of all program materials, documents and records maintained by the program sponsor under Board regulations. The Board has revised §11.71a to clarify that the type of information that must be furnished includes, but is not limited to, the information set forth in §11.69a(c) as well as program dates, locations and schedules and the names and credentials of instructors.

*§11.72 (Withdrawal of approval of program sponsor)*

Proposed §11.72 set forth the grounds on which the Board may withdraw the approval of program sponsors. The IRRC recommended that the Board make clear in the regulation that the Board's withdrawal of a program sponsor's approval does not affect the continuing education credits earned by licensees for completing programs offered by the program sponsor prior to the withdrawal of its approval. The Board has revised §11.72 to reflect that clarification.

**Statutory Authority**

Section 3(10) of the CPA Law, 63 P.S. §9.3(10), empowers the Board to promulgate regulations relating to continuing education, including the qualifications of program sponsors. Section 6 of the CPA Law, 63 P.S. §9.6, empowers the Board to fix fees by regulation.

**Fiscal Impact and Paperwork Requirements**

The amendments will require previously approved program sponsors that submit their reapproval applications by April 30, 2001, to pay a reapproval fee of \$120. The Board estimates that about 1,000 previously approved program sponsors will submit reapproval applications by April 30, 2001. The amendments will require new program sponsor applicants and previously approved program sponsors that submit their reapproval applications after April 30, 2001, to pay an approval/reapproval fee of \$145. Beginning May 1, 2001, the Board expects to receive at least 50 applications each year from new or previously approved program sponsors. The amendments will require approved program sponsors to pay a biennial renewal fee of \$120 starting with the biennial period that begins January 1, 2004.

The amendments will cause the Board to incur costs in conducting offsite reviews of selected program sponsors. These costs will be defrayed by the fees for approval / reapproval and biennial renewal of approval. The amendments will not have a fiscal impact on the Commonwealth's other agencies or political subdivisions, or other segments of the private sector.

The amendments will require program sponsors selected for offsite reviews to provide detailed documentation to the Board of their continuing education programs. The amendments will require the Board to revise its forms for program sponsor approval. The amendments will not create additional paperwork requirements for the Commonwealth's other agencies, the Commonwealth's political subdivisions, or other segments of the private sector.

**Compliance with Executive Order 1996-1**

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in developing the amendments, solicited comments from the PICPA and the Pennsylvania Society of Public Accountants, the major professional associations representing the public accounting profession in Pennsylvania and of its largest continuing education sponsors. The Board also published a notice in the Pennsylvania Bulletin seeking pre-proposal comments for other currently approved program sponsors as well as prospective program sponsors.

**Regulatory Review**

On February 7, 2000, as required by Section 5(a) of the Regulatory Review Act, 71 P.S. §745.5(a), the Board submitted copies of the notice of proposed rulemaking, published at 30 Pa.B. 888 (February 19, 2000), to the IRRC and the House and Senate Committees for review and comment.

In adopting final-form amendments, the Board considered comments from the IRRC, the House Committee, and the general public. The Board did not receive comments from the Senate Committee.

On October 30, 2000, the Board submitted final-form amendments to the IRRC and the House and Senate Committees. Under authority of Section 5(c) of the Regulatory Review Act, 71 P. S. §745.5(c), the amendments were approved by the House Committee on \_\_\_\_\_, 2000, approved by the Senate Committee on \_\_\_\_\_, 2000, and approved by the IRRC on \_\_\_\_\_, 2000.

**Additional Information**

Individuals who desire additional information about the amendments are invited to submit inquiries to Steven Wennberg, Esq., Counsel, State Board of Accountancy, P.O. Box 2649, Harrisburg, PA 17105-2649.

**Findings**

The Board finds that:



- (1) Public notice of the Board's intention to amend 49 Pa. Code, Chapter 11, by this order has been given under Sections 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§1201 and 1202, and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.
- (2) The amendments adopted by this order are necessary and appropriate for the administration of the CPA Law.

**Order**

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board, 49 Pa. Code, Chapter 11, are amended by deleting §11.70, by adding §§11.69a and 11.71a, and by revising §§11.1, 11.4, 11.64, 11.65, 11.71, and 11.72, to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The amendments shall take effect upon publication in the Pennsylvania Bulletin.

ANNEX A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 11. STATE BOARD OF ACCOUNTANCY**

**GENERAL PROVISIONS**

**§11.1. Definitions.**

...

*[Program developer--A party who has assumed the responsibility for the compilation of material to be presented in a continuing education program and for the instructional design of the program.]*

*Program sponsor--A party who has assumed the responsibility for presenting continuing education programs. [The term designates a party who is not necessarily a program developer.]*

\* \* \*

**§11.4. Fees.**

(a) Following is the schedule of fees charged by the Board:

...

<u>Initial <del>application for</del> APPROVAL OF program sponsor OR REAPPROVAL OF PREVIOUSLY APPROVED PROGRAM SPONSOR WHERE APPLICATION IS SUBMITTED AFTER APRIL 30, 2001.....</u>	<u>\$145.00</u>
<u>REAPPROVAL OF PREVIOUSLY APPROVED PROGRAM SPONSOR WHERE APPLICATION IS SUBMITTED BY APRIL 30, 2001 .....</u>	<u>\$120.00</u>
<u>Biennial renewal for OF APPROVAL OF program sponsor BEGINNING JANUARY 1, 2004.....</u>	<u>\$120.00</u>

\* \* \*

## CONTINUING PROFESSIONAL EDUCATION

\* \* \*

### §11.64. Sources of continuing education credit.

The following continuing education programs will be given 1 credit hour of continuing education credit for each 50-minutes of participation if they are in the subject areas in §11.63 (relating to continuing education subject areas) and, beginning May 1, 2000 2001, they are offered by approved program sponsors under §11.69a (relating to approval of program sponsors).

\* \* \*

### §11.65. Criteria for continuing education programs.

[(a)] In order to qualify as a continuing education program, a program shall:

- (1) Be a program of learning which contributes directly to the maintenance of professional competence of a certified public accountant or public accountant.
- (2) Be at least 1 credit hour[, 50-minute period,] in length.
- (3) Be conducted by a qualified instructor or discussion leader.
- (4) Offer subject matter enumerated in §11.63 (relating to continuing education subject matter).

[(b)] A continuing education program may receive prior approval as a continuing education and be assigned a designated number of continuing education credits by the Board if the program sponsor provides, in writing and on a form provided by the Board, information required by the Board to document the elements of subsection (a) and, in addition thereto, avers that it will:

- (1) Maintain and retain accurate records of attendance for a 5-year period.
- (2) Retain a written outline for course materials for a 5-year period.

(3) Comply with the requirements of §11.71 (relating to responsibilities of program sponsors).

(c) Prior approval for a continuing education program and the continuing education credit shall be renewed biennially and at such other times as the program is to be substantially altered. Applications for pre-approval of continuing education programs shall be submitted by the program sponsor at least 30 days prior to the date the continuing education program is to be offered.]

\* \* \*

**§11.69a. Approval of program sponsor.**

(a) *Initial approval REQUIREMENT.* Except as provided in subsection (b), any individual or entity desiring to offer a program for continuing education credit under this chapter shall apply to the Board for approval as a program sponsor. The approval of A previously approved program sponsors will expire ~~December 31, 2000~~ APRIL 30, 2001, UNLESS THE PROGRAM SPONSOR SUBMITS A QUALIFYING APPLICATION UNDER SUBSECTION (C) THAT IS POSTMARKED BY APRIL 30, 2001; ~~previously approved program sponsors desiring to offer continuing education programs after December 31, 2000, shall comply with this section~~ THE BOARD WILL NOT DENY COURSE CREDIT TO ANY LICENSEE WHO COMPLETES A PROGRAM FROM A PROGRAM SPONSOR THAT SUBMITTED A QUALIFYING APPLICATION BY APRIL 30, 2001, AND IS AWAITING APPROVAL OF ITS APPLICATION.

(b) *Exemption from approval.* Any individual or entity that is a member in good standing of the National Association of State Boards of Accountancy's National Registry of Continuing Professional Education Sponsors is deemed an approved program sponsor and is not required to submit an application for approval to the Board.

(c) *Contents of application for initial approval.* An application for approval shall contain the following information, EXCEPT THAT AN APPLICATION FROM A PREVIOUSLY APPROVED PROGRAM SPONSOR THAT IS POSTMARKED BY APRIL 30, 2001, NEED ONLY CONTAIN THE INFORMATION IN PARAGRAPHS (1)-(3):

(1) Name and address of the sponsor.

(2) Title and source of continuing education credit as specified in §11.64 (relating to sources of continuing education credit).

(3) ~~Dates and location of programs.~~ A LIST OF EXISTING OR PLANNED

PROGRAM OFFERINGS, IF KNOWN.

~~(4)~~ Faculty names, titles and degrees.

~~(5)~~ Program schedules (i.e., title of subject, lecturer, time allotted, excluding breaks and lunches).

~~(4) (6)~~ Total number of credit hours requested for each program.

~~(5) (7)~~ Attendance certification method.

~~(6) (8)~~ Program objectives.

~~(7) (9)~~ Admission requirements.

~~(8) (10)~~ Program outlines.

~~(9) (11)~~ Instruction and evaluation methods.

~~(d)~~ Sworn statements. Statements made in an application shall be sworn to be true and correct to the best of the applicant's knowledge.

~~(e)~~ Board review of application for initial approval. EXCEPT FOR AN APPLICATION FROM A PREVIOUSLY APPROVED PROGRAM SPONSOR THAT IS POSTMARKED BY APRIL 30, 2001, [An] AN application will be reviewed by the Board's Continuing Education Committee, which will make recommendations to the Board for approval or disapproval. If an application is disapproved, the Board will provide the applicant with written notification of its reasons for disapproval. An applicant may submit a revised application to address the Board's concerns. No Board member will review or vote upon an application in which he has a vested interest.

~~(f)~~ Approval number. Upon approval by the Board, an applicant will be assigned a program sponsor number.

~~(g)~~ Biennial renewal of approval. An approved program sponsor shall renew its approval by January 1 of each even-numbered year, beginning with January 1, 2004. A renewal application shall list the program sponsor's planned program offerings for the upcoming renewal period.

\* \* \*

**§11.70. [Responsibilities of program developers.] (Reserved).**

[(a) *Program level of difficulty.* Program developers shall specify the level of knowledge to be imparted under the program. Such levels of knowledge may be expressed in a variety of ways, all of which should be informative to potential participants and sponsors. As an illustration, a program may be described as having the objective of imparting technical knowledge at such levels as basic, intermediate, advanced or overview, which might be defined as follows:

(1) A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area.

(2) An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications.

(3) An advanced level program teaches participants to deal with complex situations.

(4) An overview program enables participants to develop perspective as to how a subject area relates to the broader aspects of accounting or brings participants up-to-date on new developments in the subject area.

(b) *Recommendation of education and experience prerequisites.* Program developers shall clearly identify what prerequisites are suggested for enrollment. If no prerequisite is necessary, a statement to this effect should be made. Prerequisites should be specified in precise language so potential program participants can readily ascertain whether the program would be beneficial to them or whether the program is above or below their level of knowledge or skill.

(c) *Development of the program.* Programs shall be developed by individuals qualified in the subject matter and in instructional design. This subsection is not intended to require any individual program developer be both technically competent and competent in instructional design. Its purpose is to ensure that both types of competency are represented in the program's development. Mastery of the technical knowledge or skill in instructional design may be demonstrated by appropriate experience or educational credentials.

(d) *Program review.* The program developer shall review the course materials periodically to ensure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets should be issued when appropriate, and obsolete material should be deleted; however, between the time a new

pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor is responsible for informing participants of changes. If, for example, a new accounting standard is issued, a program will not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.]

**§11.71. Responsibilities of program sponsor[s].**

In addition to [other responsibilities imposed on program sponsors] meeting the requirements in §11.69.1 (relating to approval of program sponsor), [they] a program sponsor shall comply with the following:

(1) *Program level of difficulty.* A program sponsor shall specify the level of knowledge to be imparted under the program. Such levels of knowledge may be expressed in a variety of ways, all of which should be informative to potential participants. ~~As an illustration~~ FOR EXAMPLE, a program may be described as having the objective of imparting technical knowledge at such levels as basic, intermediate, advanced or overview, which might be defined as follows:

(i) A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area.

(ii) An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications.

(iii) An advanced level program teaches participants to deal with complex situations.

(iv) An overview program enables participants to develop perspective as to how a subject area relates to the broader aspects of accounting or brings participants up-to-date on new developments in the subject area.

(2) *Recommendation of education and experience prerequisites.* A program sponsor shall clearly identify what prerequisites are suggested for enrollment. If no prerequisite is necessary, a statement to this effect should be made. Prerequisites should be specified in precise language so potential participants can readily ascertain whether the program would be beneficial to them or whether the program is above or below their level of knowledge or skill.

(3) *Development of the program.* A program sponsor shall ensure that programs are developed by individuals qualified in the subject matter and in instructional design. This subsection is not intended to require that any individual program sponsor be both technically competent and competent in instructional design. Its purpose is to ensure that both types of competency are represented in the program's development, whether one or more persons are involved in that development. Mastery of the technical knowledge or skill in instructional design may be demonstrated by appropriate experience or educational credentials.

(4) *Program review.* A program sponsor shall review the course materials ~~periodically~~ ANNUALLY to ensure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets should be issued where appropriate, and obsolete material should be deleted; however, between the time a new pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor is responsible for informing participants of changes. If, for example, a new accounting standard is issued, a program will not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.

~~[(1)](5)~~ *Disclosure of prospective participants.* A p[P]rogram sponsor[s] shall disclose in advance to prospective participants the objectives, prerequisites, experience level, content, required advanced preparation, teaching method and number of continuing education credits involved in the program.

~~[(2)](6)~~ *Selection and review of instructors.* [The] A program sponsor [has the obligation for] shall select[ing] and assign[ing] qualified instructors for the continuing education program. ~~Although it is expected that instructors will be selected with great care;~~ a A program sponsor[s] should evaluate the performance of the instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors in the future.

~~[(3)](7)~~ *Number of participants and adequacy of physical facilities.* [It is the responsibility of the] A program sponsor [to assure] shall ensure that the number of participants and the physical facilities are consistent with the teaching methods to be utilized. Because the learning environment is affected by the number of participants and by the quality of the physical facilities, a program sponsor[s have] has an obligation to pay serious attention to both of these factors. The maximum number of participants for a case-oriented discussion program, for example, should be considerably less than for a lecture program. The seating arrangement is also very important. For discussion presentation, learning is



enhanced as seating is arranged so that participants can easily see and converse with each other. If small group sessions are an integral part of the program format, appropriate facilities should be made available to encourage communication with a small group.

[(4)](8) *Program evaluation.* A program sponsor shall provide a [P]program evaluation [shall be] in accordance with the following:

(i) [The sponsor shall provide some means of program evaluation.] Evaluations shall be solicited from both the participants and instructors. The objective of evaluations is to encourage the program sponsor[s] to strive for increased program effectiveness. Programs should be evaluated to determine whether:

- (A) Objectives have been met.
- (B) Prerequisites were necessary or desirable.
- (C) Facilities were satisfactory.
- (D) The instructor was effective.
- (E) Advanced preparation materials were satisfactory.
- (F) The program content was timely and effective.

(ii) Evaluations [might] may take the form of pretests for advanced preparation, post-tests for effectiveness of the program, questionnaires completed at the end of the program or later, oral feedback to the instructor or sponsor, and so forth. Instructors should be informed of their performance, and the program sponsor[s] should systematically review the evaluation process to [i]ensure its effectiveness.

[(5)](9) *Attendance records.* A program sponsor shall [M]maintain and retain accurate records of attendance for a 5-year period.

[(6)](10) *Course materials.* A program sponsor shall [R]retain a written outline of course materials for a 5-year period.

[(7)](11) *Certificate of completion.* A program sponsor shall [P]provide participants with a certificate of completion evidencing satisfactory completion and attendance of the

program.

~~[(8)](12)~~ *Promotional materials.* A program sponsor shall [I]identify the subject area -- see §11.63 (relating to continuing education subject areas) -- of the program in the promotional materials.

**§11.71a. Off-site review of program sponsor.**

A program sponsor shall be subject to an off-site review of its continuing education programs to ensure compliance with the requirements of this chapter. The review will involve an in-depth audit of all course materials, documents and records maintained by the program sponsor under this chapter, INCLUDING, BUT NOT LIMITED TO, THE INFORMATION SET FORTH IN §11.69a(c); DATES AND LOCATIONS OF PROGRAMS; PROGRAM SCHEDULES (I.E., TITLE OF SUBJECT, INSTRUCTOR, TIME ALLOTTED, EXCLUDING BREAKS AND LUNCHES); AND THE NAMES, TITLES AND DEGREES OF INSTRUCTORS.

**§11.72. [Sponsor's failure to comply with continuing education requirements.] Withdrawal of approval of program sponsor.**

(A) [Failure of the sponsor to comply with the requirements of §§11.65 and 11.71 (relating to criteria for continuing education programs; and responsibilities of program sponsors) may result in the suspension of the preapproved status for programs offered by the sponsor.] The Board, following notice and hearing under 2 Pa.C.S. §§501-508 (relating to practice and procedure of Commonwealth agencies), may withdraw the approval of a program sponsor that the Board finds guilty of:

- (1) Having acquired the Board's approval by misrepresentation.
- (2) Failing to comply with the requirements of §§11.65 (relating to criteria for continuing education programs), 11.69.1 (relating to approval of program sponsor), or 11.71 (relating to responsibilities of program sponsor).
- (3) Refusing to provide information requested by the Board pursuant to an off-site review under §11.71.1.
- (4) Indicating in any manner that it has been approved as a program sponsor prior to a program sponsor number having been issued to it.

(B) THE BOARD'S WITHDRAWAL OF A PROGRAM SPONSOR'S APPROVAL  
WILL NOT AFFECT THE CREDIT HOURS EARNED BY PERSONS WHO COMPLETED  
PROGRAMS OF THE SPONSOR PRIOR TO THE WITHDRAWAL OF ITS APPROVAL.

\* \* \*



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF ACCOUNTANCY**

(717) 783-1404

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HARRISBURG, PA  
17105-2649

October 30, 2000

The Honorable John R. McGinley, Jr., Esq.  
Chairman  
Independent Regulatory Review Commission  
Harristown 2, 14<sup>th</sup> Floor  
333 Market Street  
Harrisburg, PA 17101

RE: Final Rulemaking of the State Board of Accountancy  
Relating to Continuing Education Program Sponsors (16A-555)

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Accountancy relating to continuing education program sponsors.

The final-form regulations incorporate several changes to address concerns raised by your Commission, the Office of Budget, and the House Professional Licensure Committee during proposed rulemaking.

The Board stands ready to provide whatever information or assistance your Commission may require during its review of this final rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. Baumgartner CPA".

Thomas J. Baumgartner, CPA, Chairman  
State Board of Accountancy

TJB:SW:apm  
Enclosure

cc: John T. Henderson, Jr., Chief Counsel  
Department of State

Joyce McKeever, Deputy Chief Counsel  
Department of State

Lee Ann H. Murray, Regulatory Counsel  
Department of State

David Williams, Deputy Commissioner  
Bureau of Professional and Occupational Affairs

Gerald S. Smith, Senior Counsel in Charge  
Bureau of Professional and Occupational Affairs

Steven Wennberg, Counsel  
State Board of Accountancy

State Board of Accountancy

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-555  
SUBJECT: State Board of Accountancy - Continuing Education Program Sponsors  
AGENCY: DEPARTMENT OF STATE

**TYPE OF REGULATION**

Proposed Regulation  
X Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions b. Without Revisions

RECEIVED  
2000 OCT 30 PM 11:36  
REVIEW COMMISSION  
40

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
10/30/00		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/30/00		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

August 30, 2000