

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:

**Department of State, Bureau of Professional and
Occupational Affairs, State Board of Accountancy**

(2) Agency Number: 16A

Identification Number: 5511

IRRC Number: 2902

2012 SEP -4 AM 10: 54

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(3) PA Code Cite:

49 Pa. Code §§ 11.1, 11.61-11.65, 11.67-11.69a. 11.71 and 11.72

(4) Short Title:

Continuing professional education

(5) Agency Contacts (List Telephone Number and Email Address):

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(6) Type of Rulemaking (check applicable box):

☐ Proposed Regulation

☒ Final Regulation

☐ Final Omitted Regulation

☐ Emergency Certification Regulation;

☐ Certification by the Governor

☐ Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The regulations would clarify applicable continuing professional education (CPE) reporting periods, acceptable sources of CPE hours and forms of CPE documentation, and permissible grounds for CPE waiver or extension; revise CPE subject areas, including the addition of a mandatory ethics component; simplify CPE reporting requirements; expand categories of pre-approved CPE program sponsors; and set forth which forms of disciplinary action will apply to which types of CPE violations. The regulations also would make editorial changes.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The rulemaking is authorized by section 3(a)(10) of the CPA Law (63 P.S. § 9.3(a)(10)).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The rulemaking is not mandated by any federal or state law or court order.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Updated CPE regulations are needed (1) to ensure that CPE requirements remain relevant in helping licensees maintain current competency to practice public accounting; (2) to streamline the administration and enforcement of CPE requirements so that licensees and the Board would spend less time and incur less expense in establishing and verifying CPE compliance, respectively; and (3) to clarify CPE requirements in order to minimize the likelihood that licensees will commit unintentional violations. The Board, CPE program sponsors and certified public accountants and public accountants who maintain current licenses would directly benefit from the rulemaking. Clients of licensed certified public accountants and public accountants would indirectly benefit from the rulemaking.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is not based upon any scientific data, studies, or references.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

The Board has not identified any group of individuals or entities that will be adversely affected by the rulemaking.

(13) 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.

The rulemaking will primarily affect certified public accountants and public accountants desiring to maintain current licenses to practice public accounting as well as individuals applying for initial licensure. At present there are approximately 22,000 certified public accountants and 220 public accountants with current licenses. Each year approximately 1,000 individuals apply for initial licensure. The regulations also would affect CPE program sponsors to a lesser extent. At present there are approximately 600 Board-approved program sponsors and approximately 1,500 program sponsors that are deemed approved and do not require Board approval. The increased number of deemed approved program sponsors that would be permitted under the amended regulations is not known.

(14) 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. Explain how the dollar estimates were derived.

The rulemaking will not result in any significant or quantifiable costs or savings to the regulated community. Because the amended regulations would not increase the overall number of required CPE hours, it is unlikely that licensees would incur additional costs associated with compliance. The streamlined CPE reporting procedures would likely result in some minor, but unquantifiable, savings for licensees.

(15) 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. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with the rulemaking.

(16) 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. Explain how the dollar estimates were derived.

The rulemaking will likely cause the Board, its staff and the BPOA Legal Office to spend less time – and thus incur less costs – with regard to administering the CPE program and taking enforcement action against licensees for noncompliance. The amount of the estimated savings cannot be quantified.

(17) 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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 (2008-09)	FY -2 (2009-10)	FY -1 (2010-11)	Current FY (2011-12)
State Board of Accountancy	(actual) \$1,008,033	(actual) \$1,141,313	(actual) \$1,059,918	(budget) \$1,286,000

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The rulemaking will provide a much-needed updating of the CPE requirements at no cost to the public at large and with likely savings for the regulated community and the Board.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

In its initial drafting of the amended regulations, the Board solicited comments from the Pennsylvania Institute of Certified Public Accountants and the Pennsylvania Society of Public Accountants, the two major organizations representing the public accounting profession in Pennsylvania. After publication as proposed, the Board discussed all comments and discussed revisions to the rulemaking in public session at its meeting January, 2012. All public sessions are open to the public, and representatives of the profession generally attend the public sessions of all Board meetings.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory schemes were considered.

(21) 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 regulations.

The rulemaking does not overlap or conflict with any federal requirements.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The rulemaking does not increase the overall CPE requirement of 80 hours biennially. Nearly all states require 40 hours of CPE on an annualized basis. The rulemaking's inclusion of a mandatory 4-hour professional ethics component as part of the overall CPE requirement is consistent with the majority of the 40 states that currently prescribe professional ethics as part of CPE. The rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking will have no effect on other regulations of the Board or other state agencies. However, the amended regulations do reference the Board's Act 48 schedule of civil penalties, which is currently being revised pursuant to rulemaking promulgated by the Commissioner of Professional and Occupational Affairs (16A-48).

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The rulemaking eases, rather than expands, the CPE reporting requirements for licensees. The amended regulations require some CPE program sponsors to modify their certificates of completion to include required information, but will not enlarge the volume of their paperwork.

(25) 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 Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(26) Include a schedule for review of the regulation including:

- | | |
|---|---------------------------------|
| A. The date by which the agency must receive public comments: | <u>Sept. 19, 2011</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>By Sept. 19, 2013</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>January 1, 2014</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

The Board continually reviews the efficacy of its regulations, as part of the annual review process pursuant to Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, meeting at least nine times each year. More information can be found on the Board's website (www.dos.state.pa.us/account).

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**FACE SHEET
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WITH THE LEGISLATIVE REFERENCE BUREAU**

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Copy below is hereby certified to be a true and correct
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Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Accountancy

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-5511

DATE OF APPROVAL

DATE OF ADOPTION:

BY: Patrick J. Dugan
Patrick J. Dugan, CPA

Shawn E. Smith
BY: SHAWN E. SMITH

AUG 23 2012

DATE OF APPROVAL

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

[] Check if applicable
Copy not approved.
Objections attached.

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable.
No Attorney General approval
or objection within 30 day
after submission.

FINAL RULEMAKING

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

49 Pa. Code §§ 11.1, 11.61-11.72
CONTINUING PROFESSIONAL EDUCATION

The State Board of Accountancy (Board) hereby amends Chapter 11 to read as set forth in Annex A.

Description and Need for the Rulemaking

Under sections 8.2(b) and 9.2(d) of the CPA Law (act) (63 P.S. §§ 9.8b(b) and 9.9b(d)), an individual applicant for initial issuance of a license, renewal of a current license, or reactivation of an expired or inactive license shall have completed 80 hours of continuing professional education (CPE) as prescribed by the Board during the relevant 2-year reporting period. Section 3(a)(10) of the act (63 P.S. § 9.3(a)(10)) empowers the Board to adopt regulations implementing CPE requirements, and section 8.2(d) of the act (63 P.S. § 9.8b(d)) further addresses considerations for the Board in promulgating regulations with respect to CPE requirements. The Board initially adopted CPE regulations in September 1979 and amended them in February 1985, December 1994 and January 2001. The last set of amendments dealt principally with the Board's requirements for CPE program sponsors.

The Board is now reorganizing and updating the CPE requirements applicable to individuals who practice as certified public accountants (CPAs) or public accountants (PAs). Specifically, the amendments clarify applicable CPE reporting periods, acceptable sources of CPE hours and forms of CPE documentation, and permissible grounds for CPE waiver or modification; revise CPE subject areas, including the addition of a mandatory ethics component; simplify CPE reporting requirements; and set forth which forms of disciplinary action will apply to which types of CPE violations. The amendments also expand the categories of pre-approved CPE program sponsors and make editorial changes to other CPE program sponsor regulations.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 41 Pa.B. 4541 (August 20, 2011), with a 30-day public comment period. The Board received comments from the Pennsylvania Institute of Certified Public Accountants (PICPA), but not from any other members of the public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1-745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

PICPA first noted that the term “accounting and auditing” in § 11.63(a)(1) (relating to CPE subject areas; relevance to professional competence) was proposed to be revised to “accounting and attest,” yet the definition of “attest activity” was not revised to match that as amended in the act. PICPA suggested revising the definitions to match those in the act. HPLC and IRRC also recommended revising this definition. The Board agrees and has revised the definition of “attest activity” in § 11.1 (relating to definitions) to match that in the act.

PICPA objected to the proposed deletion of “specialized knowledge and applications” in § 11.63(a)(5) as an acceptable area for CPE. Because significant portions of the profession are engaged in business, industry or educational vocations that are not solely public accounting,

PICPA believes that allowing licensees to tailor their CPE around other educational opportunities will permit greater flexibility and therefore greater compliance to the benefit of licensees maintaining competence. HPLC agreed with this suggestion, and IRRC asked the Board to explain the need to omit this area of CPE. Upon further consideration, the Board agrees that it should not omit this area of CPE. It has deleted the proposed limitation from § 11.63(a)(5). Therefore, the Board will accept CPE hours in specialized knowledge and applications after January 1, 2012.

Additionally, in discussing the above point, the Board considered the clarity of its regulations that permit a licensee to obtain CPE in “specialized knowledge and applications” and require that CPE “must be relevant to maintaining the professional competence of a certified public accountant or public account” as further provided in § 11.63(b). Because the term is used throughout the regulations but not otherwise defined, the Board has added in § 11.1 a definition for “professional competence” as having requisite knowledge, skills, and abilities to provide quality professional service as defined by the technical and ethical standards of the profession. This definition is from the glossary of the Statement on Standards for CPE Programs (Appendix B of the Uniform Accountancy Act) issued jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA). The Board has also revised § 11.63(b) to exclude practice building and office management from acceptable CPE subject matter, as are typical continuing education standards for other professional licensing boards within the Bureau of Professional and Occupational Affairs. Revised § 11.63(a) is consistent with general standard 04 of the Statement on Standards for CPE Programs of the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy. This standard provides, “Acceptable subjects include accounting, assurance, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including personal development, may also be acceptable if they maintain and/or improve the CPA’s professional competence.” By its use in the Statement on Standards for CPE Programs, “specialized knowledge and applications” is a term of art generally understood in the accounting profession. Because subsection (b) limits acceptable CPE to what is relevant to maintaining “professional competence” as that term is now defined and excludes practice building and office management, the Board has determined that there is no need to further define the term “specialized knowledge and applications,” for which there is no mandatory minimum amount of CPE required.

PICPA next objected to the proposed deletion of authorship of writings as a basis for awarding CPE credits. In the view of PICPA, the benefits to the accounting profession and to the public of having these types of articles and periodicals published outweighs the Board’s difficulty in verifying how much time practitioners have spent on research and writing. HPLC agreed with PICPA, and IRRC asked for further explanation justifying this change. Upon further consideration, the Board agrees that the value of maintaining this avenue of CPE outweighs the administrative challenge for this small portion of licensees who seek CPE credit for authorship. Accordingly, the Board has deleted from § 11.64(4) (relating to sources of CPE hours) the limitation that CPE credit for authorship of articles, books and other publications relevant to maintaining professional competence is available only until January 1, 2012. The Board has also deleted this provision from § 11.64(4)(iii). The Board has also added subparagraph (iv) to require a licensee seeking CPE credit for authorship to apply to the Board, provide necessary

supporting documentation, and submit a certification that the work is that of the licensee and that the licensee actually spent the time claimed for research and writing in support of the activity. Additionally, because approval is mandatory, the Board has included a requirement that the licensee must apply and receive approval prior to renewing the license in reliance upon CPE credit for authoring a publication. The alternative to this requirement would be to permit a licensee to wait until being audited to first show the publication and request credit. The Board rejected this alternative because such a scheme would be analogous to permitting a CPE provider to wait until after the renewal period and during audit to seek approval of its courses.

Consistent with its existing regulation that permitted a maximum credit of 50% of the continuing education requirement for publications, the Board proposed, while this option remained available under § 11.64(4)(ii), to permit a licensee to obtain up to 40 CPE hours for authorship during each reporting period. Consistent with its existing regulation that permitted a maximum credit of 50% of the continuing education requirement for self-study, the Board also proposed, while this option remained available under § 11.64(2)(iv), to permit a licensee to obtain up to 40 CPE hours for self-study during each reporting period. The result is that a licensee would be able to satisfy the entire 80-hour CPE obligation by self-study and authoring publications. On further consideration, the Board has concluded that the value of group-study and service as an instructor is too great to permit a licensee to wholly satisfy the CPE requirement without engaging in these activities at all. Accordingly, the Board has revised §§ 11.64(2)(iv) and 11.64(4)(ii) to limit authorship of publications and self-study combined to a maximum 40 CPE hours in a reporting period.

As drafted, § 11.69a(b)(3) provides that an accredited college or university is deemed to be an approved CPE program sponsor and is not required to submit an application for approval. PICPA requested clarification as to whether § 11.69a(b)(3) includes CPE affiliates of the educational institution. IRRC also asked the Board to clarify the status of these CPE program sponsors. The Board did not intend to include in preapproval anything offered outside the educational institution's approved curriculum consistent with what is required for licensure under section 4.2(b)(3) of the act (63 P.S. § 9.4b(b)(3)). Accordingly, the Board has revised this paragraph to limit preapproval to a college or university "accredited by a nationally recognized accrediting agency recognized by the United State Department of Education when offered as part of its approved curriculum."

Finally, PICPA suggested revising § 11.69a(b) to exempt national and state recognized accounting organizations from the CPE approval process. The Board has rejected this suggestion. National or state accounting organizations that are members in good standing of NASBA's National Registry of CPE Program Sponsors are preapproved under paragraph (1), and those that have been approved as a CPE program sponsor by the accountancy regulatory body of another state that permits the practice of public accounting under principles of substantial equivalency are preapproved under paragraph (2). By demonstrating to such a body adequate competence to provide CPE, a national or state accounting organization will become a preapproved sponsor in Pennsylvania. Otherwise, the organization will be required to apply for approval with the Board in accordance with this section.

HPLC noted that throughout § 11.69a the Board has used the term "individual or entity"

to be a CPE program sponsor and suggested that the Board revise the definition of “CPE program sponsor” in § 11.1 to use the phrase “individual or entity” rather than “party.” The Board has revised this definition as suggested. HPLC and IRRC also noted that in § 11.62(c) (relating to CPE requirement for issuance of license; waiver or extension) the Board provided that the requirement for demonstrating completion of a certain amount of CPE as a condition of reactivation of an inactive license does not apply to an applicant who is reactivating a license “that still has a current expiration date” and suggested that it would be less ambiguous to refer to reactivation of a license “within the same biennial period in which it was placed on inactive status.” The Board has revised this provision as suggested.

Because it could not find such a provision in the text of the proposed rulemaking, HPLC questioned the Board’s statement in the proposed preamble, “Entry-level accounting courses are specifically excluded” from instructor CPE credit in § 11.64. IRRC also requested an explanation of this statement. This provision was previously in existing § 11.64(7)(iv) but was inadvertently omitted from proposed § 11.64(3). The Board has added it now as subparagraph (iv). HPLC noted that the Board used the term “participant” throughout § 11.64 to refer to a licensee obtaining CPE, but for consistency recommended replacing it with the term “instructor” in paragraph (3) when referring to CPE credit for service as an instructor. HPLC and IRRC also recommended revamping subparagraph (i) to provide that an instructor “will receive 3 CPE hours for each 50 minutes of instruction in a group study program which may include up to 2 hours of preparation time,” rather than an instructor “will receive 3 CPE hours, including 2 hours of preparation time, for each 50 minutes of instruction in a group study program.” The Board has revised paragraph (3) as recommended. Additionally, in reviewing this language, the Board realized that it had drafted proposed § 11.64(3)(ii) in a way that altered the requirements of existing § 11.64(7)(iv) other than the Board intended. Previously, an instructor would not be awarded credit for teaching unless, among other things, the instructor had not previously claimed credit for the course or could demonstrate that there was a substantial change in the subject matter; this limitation applied even in subsequent renewal cycles. As the Board did not intend to eliminate this limitation, the Board has revised proposed § 11.64(3)(iii) to replace the restriction that this limitation applies only during the same renewal cycle with the description that the instructor previously claimed credit and to repeat the exception that it not apply if there has been a substantial change in the subject matter.

In order to be consistent with the balance of § 11.69a(b), HPLC and IRRC recommended replacing the phrase “individual and entity” with the phrase “individual or entity” in § 11.69a(b)(1). The Board has done so.

HPLC requested the number of licensed firms be included in the preamble. There are approximately 1400 accountancy firms with current licenses.

If the revised CPE requirements are not effective until 2014, HPLC suggested that the Board accept CPE completed by licensees in anticipation of the regulatory amendments becoming effective in 2012. Any CPE completed during the 2012-13 biennium in compliance with the new regulations will be acceptable to the Board. Because the Board proposed ending credit for certain CPE activities after January 1, 2012, but the final rulemaking could not be promulgated before that date, HPLC also suggested that licensees who continued to engage in

those CPE activities after January 1, 2012, but prior to final promulgation be given full credit. Similarly, IRRC recommended that the Board review the effective dates of the amended provisions of §§ 11.63(a)(5), 11.63(a)(7) and 11.64(4) in light of the actual promulgation date of the rulemaking. As discussed above, the Board has determined that it should not terminate credit for CPE in specialized knowledge under § 11.63(a)(5) or credit for authorship under § 11.64(4). The Board has also determined that the requirement of proposed § 11.63(a)(7) to complete at least 4 CPE in ethics should begin as planned with the 2012-13 renewal cycle. As stated in the preamble for publication as proposed, prior to publication as proposed the Board anticipated implementing this requirement during the 2012-13 renewal cycle and previously notified each licensee to plan accordingly.

IRRC then noted that proposed § 11.62(b) would require licensees to complete 80 CPE hours during each biennial renewal period and at least 20 CPE hours during each year of the 2-year period. By comparison, section 8.2(b) of the act requires licensees to complete 80 hours of continuing education during the 2-year reporting period immediately preceding renewal but does not require any minimum amount of continuing education during any specific portion of the reporting period. IRRC first questioned whether the 20 CPE hours during each year is in addition to the 80 CPE hours during the biennium. Under existing § 11.62(a)(2), a minimum of 20 credit hours must be taken each year of the biennial period; these hours are included in the 80-hour biennial requirement. IRRC also questioned why there is a need to complete a minimum amount of continuing education during each year of the biennium and pointed out that a licensee who completed more than 80 hours of continuing education during the first year of the biennium would have fully satisfied the statutory obligation but would not be able to qualify for renewal under the regulation without completing an additional 20 CPE during the second year of the biennium; a licensee who failed to complete at least 20 CPE during the first year of the biennium would not be able to qualify for renewal under the regulation regardless of how much continuing education the licensee completed during the second year, even though the statutory standard would apparently permit another full year to complete all 80 hours of continuing education. IRRC asked for an explanation of the need for and reasonableness of this requirement for annual continuing education and without such an explanation suggested deleting the requirement.

The requirement that a licensee complete at least 20 CPE hours during each year of the biennial renewal period is in existing § 11.62(a)(2), and the Board has not proposed to alter it. This section has not been revised since December 30, 1994. *See*, 24 Pa.B. 6559. This requirement is consistent with the AICPA/NASBA Model Rules. Subsection (a) of Rule 6-4 provides that an applicant seeking triennial renewal must complete 120 hours of continuing professional education during the 3-year period (which is equivalent to 80 hours during a 2-year period) and requires a minimum of 20 hours of continuing education completed during each year. Via adoption by the vast majority of state boards of accountancy, this 20-hour each year minimum has become standard across the country. The Board notes that removing this requirement may jeopardize the ability of licensees to practice in another state under substantial equivalency as provided in provisions of other state licensure law analogous to sections 5.2, 5.3 and 5.4 of the act (63 P.S. §§ 9.5b, 9.5c and 9.5d). Under section 2 of the act, “substantial equivalency” requires that the education, examination and experience requirements for licensure in another jurisdiction are comparable to or exceed those of the act. In addition, section 8.2(d) of the act requires that in issuing regulations with respect to requirements for continuing education,

the Board shall take into account any impediments to interstate practice of public accounting which may result from differences in such requirements in other states. The Board is retaining the requirement that licensees complete at least 20 CPE hours during each year of the reporting period as a condition for renewal. Because the AICPA and NASBA Model Rules require completion of 20 hours of continuing education during each year – not only as a requirement for completion, but also as a condition of renewal – the Board did not further consider permitting a licensee who has completed at least 80 CPE hours during the biennium to renew, despite not having completed at least 20 CPE hours during each of the two 1-year reporting periods, subject to disciplinary action. The Board notes that under § 11.62(d) the Board may grant a licensee a waiver of any CPE requirement upon a showing of individual hardship, and among other options, may extend the time period to complete CPE if the failure to timely comply was due to a reasonable cause. Moreover, a licensee who has not completed at least 20 CPE hours during each of the two 1-year periods of the biennium may permit the license to expire and, under § 11.62(c), apply for reactivation upon showing completion of 80 CPE hours in the required subject areas during the 2-year period preceding reactivation. While such a licensee would not be in violation of § 11.62(b) and would not be subject to disciplinary action under § 11.68a(a) (relating to disciplinary action for failure to comply with CPE requirements) as a result of failing to complete at least 20 CPE hours during each year of the biennium, any practice of public accounting in this Commonwealth prior to reactivation of the license would be in violation of section 12(q) of the act (63 P.S. § 9.12(q)).

Upon considering the renewal issues above, the Board recognized that proposed § 11.67(a) (relating to reporting of CPE hours) is insufficient as written. Proposed § 11.62(a) requires an initial applicant for licensure to have completed CPE during the 2-year period preceding the filing date of the application, but explicitly excludes from this requirement an applicant who passed the CPA examination during the same renewal period in which the application is filed. Note: The proposed rulemaking mistakenly stated this exclusion as applicable during the 2-year period preceding the filing date of the application, and the Board has revised § 11.62(a) to correct this mistake. Proposed § 11.67(a) required an applicant for initial licensure to submit a summary report of CPE hours, but did not include the exclusion for an applicant who passed the examination during the preceding relevant time period. The Board has revised § 11.67(a) to apply only to an applicant who is required by § 11.62(a) to complete CPE during the 2-year period preceding the filing of the application.

New § 11.68a(a) provides for issuance of an Act 48 citation for certain violations of §§ 11.62-11.64, 11.67 and 11.68, and the schedule of civil penalties is being separately amended to accomplish this. On August 8, 2011, the Commissioner of Professional and Occupational Affairs published proposed rulemaking at 41 Pa.B. 4535 and is contemporaneously promulgating final rulemaking that, among other things, provides for an Act 48 citation for certain violations of the CPE requirements. However, on final promulgation, the Board determined that formal action, rather than an additional citation, is appropriate for second offense violations of the CPE requirements. Accordingly, the Board has revised § 11.68a(a) to refer only to first-offense violations under the schedule and to refer to second and subsequent offenses under section 9.1(a)(4) and (10) of the act (63 P.S. § 9.9a(4) and (10)).

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no fiscal impact on the regulated community or on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Effective date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. However, at least 4 CPE hours licensees will be required to complete during the January 1, 2012, through December 31, 2013 renewal cycle must be in ethics.

Statutory Authority

The final rulemaking is authorized by section 3(a)(10) of the act (63 P.S. § 9.3(a)(10)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 8, 2011, the Board submitted a copy of the notice of proposed rulemaking, published at 41 Pa.B. 4541 (August 20, 2011), to IRRC and the chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, 2012, the final-form rulemaking was approved by the HPLC. On _____, 2012, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2012, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, by mail to P.O. Box 2649, Harrisburg, PA 17105-2649, by telephone at (717) 783-1404, or by e-mail at st-accountancy@pa.gov.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 41 Pa.B. 4541.
- (4) The final-form rulemaking adopted by this order is 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 at 49 Pa. Code Chapter 11 are amended, by amending §§ 11.1, 11.61, 11.62, 11.63, 11.64, 11.67, 11.68, 11.69a, 11.71, 11.71a and 11.72, deleting §§ 11.65 and 11.69, and adding § 11.68a, 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 final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Patrick J. Dugan, CPA, Chairman
State Board of Accountancy

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.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Attest activity – ~~An examination, audit, review, compilation or other agreed-upon procedure with respect to financial information,~~ THE PROVISION OF ANY OF THE FOLLOWING FINANCIAL STATEMENT SERVICES together with the issuance of a report expressing or disclaiming an opinion or other assurance on the information:

(1) AN AUDIT OR OTHER ENGAGEMENT PERFORMED IN ACCORDANCE WITH STATEMENTS ON AUDITING STANDARDS (SAS).

(2) A REVIEW OR COMPILATION OF A FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES (SSARS).

(3) AN ENGAGEMENT PERFORMED IN ACCORDANCE WITH STATEMENTS ON STANDARDS FOR ATTESTATION ENGAGEMENTS (SSAE).

(4) AN AUDIT OR OTHER ENGAGEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS ISSUED BY THE

COMPTROLLER GENERAL OF THE UNITED STATES.

(5) ANY OTHER ENGAGEMENT PERFORMED IN ACCORDANCE WITH ATTESTATION STANDARDS ESTABLISHED BY AN ORGANIZATION GRANTED AUTHORITY BY STATUTE OR REGULATION TO ESTABLISH ATTESTATION STANDARDS, SUCH AS THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS (AICPA) OR THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD (PCAOB).

* * * * *

CPE – Continuing professional education.

CPE program sponsor – A party AN INDIVIDUAL OR ENTITY that assumes responsibility for presenting a CPE program that is structured as a group study program, interactive individual study program or noninteractive individual study program.

* * * * *

Certificate of completion – A document prepared by [the] a CPE program sponsor [which indicates that a licensee completed a continuing education program, the credit hours earned and the date and name of the program] evidencing a participant's completion of a group study program, interactive individual study program or noninteractive individual study program.

* * * * *

[Continuing education program – A group, self-study or correspondence program for which continuing education credit is given.

Credit hour – A unit of continuing education representing 50 minutes of participation.]

* * * * *

Group study program – [An educational process] A CPE program that is designed to

permit a participant to learn a given subject through interaction with an instructor and other participants.

* * * * *

Interactive individual study program – A [continuing education] CPE program that is designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware or administrative systems that provide significant ongoing interactive feedback to the [learner] participant regarding the learning process [which issues a certificate of completion].

* * * * *

NASBA – National Association of State Boards of Accountancy.

* * * * *

Noninteractive individual study program – A [continuing education] CPE program that is designed to permit a participant to learn a given subject without interaction with an instructor or interactive learning methodologies [which issues a certificate of completion upon the participant's achieving] and that requires the participant to achieve a 70% minimum grade on a written examination or workbook.

* * * * *

PROFESSIONAL COMPETENCE – HAVING REQUISITE KNOWLEDGE, SKILLS, AND ABILITIES TO PROVIDE QUALITY PROFESSIONAL SERVICE AS DEFINED BY THE TECHNICAL AND ETHICAL STANDARDS OF THE PROFESSION.

* * * * *

[*Professor* – An instructor who teaches courses in continuing education subject areas at an accredited university or college.

Program sponsor – A party who has assumed the responsibility for presenting continuing education programs.]

* * * * *

CONTINUING PROFESSIONAL EDUCATION

§ 11. 61. Scope.

[Applicants for a biennial permit to engage in public practice under section 8.2 of the act (63 P.S. § 9.8b) shall comply with this section and §§ 11.62 – 11.65 and 11.67 – 11.69 and 11.71.] Sections 11.62-11.64, 11.67-11.68a, 11.69a, 11.71 and 11.71a apply, as appropriate, to the following:

- (1) An individual who needs CPE to obtain or maintain a license to practice public accounting.
- (2) An individual that serves or desire to serve as a CPE program sponsor.
- (3) An entity that serves or desires to serve as a CPE program sponsor.

§ 11.62. [Credit-hour requirements] CPE requirement for issuance of license; waiver or extension.

(a) [To renew a license, an applicant shall complete, during the preceding biennial period, 80 credit hours of continuing education.

- (1) The 80 credit hours shall include at least 16 credit hours of accounting and auditing subjects and 8 credit hours of tax subjects.
- (2) A minimum of 20 credit hours shall be taken each year.
- (3) The minimum measurement of continuing education credit is a whole credit hour.
- (4) Preparation time will not be credited except as permitted in § 11.64(7)(i)

(relating to sources of continuing education credit.

(b) The Board may upon application modify the continuing education requirements on an individual basis under circumstances specified in section 8.2(c) and (d) of the act (63 P.S. § 9.8b(c) and (d)).

(c) Failure to meet biennial continuing education requirements may subject the holder of a current license to disciplinary action under section 9.1 of the act (63 P.S. § 9.9a(10)).

(d) An applicant, upon successful completion of the uniform C.P.A. Examination, shall be exempt from the requirements of subsection (a) for only the biennial period during which the applicant successfully completed the examination.]

A regular or reciprocal applicant for an initial license shall have completed 80 CPE hours, in the subject areas in § 11.63 (relating to CPE subject areas; relevance to professional competence), during the 2-year period preceding the filing date of the application. This requirement does not apply to an applicant who passed the CPA examination during the 2-year period preceding SAME BIENNIAL RENEWAL PERIOD IN WHICH the filing date of the application WAS FILED.

(b) An applicant for renewal of a current license shall have completed 80 CPE hours, in the subject areas in § 11.63, during the 2-year period preceding the start of the next license period. An applicant shall have completed a minimum of 20 CPE hours during each year of the 2-year period.

(c) An applicant for reactivation of an expired or inactive license shall have completed 80 CPE hours, in the subject areas in § 11.63, during the 2-year period preceding the filing date of the application. This requirement does not apply to an applicant who is reactivating a license that still has a current expiration date WITHIN THE SAME BIENNIAL RENEWAL PERIOD

IN WHICH IT WAS PLACED ON INACTIVE STATUS.

(d) The Board may, upon application, waive in whole or in part any CPE requirement upon a showing of individual hardship, such as for reasons of health, military service or other good cause. The Board, upon application, may extend the time period for completing CPE upon a showing that the failure to timely comply was due to reasonable cause.

§ 11.63. [Continuing education] CPE subject areas; relevance to professional competence.

[The following subject areas are acceptable for continuing education]

(a) The CPE hours required under § 11.62 (relating to CPE requirement for issuance of license; waiver or extension) must be in the following subject areas and with the following minimum hours as noted:

(1) Accounting and [auditing] attest – minimum of 16 CPE hours.

(2) Advisory services – no minimum.

(3) Management – no minimum.

(4) Professional skills development – no minimum.

(5) Specialized knowledge and applications – no minimum. ~~The Board will accept CPE hours in specialized knowledge and applications until January 1, 2012.~~

(6) Taxation – minimum of 8 CPE hours.

(7) Professional ethics – minimum of 4 CPE hours (effective as a condition of obtaining a license for the 2014-2015 license period and thereafter).

(b) The CPE hours required in § 11.62 must be relevant to maintaining the professional competence of a certified public accountant or public accountant. PRACTICE BUILDING AND OFFICE MANAGEMENT ARE NOT ACCEPTABLE CPE SUBJECT AREAS.

§ 11.64. Sources of [continuing education credit] CPE hours.

[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, 2001, they are offered by approved program sponsors under § 11.69a (relating to approval of program sponsors):

(1) *Continuing education programs of National or State accounting organizations.*

(2) *University or college courses.*

(i) *Credit courses.* Applicants will receive 15 credit hours of continuing education credit for each semester credit hour earned and 10 credit hours for each quarter credit hour earned.

(ii) *Noncredit courses.* Applicants will be given 1 credit hour of continuing education credit for each 50 minutes of in-class participation.

(3) *In-house educational programs.*

(4) *Individual study programs.*

(i) Noninteractive individual study programs shall be given credit based on $\frac{1}{2}$ the average completion time calculated by the sponsor. The Board will make a final determination based upon the recommendation of the program sponsor.

(ii) Interactive individual study programs will be given 1 credit hour of continuing education credit for each 50 minutes of participation.

(iii) Credit for individual study programs will only be given in the renewal period in which the certificate of completion is dated.

(iv) Maximum continuing education credit per biennium will be 50% of the biennial requirement.

(5) *Programs offered by other qualified organizations.* The number of credits will be

based upon the nature of the program being offered and which of the categories in paragraphs (1)-(4) it most closely fits.

(6) *Committee meetings.* Credit will be given if the meeting is structured as a continuing education program.

(7) *Service as a lecturer, discussion leader, speaker or professor.* Continuing education credit will be awarded for each 50-minute period if the discussion is one which meets the continuing subject area requirements of §11.63.

(i) Two additional credit hours will be awarded as preparation time for each credit hour of instruction.

(ii) Credit will not be awarded for subsequent sessions unless in a subsequent session the subject matter has substantially changed.

(iii) The maximum continuing education credit will be 50% of the biennial requirement.

(iv) A professor will be awarded credit for teaching undergraduate courses in auditing, intermediate accounting, cost accounting, income taxation and advanced accounting, and all graduate courses to the extent that the course contributes to the student's professional competence and the professor has not previously claimed credit for the course or unless the professor can demonstrate that there was a substantial change in the subject matter. Entry level accounting courses are excluded from eligibility for continuing professional education credit.

(8) *Publications, articles, books and continuing professional education courses.* Credit may be claimed by the author of the work if the work contributes to the professional competence of a licensee.

(i) Credit will be given for each 50-minute period of preparation time on a self-declaration basis up to 25% of the biennial requirement. A copy of the publication shall be submitted to the Board with the biennial renewal application.

(ii) In exceptional circumstances, an applicant may request additional credit by submitting a copy of the publication to the Board with an explanation of the circumstances which the applicant believes justifies an award of greater credit. Credit hours awarded will be determined by the Board on a case-by-case basis based upon the complexity of subject matter.

(iii) The maximum credit for publications may not exceed 50% of the continuing education requirement for any biennium.]

The following are the acceptable sources of CPE hours:

(1) Group study programs offered by approved CPE program sponsors under § 11.69a (relating to approval of CPE program sponsor).

(i) Except as provided in subparagraph (ii), a participant will receive 1 CPE hour for each 50 minutes of participation.

(ii) A participant in a credit course offered by an accredited college or university will receive 15 CPE hours for each semester credit hour earned and 10 CPE hours for each quarter credit hour earned.

(iii) A participant will not receive CPE credit for less than 50 minutes of participation.

(2) Individual study programs offered by approved CPE program sponsors under § 11.69a.

(i) A participant in a noninteractive individual study program will receive 1 CPE

hour for each 100 minutes of participation. A participant will not receive CPE credit for less than 100 minutes of participation.

(ii) A participant in an interactive individual study program will receive 1 CPE hour for each 50 minutes of participation. A participant will not receive CPE credit for less than 50 minutes of participation.

(iii) An individual study program is considered complete on the date the program sponsor issues a certificate of completion.

(iv) A participant may NOT receive up to MORE THAN 40 CPE hours in individual study programs during each A reporting period. A PARTICIPANT MAY NOT RECEIVE MORE THAN 40 CPE HOURS FOR AUTHORSHIP OF PUBLICATIONS AND INDIVIDUAL STUDY COMBINED DURING THE PERIOD.

(3) Service as an instructor during group study programs offered by approved CPE program sponsors under § 11.69a.

(i) ~~A participant~~ AN INSTRUCTOR will receive 3 CPE hours, including 2 hours of preparation time, for each 50 minutes of instruction in a group study program, WHICH MAY INCLUDE UP TO 2 HOURS OF PREPARATION TIME. ~~A participant~~ AN INSTRUCTOR will not receive CPE credit for less than 50 minutes of instruction.

(ii) ~~A participant~~ AN INSTRUCTOR will not receive CPE credit for repeating instruction in the same A GROUP STUDY program FOR WHICH THE INSTRUCTOR HAS PREVIOUSLY CLAIMED CREDIT during the same reporting period, UNLESS THERE WAS A SUBSTANTIAL CHANGE IN THE SUBJECT MATTER.

(iii) ~~A participant~~ AN INSTRUCTOR may receive up to 40 CPE hours as an instructor during each reporting period.

(IV) ENTRY-LEVEL ACCOUNTING COURSES ARE EXCLUDED FROM ELIGIBILITY FOR CPE CREDIT FOR SERVICE AS AN INSTRUCTOR.

(4) Authorship of articles, books and other publications relevant to maintaining professional competence ~~(until January 1, 2012).~~

(i) An individual who authors an article, book or other publication that is relevant to maintaining the professional competence of a certified public accountant or public accountant will receive 1 CPE hour for each 50 minutes of research and writing, up to 20 hours, unless the individual can demonstrate to the Board that the complexity of the subject matter merits the awarding of additional CPE hours. An individual will not receive CPE credit for less than 50 minutes of research and writing.

(ii) An individual may NOT receive ~~up to~~ MORE THAN 40 CPE hours for authorship of all publications combined during each A reporting period. AN INDIVIDUAL MAY NOT RECEIVE MORE THAN 40 CPE HOURS FOR AUTHORSHIP OF PUBLICATIONS AND INDIVIDUAL STUDY COMBINED DURING THE PERIOD.

(iii) CPE hours will be awarded for the year in which publication occurs. ~~CPE hours will not be awarded for publication that occurs on or after January 1, 2012.~~

(IV) AN INDIVIDUAL SEEKING TO OBTAIN CREDIT FOR AUTHORIZING PUBLICATIONS SHALL APPLY TO THE BOARD ON FORMS SUPPLIED BY THE BOARD AND SUBMIT ALL DOCUMENTATION NECESSARY TO ESTABLISH ENTITLEMENT TO CPE CREDIT, INCLUDING A CERTIFICATION THAT THE WORK IS THAT OF THE INDIVIDUAL AND THAT THE INDIVIDUAL ACTUALLY SPENT THE TIME CLAIMED FOR RESEARCH AND WRITING IN

SUPPORT OF THE ACTIVITY. AN INDIVIDUAL MAY NOT RENEW A LICENSE IN RELIANCE UPON CPE CREDIT FOR AUTHORIZING PUBLICATIONS UNTIL THE CREDIT HAS BEEN APPROVED BY THE BOARD.

§ 11.65. [Criteria for continuing education programs] (Reserved).

[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 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.)]

§ 11.67. Reporting of [continuing education credit] CPE hours.

(a) [An applicant for a license or license renewal shall provide the following information on Board-provided forms:

- (1) The dates attended.
- (2) The credit hours claimed.
- (3) The title of the course.
- (4) The program sponsor.
- (5) A statement certifying that continuing education requirements have been met.

(b) Falsification of information required under subsection (a) may result in disciplinary action.]

An applicant for an initial license WHO IS REQUIRED BY § 11.62(A) (RELATING TO CPE REQUIREMENT FOR ISSUANCE OF LICENSE; WAIVER OR EXTENSION) TO

COMPLETE CPE DURING THE 2-YEAR PERIOD PRECEDING THE FILING DATE OF THE APPLICATION shall submit a summary report of CPE hours on a form provided by the Board, together with the CPE documentation required in § 11.68 (relating to documentation of CPE hours).

(b) An applicant for renewal of a current license or for reactivation of an expired or inactive license shall certify on the application that the applicant has completed the requirements in §§ 11.62-11.64 (relating to CPE requirement for issuance of license; waiver or extension; CPE subject areas; relevance to professional competence; and sources of CPE hours). In the event a licensee is later selected by the Board for an audit of CPE hours, the licensee shall submit a summary report of CPE hours on a form provided by the Board together with the CPE documentation required under § 11.68.

§ 11.68. [Retention of continuing professional education records] Documentation of CPE hours.

(a) [Responsibility for documenting the continuing education requirements rests with the applicant, and evidence to support fulfillment of those requirements shall be maintained for 5 years after the completion of educational courses. Documentation consists of:

- (1) Certificate of completion from the program sponsor.
- (2) Course material and attendance verification if no certificate of completion is available.
- (3) A certified transcript of courses taken for credit in an accredited university or college. For noncredit courses taken, a statement of hours of attendance, signed by the instructor.
- (4) Evidence of publication for published articles, books or continuing

professional education programs.

(5) Evidence obtained from the sponsor or university or college of having been an instructor or discussion leader at a program or course.

(b) If there is a dispute concerning whether credit should be granted for a continuing education program, or upon audit, the applicant shall provide a copy of the documentation required in subsection (a). The dispute will be resolved against the applicant if the applicant fails to produce evidence sufficient to document the claim and may result in disciplinary or corrective action taken by the Board.]

The following are acceptable forms of documentation of CPE hours:

(1) A certificate of completion issued by the CPE program sponsor. A consolidated certificate of completion for multiple CPE programs is acceptable as long as it includes the information in subparagraphs (i) – (vii). The certificate must set forth the following:

(i) The CPE program sponsor's name.

(ii) The CPE program sponsor's approval number issued by the Board, NASBA or another state's accountancy regulatory body, as applicable.

(iii) The title of the program.

(iv) The location of the program, if a group study program, or a statement indicating whether the program is an interactive or noninteractive individual study program.

(v) The recommended CPE hours and relevant CPE subject area (for example, accounting and attest, taxation, professional ethics).

(vi) The name of the participant.

(vii) The name and signature of the CPE program sponsor's representative.

(2) A certified academic transcript from an accredited college or university if the CPE hours claimed are in a course taken for credit at the college or university.

(3) If a certificate of completion from the CPE program sponsor is not available for a group study program, a participant may submit an attendance verification form, signed by the participant and containing the information in paragraph (1)(i)-(vi) together with copies of the program materials.

(4) A signed statement from the CPE program sponsor's representative, containing the information in paragraph (1)(i)-(vi), that verifies the participant's service as an instructor.

(5) A copy of each article, book or other publication for which an individual claims CPE hours as an author.

(b) An individual shall retain the documentation in subsection (a) for 5 years after the date of completion of each CPE program or the date of publication of each article, book or publication authored.

§ 11.68a. Disciplinary action for failure to comply with CPE requirements.

(a) Unless granted an extension or waiver by the Board under § 11.62(d) (relating to CPE requirements for issuance of license; waiver or extension), and except as provided in subsection (b), a licensee who fails to comply with §§ 11.62-11.64, 11.67 and 11.68 will be subject to disciplinary action in the case of a first ~~or second~~ offense under § 43b.10a (relating to schedule of civil penalties – accountants) or in the case of a ~~third~~ SECOND or subsequent offense under section 9.1(a)(4) and (10) of the act (63 P.S. § 9.9a(a)(4) and (10)).

(b) A licensee who knowingly provides false information on an application about compliance with CPE requirements will be subject to disciplinary action under section 9.1(a)(1)(iii) of the act.

(c) A licensee who is disciplined for failure to comply with CPE requirements shall make up any deficiency in CPE hours and submit documentation of such fact to the Board within 6 months after imposition of the disciplinary sanction. A licensee who fails to submit documentation of make-up CPE hours by the prescribed deadline will undergo suspension of the licensee's license and underlying certificate of certified public accountant or public accountant registration until the documentation is submitted.

§ 11.69. [Continuing education requirements: reciprocity or reentry] (Reserved).

[(a) An individual who holds a valid certificate of certified public accountant issued by another state or a comparable certificate of degree issued by a foreign country and who receives a certificate to practice in this Commonwealth under the appropriate provision of the act will be required to comply with the continuing education requirements applicable to other applicants.

(b) Persons who wish to return to active practice in this Commonwealth by obtaining a current license shall meet the same continuing education requirements applicable to other applicants for the biennial period in which they wish to enter.]

§ 11.69a. Approval of CPE program sponsor.

(a) *Approval requirement.* Except as provided in subsection (b), any individual or entity desiring to offer a program for [continuing education] CPE credit under this chapter shall apply to the Board for approval as a CPE program sponsor. [The approval of a previously approved program sponsor will expire April 30, 2001, unless the program sponsor submits a qualifying application under subsection (c) that is postmarked by April 30, 2001. 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 process.* [An 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 Program Sponsors is deemed an approved program sponsor and is not required to submit an application for approval to the Board.] The following are deemed approved CPE program sponsors and are not required to submit applications for approval to the Board:

(1) An individual ~~and~~ OR entity that is a member in good standing of NASBA's National Registry of CPE Program Sponsors.

(2) An individual or entity that is approved as a CPE program sponsor by the accountancy regulatory body of a state that permits the practice of public accounting under principles of substantial equivalency.

(3) ~~An accredited~~ A college or university ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION WHEN OFFERED AS PART OF ITS APPROVED CURRICULUM.

(c) *Contents of application for approval.* An application for approval as a CPE program sponsor 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) The name and address of the CPE program sponsor.

(2) The [title and source of continuing education credit] sources of CPE hours as

specified in § 11.64 (relating to sources of [continuing education credit] CPE hours).

* * * * *

(e) *Board review of application for 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] CPE 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 the 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 CPE program sponsor approval number.

(g) *Biennial renewal of approval.* An approved CPE 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 CPE program sponsor's planned program offerings for the upcoming renewal period.

§ 11.71. Responsibilities of CPE program sponsor.

In addition to meeting the requirements in § 11.69a (relating to approval of CPE program sponsor), a CPE program sponsor shall comply with the following:

(1) *Program level of difficulty.* A CPE program sponsor shall specify the level of knowledge to be imparted under the program. The levels of knowledge may be expressed in a variety of ways, all of which should be informative to potential participants. For example, a program may be described as having the objective of imparting technical knowledge at levels such as basic, intermediate, advanced or

overview, which might be defined as follows:

* * * * *

(2) *Recommendation of education and experience prerequisites.* A CPE program sponsor shall clearly identify what prerequisites are suggested for enrollment. If [no] a prerequisite is not necessary, a statement to that effect [should] shall be made. Prerequisites [should] shall 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 CPE program sponsor shall ensure that the programs are developed by individuals qualified in the subject matter and in instructional design. This subsection is not intended to require that any individual CPE 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 CPE program sponsor shall review the course materials 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 when appropriate, and obsolete material should be deleted. 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.

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

(6) *Selection and review of instructors.* A CPE program sponsor shall select and assign qualified instructors for the [continuing education] CPE program. A CPE program sponsor [should] shall evaluate the performance of instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors in the future.

(7) *Number of participants and adequacy of physical facilities.* A CPE program sponsor 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 physical facilities, a CPE program sponsor 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] shall 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] shall be made available to encourage communication with a small group.

(8) *Program evaluation.* A CPE program sponsor shall provide a program evaluation in accordance with the following:

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

* * * * *

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

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

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

(11) *Certificate of completion.* A CPE program sponsor shall provide [participants with] a certificate of completion [evidencing satisfactory completion and attendance of the program] to each participant who satisfactorily completes a program. A certificate of completion shall contain the information set forth in § 11.68(a)(1) (relating to documentation of CPE hours).

(12) *Promotional materials.* A CPE program sponsor shall identify the subject area [– see] of a program under § 11.63 (relating to [continuing education] CPE subject areas; relevance to professional competence)[– of the program] in the program's

promotional materials.

§ 11.71a. Offsite review of CPE program sponsor.

A CPE program sponsor shall be subject to an offsite review of its [continuing education] CPE programs to ensure compliance with this chapter. The review will involve an in-depth audit of all course materials, documents and records maintained by the CPE program sponsor under this chapter, including:

- (1) The information in § 11.69a(c) (relating to approval of CPE program sponsor).

* * * * *

§ 11.72. Withdrawal of approval of CPE program sponsor.

(a) 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 CPE program sponsor that the Board finds guilty of:

* * * * *

- (2) Failing to comply with §§ [11.65,] 11.69a or 11.71 (relating to [criteria for continuing education programs;] approval of CPE program sponsor; responsibilities of CPE program sponsor).

- (3) Refusing to provide information requested by the Board pursuant to an offsite review under § 11.71a (relating to offsite review of CPE program sponsor).

- (4) Indicating in any manner that it has been approved as a CPE program sponsor prior to a CPE program sponsor approval number having been issued to it.

(b) The Board's withdrawal of a CPE program sponsor's approval will not affect the [credit] CPE hours earned by persons who completed programs of the sponsor prior to the

withdrawal of its approval.

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STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

Continuing Professional Education

The State Board of Accountancy (Board) proposes to amend Chapter 11 to read as set forth in Annex A.

Background and Purpose

Under sections 8.2(b) and 9.2(d) of the CPA Law (act) (63 P.S. §§ 9.8b(b) and 9.9b(d)), an individual applicant for initial issuance of a license, renewal of a current license or reactivation of an expired or inactive license shall have completed 80 hours of continuing professional education (CPE) as prescribed by the Board during the relevant 2-year reporting period. Section 3(a)(10) of the act (63 P.S. § 9.3(a)(10)) empowers the Board to adopt regulations implementing CPE requirements. Section 8.2(c) and (d) of the act authorizes the Board to waive CPE requirement or to extend deadlines for compliance with CPE requirements for good or reasonable cause. Section 9.1(a)(4) and (10) of the act (63 P.S. § 9.9a(a)(4) and (10)) makes it a violation of the act for an individual to violate a Board regulation regarding professional conduct or fail to comply with CPE requirements.

The Board initially adopted CPE regulations in September 1979 and amended them in February 1985, December 1994 and January 2001. The last set of amendments dealt principally with the Board's requirements for CPE program sponsors.

The proposed rulemaking primarily would reorganize and update CPE requirements applicable to individuals who practice as certified public accountants (CPA) or public accountants (PA). Specifically, the proposed rulemaking would do the following: clarify applicable CPE reporting periods, acceptable sources of CPE hours and forms of CPE documentation, and permissible grounds for CPE waiver or modification; revise CPE subject areas, including the addition of a mandatory ethics component; simplify CPE reporting requirements; and which forms of disciplinary action will apply to which types of CPE violations. The proposed rulemaking also would expand the categories of preapproved CPE program sponsors and make editorial changes to other CPE program sponsor regulations.

Description of Proposed Rulemaking

§ 11.1. Definitions

Section 11.1 defines words, terms and phrases used in Chapter 11. The proposed rulemaking would add definitions of "CPE" and "NASBA" as abbreviations for "continuing professional education" and "National Association of State Boards of Accountancy," respectively. Consistent with the new terminology and structure of the revised CPE regulations, the proposed rulemaking also would delete the definitions of "continuing education program," "credit hour" and "professor" and clarify the definitions of "certificate of completion," "group program" (relabeled "group study program"), "interactive individual study program," "noninteractive individual study program" and "program sponsor" (relabeled "CPE program sponsor").

§ 11.61. Scope

Section 11.61 currently provides that an applicant for a license under section 8.2 of the act shall comply with CPE requirements in §§ 11.62—11.65, 11.67—11.69 and 11.71.

The proposed rulemaking would amend § 11.61 to state more fully the individuals and entities that are subject to the regulations in Chapter 11 regarding CPE and to correct the cross-references to other regulations.

§ 11.62. CPE requirement for issuance of license; waiver or extension

This section currently sets forth the basic CPE requirements and provides information about exemption from CPE requirements, modification of CPE requirements and disciplinary action for noncompliance with CPE requirements.

Subsection (a) currently requires an applicant for biennial renewal of a license to have completed 80 hours of CPE during the preceding biennial period, including a minimum of 20 hours each year and a minimum of 16 hours in accounting and auditing subjects and 8 hours in tax subjects as part of the overall total. Existing subsection (a) further provides that except as otherwise permitted in the regulations, preparation time may not be included as part of CPE hours and that the minimum measure of CPE credit is a whole credit hour (currently defined in § 11.1 (relating to definitions) as 50 minutes of participation). Subsection (b) currently provides that the Board may modify CPE requirements on an individual basis under authority of section 8.2(c) and (d) of the act. Subsection (c) currently provides that failure to comply with CPE requirements may subject a licensee to disciplinary action under section 9.1(a)(10) of the act. Subsection (d) currently provides that an applicant for an initial license is exempt from CPE requirements during the biennial period when the applicant passed the CPA examination.

The proposed rulemaking would amend the heading of this section to "CPE requirement for issuance of license; waiver or extension" and reorganize and revise its contents to clarify CPE requirements and reporting periods applicable to three types of license applicants: an applicant for an initial license; an applicant for renewal of a current license; and an applicant for reactivation of an expired or inactive license. The proposed rulemaking also would clarify the basis for waiving or extending CPE requirements and relocate the remaining contents of this section to other sections.

Proposed subsection (a) would require a regular or reciprocal applicant for an initial license to have completed 80 CPE hours, in appropriate subject areas under proposed § 11.63 (relating to CPE subject areas; relevance to professional competence), during the 2-year reporting period preceding the filing date of the application. CPE requirements would not apply to an applicant who passed the CPA examination during the 2-year period preceding the filing date of the application. The revised CPE reporting period is more meaningful than the current reporting period utilized by the Board because of its closer proximity to the filing date of the application. Under the current reporting period, an applicant for an initial license shall have completed CPE during the most recent 2-year period ending on December 31 of the odd-numbered year that precedes the filing date of the application.

Proposed subsection (b) would require an applicant for renewal of a current license to have completed 80 CPE hours, in appropriate subject areas under proposed § 11.63, during the 2-year reporting period preceding the start of the next license period. Consistent with current requirements, an applicant for renewal of a current license would have to complete 20 CPE hours during each

year of the reporting period. Under section 8.2(a) and (b) of the act, the biennial license period and the CPE reporting period for a current licensee are identical, beginning January 1 of each even-numbered year and ending December 31 of each odd-numbered year.

Proposed subsection (c) would require an applicant for reactivation of an expired or inactive license to have completed 80 CPE hours, in appropriate subject areas under proposed § 11.63, during the 2-year reporting period preceding the filing date of the application. CPE requirements would not apply to an applicant who is reactivating an inactive licensee that has a current expiration date because the applicant would have previously completed CPE as a condition for issuance of the license. Section 9.2(d) of the act prescribes the CPE reporting period applicable to the reactivation of an expired or inactive license.

Proposed subsection (d) would provide that the Board may waive a CPE requirement in whole or in part upon a showing of individual hardship, such as for reasons of illness, military service or other good cause. The Board also would be permitted to extend the time period for compliance with CPE requirements upon a showing that failure to timely complete CPE was due to reasonable cause. Section 8.2(c) and (d) of the act sets forth the Board's authority to relax or extend CPE requirements.

The proposed rulemaking would relocate text in this section as follows: required CPE subjects to proposed § 11.63; information about the awarding of CPE hours, including for "preparation time," to proposed § 11.64 (relating to sources of CPE hours); and information about the disciplinary consequences for violating CPE requirements to new § 11.68a (relating to disciplinary action for failure to comply with CPE requirements).

§ 11.63. CPE subject areas; relevance to professional competence

This section currently identifies the following as acceptable subject areas for CPE: accounting and auditing, advisory services, management, professional skills development, specialized knowledge and applications and taxation.

The proposed rulemaking would amend the heading of this section to "CPE subject areas; relevance to professional competence." The proposed rulemaking would also reorganize the existing provisions regarding subject matter, as revised with substantive and editorial changes, into subsection (a) and add subsection (b).

Proposed amendments to subsection (a) would relabel the subject area of accounting and auditing as "accounting and attest." The revised terminology is a more accurate description of those financial statement services that include the expressing or disclaiming of an opinion or assurance on the financial information presented. Consistent with current requirements, the proposed amendments to this section would provide that a minimum of 8 CPE hours shall be in taxation and a minimum of 16 CPE hours shall be in accounting and attest.

Proposed amendments to subsection (a) also would add the subject area of professional ethics and provide that a minimum of 4 CPE hours shall be completed in professional ethics as a condition of license renewal for the license period that begins January 1, 2014, and for subsequent license periods. A mandatory professional ethics component for CPE is desirable because it reinforces for practitioners the critical importance of discharging their duties not only with the requisite technical competency, but also with due regard for the principles of

honesty and integrity that must be the threshold attributes of anyone credentialed to practice public accounting. Forty states currently require practitioners to complete between 2 and 8 hours of professional ethics as part of their CPE. Most of these states require 4 hours of professional ethics during each CPE reporting period, which is consistent with the Model Rules to the Uniform Accountancy Act (UAA) jointly promulgated by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA). Originally, the Board intended this requirement to be effective with the renewal period that begins on January 1, 2012, and notified licensees to plan accordingly. However, delays in promulgating this proposed rulemaking led to a vote by the Board to postpone implementation of this requirement until 2014. The Board will accept CPE in the area of professional ethics already completed for the 2012 renewal. However, it will not be considered mandatory until the 2014 renewal and thereafter.

Proposed amendments to subsection (a) would delete the subject area of specialized knowledge and applications effective January 1, 2012. Specialized knowledge and applications involve concentrated skill sets for specialized industries or government functions that, in and of themselves, do not relate to the actual practice of public accounting. While it encourages practitioners to avail themselves of specialized training that is appropriate to their particular work or employment environments, the Board is of the view that the proper focus of CPE should be on fostering the continuing competency of practitioners to engage in the practice of public accounting.

Proposed subsection (b) would incorporate the requirement currently in § 11.65 (relating to criteria for continuing education programs) that all CPE hours, regardless of subject area, must directly contribute to maintaining the professional competence of a CPA or PA.

§ 11.64. Sources of CPE hours

This section currently sets forth the various sources of CPE hours and the conditions associated with obtaining hours from a particular source, including the need to have an approved CPE program sponsor under § 11.69a (relating to approval of CPE program sponsor). The sources of CPE hours are currently identified in this section as eight separately numbered paragraphs as follows: (1) continuing education programs of National or State accounting organizations; (2) university or college courses; (3) in-house educational programs; (4) individual study programs; (5) programs offered by other qualified organizations; (6) committee meetings; (7) service as a lecturer, discussion leader, speaker or professor; and (8) publications, articles, books and CPE courses.

The current listing of sources of CPE hours in this section tends to confuse the reader because it combines methodologies for obtaining CPE hours with categories of CPE program sponsors. The proposed rulemaking would amend the heading of this section to "sources of CPE hours" and reorganize it into four sources of CPE hours based on methodology: group study programs offered by approved CPE program sponsors in proposed paragraph (1); individual study programs offered by approved CPE program sponsors in proposed paragraph (2); service as an instructor during group study programs offered by approved CPE program sponsors in proposed paragraph (3); and authorship of articles, books and other publications relevant to maintaining professional competence in

proposed paragraph (4). The Board's CPE reporting form has long utilized this four-part rubric for classifying sources of CPE hours.

Section 11.64 currently provides that a participant in a group study program will receive 1 CPE hour for each 50 minutes of participation, unless the program is a credit course offered by an accredited college or university, in which case the participant will receive 15 CPE hours for each semester credit hour earned and 10 CPE hours for each quarter credit hour earned. Proposed paragraph (1) would restate these requirements, together with the requirement currently in § 11.65, that a participant will not receive any CPE credit until there has been at least 50 minutes of participation.

Existing § 11.64 also provides that a participant in an interactive individual study program will receive 1 CPE hour for each 50 minutes of participation. As currently defined in § 11.1, an interactive individual study program is a CPE program that is "designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware or administrative systems that provide significant ongoing interactive feedback to the learner regarding the learning process..." Existing § 11.64 further provides that a participant in a noninteractive individual study program will receive CPE credit based upon 1/2 the average completion time recommended by the program sponsor. As defined in § 11.1, a noninteractive individual study program is a CPA program that is "designed to permit a participant to learn a given subject without interaction with an instructor or interactive learning methodologies" and that requires the participant to achieve a minimum score of 70% on an examination that covers the subject. Existing § 11.64 further provides that an individual study program is considered to have been completed on the date the program sponsor issued the certificate of completion and that no more than 40 CPE hours for each reporting period may be satisfied through participation in individual study programs.

Proposed paragraph (2) would clarify that the standard for awarding CPE hours for a noninteractive individual study program is that a participant will receive 1 CPE hour for each 100 minutes of participation. This amendment is a more explicit statement of the rationale underlying the current standard, which assumes that the program sponsor's calculation of CPE hours is based on 50 minutes of participation and then halves the CPE hours so calculated. Before the advent of interactive individual study programs, most states awarded CPE credit for individual study based on a 100-minute hour recommended by the AICPA. Proposed paragraph (2) also would provide that a participant in an interactive individual study program will not receive any CPE credit until there has been at least 50 minutes of participation and that a participant in a noninteractive individual study program will not receive any CPE credit until there has been at least 100 minutes of participation.

Section 11.64 currently provides that an instructor of a qualifying CPE program will receive 3 CPE hours for each hour of instruction; 2 of the 3 CPE hours are intended cover preparation time, regardless of its actual duration. Existing § 11.64 further provides that CPE hours will not be awarded for subsequent presentation of the same program unless its content has substantially changed. With regard to college courses on accounting subjects, existing § 11.64 further provides that an instructor will be awarded CPE hours for teaching an undergraduate course in auditing, intermediate account-

ing, cost accounting, income taxation and advanced accounting or a graduate course that contributes to the student's professional competence, provided the course has not been previously utilized for CPE unless the instructor can demonstrate that its content has substantially changed. Entry-level accounting courses are specifically excluded. Existing § 11.64 further provides that no more than 40 CPE hours for each reporting period may be satisfied through serving as an instructor.

Proposed paragraph (3) would delete the special rules applicable to the teaching of college courses as unnecessary. The Board believes that an instructor of a college-level accounting course, like the instructor of any other CPE program that is offered by an approved program sponsor, should be able to claim CPE hours for teaching the course, subject only to the limitations that the course was not previously utilized for CPE during that reporting period and that the number of CPE hours claimed for each reporting period does not exceed 40. Proposed paragraph (3) also would provide that an instructor will not receive any CPE credit until there has been at least 50 minutes of instruction.

This section currently provides that the author of a publication, book, article or CPE course that contributes to the professional competence of a licensee will receive 1 CPE hour for each hour of preparation time, on a self-declared basis, up to a maximum of 20 CPE hours, unless the author can establish that there are exceptional circumstances warranting the awarding of additional hours. Existing § 11.64 further provides that the number of CPE hours claimed for all writings combined during each reporting period may not exceed 40. Existing § 11.64 further provides that a practitioner seeking CPE hours for authorship of a writing shall submit a copy of the writing at the time of application for license renewal.

Proposed paragraph (4) would eliminate authorship of writings as a basis for the awarding of CPE hours effective January 1, 2012. The Board believes that the elimination of this methodology for obtaining CPE hours is warranted because of the inherent difficulty in verifying how much time practitioners have spent on research and writing—particularly with regard to co-authored publications—and because only a small number of current practitioners during each reporting period have sought to claim CPE hours based on authorship of writings. In its February 2010 notice mailed to licensed CPAs and PAs, the Board advised those practitioners who wish to obtain CPE hours based on authorship of writings to ensure that publication occurs before January 1, 2012, because CPE hours can only be awarded for the year in which publication occurs.

Proposed paragraph (4) also would eliminate the need for a practitioner who is renewing a license for the 2012-2013 license period to submit a copy of a writing for CPE credit with the license renewal application. This is consistent with the approach of other licensing boards within the Bureau of Professional and Occupational Affairs (Bureau) that require documentary evidence regarding CPE hours to be submitted in connection with a post-renewal CPE audit rather than as part of the license renewal process. Proposed paragraph (4) would further provide, consistent with the requirements regarding other sources of CPE hours, that a practitioner will not receive CPE credit as an author unless the work required at least 50 minutes of researching and writing.

§ 11.65. Criteria for continuing education programs

Section 11.65 currently provides that to qualify as a CPE program, a program must: (1) contribute directly to

maintaining the professional competence of a CPA or PA; (2) be at least 1 credit hour in length; (3) be conducted by a qualified instructor or discussion leader; and (4) cover one of the subject areas in § 11.63.

The proposed rulemaking would rescind § 11.65 as unnecessary because its provisions are either already covered by other sections or proposed to be relocated to other sections. The provisions requiring a CPE program to be in an appropriate subject area and to be taught by a qualified instructor are currently addressed in § 11.63 and § 11.71 (relating to responsibilities of CPE program sponsor), respectively. The requirement that a CPE program be at least 1 credit hour in length (that is, involve at least 50 minutes of participation) would be addressed in the proposed amendments to § 11.64. The requirement that a CPE program contribute directly to maintaining the professional competence of a licensee would be relocated to § 11.63.

§ 11.67. Reporting of CPE hours

Subsection (a) currently requires an applicant for initial issuance or biennial renewal of a license to certify on a Board-provided CPE reporting form that the applicant has satisfied the CPE requirements for licensure. The applicant is also required to state on the reporting form, for each CPE program attended, the program title, the date of attendance, the name of the program sponsor and the CPE hours claimed. Section 11.67(b) currently provides that an applicant who falsifies the information required under § 11.67(a) may be subject to disciplinary action.

The proposed rulemaking would amend the heading of this section to "reporting of CPE hours" and revise and reorganize the content of its subsections. Proposed amendments to subsection (a) would require an applicant for initial licensure to list CPE hours on a Board-provided CPE reporting form and submit the supporting CPE documentation required under § 11.68 (relating to documentation of CPE hours) as proposed to be amended. Proposed amendments to subsection (b) would require an applicant for biennial renewal of a current license or for reactivation of an expired or inactive license to provide a certification of having satisfied CPE requirements. Proposed amendments to subsection (b) would further provide that in the event a licensee is selected by the Board for an audit of CPE hours, the licensee would be required to submit a CPE reporting form that lists the CPE hours together with the CPE documentation required under the proposed amendments to § 11.68. The current text of § 11.67(b) would be relocated to new § 11.68a.

Proposed amendments to subsection (a) clarify that an applicant for initial issuance of a license is required not only list CPE hours on a CPE reporting form but also to furnish supporting documentation that the CPE hours were, in fact, completed. The requirement that an applicant for initial licensure submit supporting CPE documentation is consistent with the requirement that an applicant, as a condition of also being issued a CPA certificate, submit satisfactory documentation of having completed postsecondary education and experience requirements and passed the CPA examination.

In the proposed amendments to subsection (b), the elimination of the CPE reporting requirement for an applicant who is renewing a current license or reactivating an expired or inactive license is consistent with section 8.2(a) of the act, which, as amended by the act of July 9, 2008 (P. L. 954, No. 73), provides that a CPA or PA may not be required to provide a list of CPE hours on

a license renewal application unless directed to do so by Board regulation. The Board interprets this amendment as reflecting the General Assembly's view that the license renewal process should not be more burdensome than is necessary for the Board to carry out its statutory functions. Proposed amendments to subsection (b) are consistent with this view and mirror the practices of other licensing boards within the Bureau that have CPE requirements. Licenses are issued to renewing applicants based on their certification of having satisfied CPE requirements. Compliance with CPE requirements is monitored through periodic random audits of a percentage of the licensee population. The Board has successfully utilized the random audit procedure for many years. During the audits, which are conducted by administrative personnel of the Bureau, licensees are required to produce satisfactory documentation of their CPE hours. Noncomplying licensees are referred to the Professional Compliance Office for consideration of disciplinary charges.

In anticipation of the proposed rulemaking, the Board suspended enforcement of § 11.67 as it applied to CPAs and PAs who applied to renew or reactivate licenses for the 2010-2011 license period that began January 1, 2010.

§ 11.68. Documentation of CPE hours

Section 11.68 currently sets forth the requirements regarding the documentation of CPE hours. Current subsection (a) provides that a licensee bears responsibility for documenting completion of CPE hours and that CPE documentation shall be retained for 5 years. Current subsection (a) further provides that the acceptable categories of documentation include the following: (1) a certificate of completion from the program sponsor; (2) course materials and attendance verification, if a certificate of completion is not available; (3) a certified transcript, with regard to a course taken for credit at an accredited college or university, or a statement signed by the instructor of hours attended, with regard to a noncredit course taken at an accredited college or university; (4) evidence relating to the licensee's published articles, books or CPE programs; and (5) evidence obtained from the program sponsor, college or university relating to the licensee's having served as an instructor or discussion leader. Current subsection (b) provides that a licensee shall provide the documentation specified in subsection (a) upon audit by the Board or if there is otherwise a dispute as to whether CPE hours should be awarded. A licensee who fails to provide sufficient documentation will be denied CPE credit and may be subject to disciplinary action by the Board.

The proposed rulemaking would amend the heading of this section to "documentation of CPE hours" and revise and reorganize its contents. Proposed amendments to subsection (a) would clarify, for practitioners and program sponsors alike, the types of CPE documentation that are acceptable to establish compliance with CPE requirements. The clarified requirements should help to reduce, during the CPE audit process, the need for the Board's administrative staff to communicate with licensees over the sufficiency of CPE documentation submitted. Proposed amendments to subsection (a)(1) would require the following: a certificate of completion from a program sponsor to include the program sponsor's name; the program sponsor's approval number, if applicable; the title of the program; the location of the program, if a group study program, or a statement indicating whether the program is an interactive or noninteractive individual study program; the number of recommended CPE hours and the relevant CPE subject area; the name of the

licensee; and the name and signature of the program sponsor's representative. A consolidated certificate of completion, comprising multiple CPE programs from the same program sponsor, would be permitted so long as all required information is included. Proposed amendments to subsection (a)(2) would continue to require a certified academic transcript if the CPE hours claimed are in a course taken for credit at an accredited college or university. Proposed amendments to subsection (a)(3) would provide that if a certificate of completion from the program sponsor is not available for a group study program, an attendance verification form and copies of program materials may be substituted. The attendance verification form shall be signed by the participant and contain all the information in amended § 11.68(a)(1) except the name and signature of the program sponsor's representative. Proposed amendments to subsection (a)(4) would require, for CPE hours claimed as an instructor, a signed statement from the program sponsor's representative, containing the information in proposed § 11.68(a)(1), that verifies the licensee's participation as an instructor. Proposed amendments to subsection (a)(5) would require, for CPE hours claimed as an author, a copy of the article, book or other publication that the licensee authored.

Proposed amendments to subsection (b) would incorporate the requirement in current § 11.68 that a licensee retain CPE documentation for 5 years. For CPE hours claimed as an instructor or as a participant in a group study program or individual study program, the 5-year period would begin from the date of completion of the CPE program. For CPE hours claimed as an author, the 5-year period would begin from the publication date of the article, book or publication authored. The references in current § 11.68(b) to a licensee's obligation to produce acceptable documentation of CPE hours upon the request of the Board and to a licensee's being subject to disciplinary action for failure to submit acceptable documentation of CPE hours would be addressed in amended § 11.67 (relating to reporting of CPE hours) and new § 11.68a, respectively.

§ 11.68a. Disciplinary action for failure to comply with CPE requirements

The proposed rulemaking would add § 11.68a to set forth the disciplinary procedures that will be followed for enforcement of noncompliance with CPE requirements.

Subsection (a) would provide that an individual who fails to comply with CPE requirements and has not been granted an extension or waiver by the Board will be subject to disciplinary action, in the case of a first or second offense, under § 43b.10a (relating to schedule of civil penalties—accountants) or, in the case of a third or subsequent offense, under section 9.1(a)(4) and (10) of the act, which prohibits violations of Board regulations and noncompliance with CPE requirements.

Section 43b.10a sets forth a schedule of civil penalties for certain violations of the act and the Board's regulations that was initially promulgated as a statement of policy at 28 Pa.B. 5883 (November 28, 1998) by the Commissioner of Professional and Occupational Affairs, based on recommendations from the Board, under authority in section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)). The disciplinary procedures authorized by Act 48 afford individuals and entities subject to the jurisdiction of the Bureau's licensing boards and commissions a speedier resolution of charges involving relatively minor infractions than is ordinarily available to them under the license practice acts. Only two of the Board's current CPE requirements—the 20-hour rule

in § 11.62(a) (relating to CPE requirement for issuance of license; waiver or extension) and the duty to respond to a CPE audit in § 11.68(b)—are covered by the current schedule of civil penalties. At the Board's request, the Bureau Commissioner has contemporaneously submitted proposed rulemaking, published at 41 Pa.B. 4535 (August 20, 2011), that would amend § 43b.10a to include all CPE violations, except those that represent the violator's third or subsequent offenses. The Board believes that licensees who violate the same CPE requirement more than twice should be exposed to the wider range of disciplinary sanctions, such as restrictions on licensure and substantially higher civil penalties, that are permissible in disciplinary proceedings brought under section of 9.1(a)(4) and (10) of the act.

Subsection (b) would provide that an individual who knowingly provides false information on an application about compliance with CPE requirements will be subject to disciplinary action under section 9.1(a)(1)(iii) of the act, which prohibits the obtaining of a license by fraud or deceit. This section makes clear that an individual may be separately sanctioned for failing to satisfy CPE requirements and for submitting a falsified license application regarding compliance with CPE requirements. The issue of a falsified license application generally arises when it is determined, following a CPE audit, that an individual never enrolled in or attended CPE programs for which CPE hours were claimed on the license application. It has been the Board's experience that most CPE violations occur not because the claimed CPE hours were not completed, but because the CPE hours completed did not satisfy the Board's requirements.

Subsection (c) would provide that a licensee who fails to comply with CPE requirements shall satisfy any CPE deficiency within 6 months after imposition of a disciplinary sanction for noncompliance and that failure to timely satisfy the deficiency will result in the automatic suspension of the licensee's license and underlying CPA certificate or PA registration until the deficiency is satisfied. This subsection codifies a standard provision that appears in the adjudications and orders and consent agreements and orders that impose disciplinary sanctions for noncompliance with the Board's CPE requirements.

§ 11.69. Continuing education requirements: reciprocity or reentry

Section 11.69(a) currently requires an individual who applies for and obtains a CPA certificate from the Board under the domestic or foreign reciprocity provisions of the act to comply with CPE requirements. Section 11.69(b) currently requires an individual who desires to reactivate a noncurrent license to comply with CPE requirements that are applicable to the holder of a current license.

The proposed rulemaking would rescind § 11.69 as unnecessary because its content has been relocated to § 11.62.

§ 11.69a. Approval of CPE program sponsor

Section 11.69a relates to the approval of sponsors of CPE programs. Subsection (a) currently requires an individual or entity wishing to offer a program for CPE credit under the Board's regulations to apply to the Board for approval unless exempt under § 11.69a(b). Existing subsection (a) also contains provisions regarding the expiration of previously approved program sponsors on April 30, 2001, unless the program sponsors submitted qualifying applications for new approval by that date. Section 11.69a(b) currently provides that an individual or entity that is a member in good standing of NASBA's Registry of

CPE Program Sponsors is deemed to be an approved program sponsor and is not required to submit an application for approval to the Board. Section 11.69a(c) currently lists the required contents of an application for program sponsor approval, including streamlined requirements for a previously approved program sponsor that submitted an application by April 30, 2001. Section 11.69a(d) currently requires an application for program sponsor approval to be sworn to be true and correct to the best of the applicant's knowledge. Subsection (e) currently sets forth the procedures for the Board's review of an application for program sponsor approval, including shortened procedures for a previously approved program sponsor that submitted an application by April 30, 2001. Section 11.69a(f) currently provides that an approved program sponsor will be issued an approval number. Subsection (g) currently requires an approved program sponsor to renew its approval biennially, beginning January 1, 2004, and sets forth the contents of the renewal application.

The proposed rulemaking would make editorial changes to the heading and subsections of § 11.69a to add "CPE" before "program sponsor" and deleting the outdated references to previously approved program sponsors before April 30, 2001, and to the beginning of the biennial renewal requirement on January 1, 2004.

The proposed rulemaking also would expand the categories of deemed approved program sponsors in subsection (b) to include any accredited college or university. The proposed amendment will codify the Board's longstanding interpretation that an accredited college or university is exempt from program sponsor approval requirements because accreditation procedures ensure that course offerings, including noncredit courses, satisfy minimum pedagogical requirements.

The proposed rulemaking would further expand the categories of deemed approved program sponsors to include an individual or entity that is approved as a CPE program sponsor by the accountancy regulatory body of a state that permits the practice of public accounting under principles of substantial equivalency. Practice by substantial equivalency is a concept that permits licensed CPAs in states that have adopted the UAA's requirements regarding CPA education, experience and examination to practice public accounting in other states that have adopted these requirements without the need for reciprocal licenses or temporary practice permits. The revision reflects a combination of the Board's willingness to rely on the CPE regulatory schemes of other states and its commitment to fostering the cross-border practice of public accounting by licensees of states that have adopted recognized national standards for the credentialing of CPAs. Presently, all but a handful of states permit the practice of public accounting under principles of substantial equivalency. In anticipation of the proposed rulemaking, the Board advised licensed CPAs and PAs, in the notice mailed to them in February 2010, that beginning January 1, 2010, qualifying CPE hours could be earned from programs offered by program sponsors approved by accountancy regulatory bodies in states that permit the practice of public accounting under principles of substantial equivalency.

§ 11.71. Responsibilities of CPE program sponsor

Section 11.71 currently sets forth the responsibilities of a program sponsor in the areas of program development and level of difficulty, program prerequisites, program review and evaluation, instructor selection and review,

program facilities, disclosures to participants, attendance records, retention of program materials and certificates of completion.

The proposed rulemaking would make editorial changes to the title and provisions of § 11.71 by adding "CPE" before "program sponsor" and providing accurate cross-references to other sections. The proposed rulemaking also would clarify that the enumerated responsibilities of program sponsors are mandatory, rather than aspirational, by replacing the word "should" with "shall" in the few places where it appears in the regulation.

§ 11.71a. Offsite review of CPE program sponsor

Section 11.71a currently sets forth the procedure for the Board to conduct an offsite review of the activities of a program sponsor for the purpose of ensuring compliance with program sponsor requirements.

The proposed rulemaking would amend the title and provisions of § 11.71a by adding "CPE" before "program sponsor" and in place of "continuing education."

§ 11.72. Withdrawal of approval of CPE program sponsor

Section 11.72 currently sets forth the grounds on which the Board may withdraw the approval of a program sponsor. The proposed rulemaking would amend the title and provisions of § 11.72 by adding "CPE" before "program sponsor" and providing accurate cross-references to other sections.

Statutory Authority

Section 3(a)(10) of the act grants the Board authority to promulgate regulations regarding CPE.

Fiscal Impact

The proposed rulemaking will not increase compliance costs for CPAs and PAs because the overall number of required CPE hours remains the same while the pool of approved CPE program sponsors has been expanded.

The proposed rulemaking would likely cause the Board, its staff and the Bureau Legal Office to spend less time, and thus incur fewer costs, with regard to administering the CPE program and taking enforcement action against licensees for noncompliance. It is not possible to give a reliable estimate of the cost savings.

The proposed rulemaking will not have a fiscal impact on the general public or other agencies and political subdivisions of the Commonwealth.

Paperwork Requirements

The proposed rulemaking would lessen the overall paperwork burden on CPAs and PAs because of the streamlined procedures for reporting CPE hours. The proposed rulemaking would require some CPE program sponsors to modify their certificates of completion to include required information, but would not enlarge the volume of their paperwork.

The proposed rulemaking would require the Board to modify its applications for initial licensure, renewal of licensure and reactivation of licensure as well as its CPE reporting form.

The proposed rulemaking will not create additional paperwork for the general public or for other agencies and political subdivisions of the Commonwealth.

Effective Date

The proposed rulemaking would become effective upon final-form publication in the *Pennsylvania Bulletin* and will initially apply to the renewal of licensure for the 2012-2013 license period.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 8, 2011, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed rulemaking to Cynthia K. Montgomery, Regulatory Counsel, State Board of Accountancy, P.O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

MICHAEL J. MENEAR, CPA,
Chairperson

(Editor's Note: See 41 Pa.B. 4535 (August 20, 2011) for a proposed rulemaking by the Bureau of Professional and Occupational Affairs relating to this proposed rulemaking.)

Fiscal Note: 16A-5511. No fiscal impact; (8) recommends adoption.

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.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

CPE—Continuing professional education.

CPE program sponsor—A party that assumes responsibility for presenting a CPE program that is structured as a group study program, interactive individual study program or noninteractive individual study program.

* * * * *

Certificate of completion—A document prepared by [the] a CPE program sponsor [which indicates that a licensee completed a continuing education program, the credit hours earned and the date and name of the program] evidencing a participant's

completion of a group study program, interactive individual study program or noninteractive individual study program.

* * * * *

[**Continuing education program**—A group, self-study or correspondence program for which continuing education credit is given.

Credit hour—A unit of continuing education representing 50 minutes of participation.]

* * * * *

Group study program—[An educational process] A CPE program that is designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

* * * * *

Interactive individual study program—A [continuing education] CPE program that is designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware or administrative systems that provide significant ongoing interactive feedback to the [learner] participant regarding the learning process [which issues a certificate of completion].

* * * * *

NASBA—National Association of State Boards of Accountancy.

* * * * *

Noninteractive individual study program—A [continuing education] CPE program that is designed to permit a participant to learn a given subject without interaction with an instructor or interactive learning methodologies [which issues a certificate of completion upon the participant's achieving] and requires the participant to achieve a 70% minimum grade on a written examination or workbook.

* * * * *

[**Professor**—An instructor who teaches courses in continuing education subject areas at an accredited university or college.

Program sponsor—A party who has assumed the responsibility for presenting continuing education programs.]

* * * * *

CONTINUING PROFESSIONAL EDUCATION

§ 11.61. Scope.

[Applicants for a biennial permit to engage in public practice under section 8.2 of the act (63 P. S. § 9.8b) shall comply with this section and §§ 11.62—11.65 and 11.67—11.69 and 11.71.] Sections 11.62—11.64, 11.67—11.68a, 11.69a, 11.71 and 11.71a apply, as appropriate, to the following:

(1) An individual who needs CPE to obtain or maintain a license to practice public accounting.

(2) An individual that serves or desires to serve as a CPE program sponsor.

(3) An entity that serves or desires to serve as a CPE program sponsor.

§ 11.62. [Credit-hour requirements] CPE requirement for issuance of license; waiver or extension.

(a) [To renew a license, an applicant shall complete, during the preceding biennial period, 80 credit hours of continuing education.

(1) The 80 credit hours shall include at least 16 credit hours of accounting and auditing subjects and 8 credit hours of tax subjects.

(2) A minimum of 20 credit hours shall be taken each year.

(3) The minimum measurement of continuing education credit is a whole credit hour.

(4) Preparation time will not be credited except as permitted in § 11.64(7)(i) (relating to sources of continuing education credit).

(b) The Board may upon application modify the continuing education requirements on an individual basis under circumstances specified in section 8.2(c) and (d) of the act (63 P. S. § 9.8b(c) and (d)).

(c) Failure to meet biennial continuing education requirements may subject the holder of a current license to disciplinary action under section 9.1 of the act (63 P. S. § 9.9a(10)).

(d) An applicant, upon successful completion of the uniform C.P.A. Examination, shall be exempt from the requirements of subsection (a) for only the biennial period during which the applicant successfully completed the examination.]

A regular or reciprocal applicant for an initial license shall have completed 80 CPE hours, in the subject areas in § 11.63 (relating to CPE subject areas; relevance to professional competence), during the 2-year period preceding the filing date of the application. This requirement does not apply to an applicant who passed the CPA examination during the 2-year period preceding the filing date of the application.

(b) An applicant for renewal of a current license shall have completed 80 CPE hours, in the subject areas in § 11.63, during the 2-year period preceding the start of the next license period. An applicant shall have completed a minimum of 20 CPE hours during each year of the 2-year period.

(c) An applicant for reactivation of an expired or inactive license shall have completed 80 CPE hours, in the subject areas in § 11.63, during the 2-year period preceding the filing date of the application. This requirement does not apply to an applicant who is reactivating a license that still has a current expiration date.

(d) The Board may, upon application, waive in whole or in part a CPE requirement upon a showing of individual hardship for reasons such as health, military service or other good cause. The Board, upon application, may extend the time period for completing CPE upon a showing that the failure to timely comply was due to reasonable cause.

§ 11.63. [Continuing education] CPE subject areas; relevance to professional competence.

[The following subject areas are acceptable for continuing education:]

(a) The CPE hours required under § 11.62 (relating to CPE requirement for issuance of license; waiver or extension) must be in the following subject areas and with the following minimum hours as noted:

(1) Accounting and [auditing] attest—minimum of 16 CPE hours.

(2) Advisory services—no minimum.

(3) Management—no minimum.

(4) Professional skills development—no minimum.

(5) Specialized knowledge and applications—no minimum. The Board will accept CPE hours in specialized knowledge and applications until January 1, 2012.

(6) Taxation—minimum of 8 CPE hours.

(7) Professional ethics—minimum of 4 CPE hours (effective as a condition of obtaining a license for the 2014-2015 license period and thereafter).

(b) The CPE hours required under § 11.62 must be relevant to maintaining the professional competence of a certified public accountant or public accountant.

§ 11.64. Sources of [continuing education credit] CPE hours.

[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, 2001, they are offered by approved program sponsors under § 11.69a (relating to approval of program sponsors):

(1) *Continuing education programs of National or State accounting organizations.*

(2) *University or college courses.*

(i) *Credit courses.* Applicants will receive 15 credit hours of continuing education credit for each semester credit hour earned and 10 credit hours for each quarter credit hour earned.

(ii) *Noncredit courses.* Applicants will be given 1 credit hour of continuing education credit for each 50 minutes of in-class participation.

(3) *In-house educational programs.*

(4) *Individual study programs.*

(i) Noninteractive individual study programs shall be given credit based upon 1/2 the average completion time calculated by the sponsor. The Board will make a final determination based upon the recommendation of the program sponsor.

(ii) Interactive individual study programs will be given 1 credit hour of continuing education credit for each 50 minutes of participation.

(iii) Credit for individual study programs will only be given in the renewal period in which the certificate of completion is dated.

(iv) Maximum continuing education credit per biennium will be 50% of the biennial requirement.

(5) *Programs offered by other qualified organizations.* The number of credits will be based upon the nature of the program being offered and which of the categories in paragraphs (1)—(4) it most closely fits.

(6) *Committee meetings.* Credit will be given if the meeting is structured as a continuing education program.

(7) *Service as a lecturer, discussion leader, speaker or professor.* Continuing education credit will be awarded for each 50-minute period if the discussion is one which meets the continuing subject area requirements of § 11.63.

(i) Two additional credit hours will be awarded as preparation time for each credit hour of instruction.

(ii) Credit will not be awarded for subsequent sessions unless in a subsequent session the subject matter has substantially changed.

(iii) The maximum continuing education credit will be 50% of the biennial requirement.

(iv) A professor will be awarded credit for teaching undergraduate courses in auditing, intermediate accounting, cost accounting, income taxation and advanced accounting, and all graduate courses to the extent that the course contributes to the student's professional competence and the professor has not previously claimed credit for the courses or unless the professor can demonstrate that there was a substantial change in the subject matter. Entry level accounting courses are excluded from eligibility for continuing professional education credit.

(8) *Publications, articles, books and continuing professional education courses.* Credit may be claimed by the author of the work if the work contributes to the professional competence of a licensee.

(i) Credit will be given for each 50-minute period of preparation time on a self-declaration basis up to 25% of the biennial requirement. A copy of the publication shall be submitted to the Board with the biennial renewal application.

(ii) In exceptional circumstances, an applicant may request additional credit by submitting a copy of the publication to the Board with an explanation of the circumstances which the applicant believes justifies an award of greater credit. Credit hours awarded will be determined by the Board on a case-by-case basis based upon the complexity of subject matter.

(iii) The maximum credit for publications may not exceed 50% of the continuing education requirement for any biennium.]

The following are the acceptable sources of CPE hours:

(1) *Group study programs offered by approved CPE program sponsors under § 11.69a (relating to approval of CPE program sponsor).*

(i) Except as provided in subparagraph (ii), a participant will receive 1 CPE hour for each 50 minutes of participation.

(ii) A participant in a credit course offered by an accredited college or university will receive 15 CPE hours for each semester credit hour earned and 10 CPE hours for each quarter credit hour earned.

(iii) A participant will not receive CPE credit for less than 50 minutes of participation.

(2) *Individual study programs offered by approved CPE program sponsors under § 11.69a.*

(i) A participant in a noninteractive individual study program will receive 1 CPE hour for each 100 minutes of participation. A participant will not receive CPE credit for less than 100 minutes of participation.

(ii) A participant in an interactive individual study program will receive 1 CPE hour for each 50 minutes of participation. A participant will not receive CPE credit for less than 50 minutes of participation.

(iii) An individual study program is considered complete on the date the program sponsor issues a certificate of completion.

(iv) A participant may receive up to 40 CPE hours in individual study programs during each reporting period.

(3) *Service as an instructor during group study programs offered by approved CPE program sponsors under § 11.69a.*

(i) A participant will receive 3 CPE hours, including 2 hours of preparation time, for each 50 minutes of instruction in a group study program. A participant will not receive CPE credit for less than 50 minutes of instruction.

(ii) A participant will not receive CPE credit for repeating instruction in the same program during the same reporting period.

(iii) A participant may receive up to 40 CPE hours as an instructor during each reporting period.

(4) *Authorship of articles, books and other publications relevant to maintaining professional competence (until January 1, 2012).*

(i) An individual who authors an article, book or other publication that is relevant to maintaining the professional competence of a certified public accountant or public accountant will receive 1 CPE hour for each 50 minutes of research and writing, up to 20 hours, unless the individual can demonstrate to the Board that the complexity of the subject matter merits the awarding of additional CPE hours. An individual will not receive CPE credit for less than 50 minutes of research and writing.

(ii) An individual may receive up to 40 CPE hours for authorship of all publications combined during each reporting period.

(iii) CPE hours will be awarded for the year in which publication occurs. CPE hours will not be awarded for publication that occurs on or after January 1, 2012.

§ 11.65. [Criteria for continuing education programs] (Reserved).

[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 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).]

§ 11.67. Reporting of [continuing education credit] CPE hours.

(a) [An applicant for a license or license renewal shall provide the following information on Board-provided forms:

- (1) The dates attended.
- (2) The credit hours claimed.
- (3) The title of the course.
- (4) The program sponsor.

(5) A statement certifying that continuing education requirements have been met.

(b) Falsification of information required under subsection (a) may result in disciplinary action.]

An applicant for an initial license shall submit a summary report of CPE hours on a form provided by the Board together with the CPE documentation required under § 11.68 (relating to documentation of CPE hours).

(b) An applicant for renewal of a current license or for reactivation of an expired or inactive license shall certify on the application that the applicant has completed the requirements in §§ 11.62—11.64 (relating to CPE requirement for issuance of license; waiver or extension; CPE subject areas; relevance to professional competence; and sources of CPE hours). In the event a licensee is later selected by the Board for an audit of CPE hours, the licensee shall submit a summary report of CPE hours on a form provided by the Board together with the CPE documentation required under § 11.68.

§ 11.68. [Retention of continuing education records] Documentation of CPE hours.

(a) [Responsibility for documenting the continuing education requirements rests with the applicant, and evidence to support fulfillment of those requirements shall be maintained for 5 years after the completion of educational courses. Documentation consists of:

(1) Certificate of completion from the program sponsor.

(2) Course material and attendance verification if no certificate of completion is available.

(3) A certified transcript of courses taken for credit in an accredited university or college. For noncredit courses taken, a statement of hours of attendance, signed by the instructor.

(4) Evidence of publication for published articles, books or continuing professional education programs.

(5) Evidence obtained from the sponsor or university or college of having been an instructor or discussion leader at a program or course.

(b) If there is a dispute concerning whether credit should be granted for a continuing education program, or upon audit, the applicant shall provide a copy of the documentation required in subsection

(a). The dispute will be resolved against the applicant if the applicant fails to produce evidence sufficient to document the claim and may result in disciplinary or corrective action being taken by the Board.]

The following are acceptable forms of documentation of CPE hours:

(1) A certificate of completion issued by the CPE program sponsor. A consolidated certificate of completion for multiple CPE programs from the same CPE program sponsor is acceptable as long as it includes the information in subparagraphs (i)—(vii). The certificate must set forth the following:

(i) The CPE program sponsor's name.

(ii) The CPE program sponsor's approval number issued by the Board, NASBA or another state's accountancy regulatory body, as applicable.

(iii) The title of the program.

(iv) The location of the program, if a group study program, or a statement indicating whether the program is an interactive or noninteractive individual study program.

(v) The recommended CPE hours and relevant CPE subject area (for example, accounting and attest, taxation or professional ethics).

(vi) The name of the participant.

(vii) The name and signature of the CPE program sponsor's representative.

(2) A certified academic transcript from an accredited college or university if the CPE hours claimed are in a course taken for credit at the college or university.

(3) If a certificate of completion from the CPE program sponsor is not available for a group study program, a participant may submit an attendance verification form, signed by the participant and containing the information in paragraph (1)(i)—(vi) together with copies of the program materials.

(4) A signed statement from the CPE program sponsor's representative containing the information in paragraph (1)(i)—(vi) that verifies the participant's service as an instructor.

(5) A copy of each article, book or other publication for which an individual claims CPE hours as an author.

(b) An individual shall retain the documentation in subsection (a) for 5 years after the date of completion of each CPE program or the date of publication of each article, book or publication authored.

§ 11.68a. Disciplinary action for failure to comply with CPE requirements.

(a) Unless granted an extension or waiver by the Board under § 11.62(d) (relating to CPE requirement for issuance of license; waiver or extension), and except as provided in subsection (b), a licensee who fails to comply with §§ 11.62—11.64, 11.67 and 11.68 will be subject to disciplinary action in the case of a first or second offense under § 43b.10a (relating to schedule of civil penalties—accountants) or in the case of a third or subsequent offense under section 9.1(a)(4) and (10) of the act (63 P. S. § 9.9a(a)(4) and (10)).

(b) A licensee who knowingly provides false information on an application about compliance with CPE requirements will be subject to disciplinary action under section 9.1(a)(1)(iii) of the act.

(c) A licensee who is disciplined for failure to comply with CPE requirements shall make up a deficiency in CPE hours and submit documentation of the fact to the Board within 6 months after imposition of the disciplinary sanction. A licensee who fails to submit documentation of make-up CPE hours by the prescribed deadline will undergo suspension of the licensee's license and underlying certificate of certified public accountant or public accountant registration until the documentation is submitted.

§ 11.69. [Continuing education requirements: reciprocity or reentry] (Reserved).

[(a) An individual who holds a valid certificate of certified public accountant issued by another state or a comparable certificate of degree issued by a foreign country and who receives a certificate to practice in this Commonwealth under the appropriate provision of the act will be required to comply with the continuing education requirements applicable to other applicants.

(b) Persons who wish to return to active practice in this Commonwealth by obtaining a current license shall meet the same continuing education requirements applicable to other applicants for the biennial period in which they wish to enter.]

§ 11.69a. Approval of CPE program sponsor.

(a) *Approval requirement.* Except as provided in subsection (b), any individual or entity desiring to offer a program for [continuing education] CPE credit under this chapter shall apply to the Board for approval as a CPE program sponsor. [The approval of a previously approved program sponsor will expire April 30, 2001, unless the program sponsor submits a qualifying application under subsection (c) that is postmarked by April 30, 2001. 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 process.* [An 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.] The following are deemed approved CPE program sponsors and are not required to submit applications for approval to the Board:

(1) An individual and entity that is a member in good standing of NASBA's National Registry of CPE Program Sponsors.

(2) An individual or entity that is approved as a CPE program sponsor by the accountancy regulatory body of a state that permits the practice of public accounting under principles of substantial equivalency.

(3) An accredited college or university.

(c) *Contents of application for approval.* An application for approval as a CPE program sponsor 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) The name and address of the CPE program sponsor.

(2) The [title and source of continuing education credit] sources of CPE hours as specified in § 11.64 (relating to sources of [continuing education credit] CPE hours).

* * * * *

(e) *Board review of application for 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] CPE 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 CPE program sponsor approval number.

(g) *Biennial renewal of approval.* An approved CPE 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 CPE program sponsor's planned program offerings for the upcoming renewal period.

§ 11.71. Responsibilities of CPE program sponsor.

In addition to meeting the requirements in § 11.69a (relating to approval of CPE program sponsor), a CPE program sponsor shall comply with the following:

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

* * * * *

(2) *Recommendation of education and experience prerequisites.* A CPE program sponsor shall clearly identify what prerequisites are suggested for enrollment. If [no] a prerequisite is not necessary, a statement to that effect [should] shall be made. Prerequisites [should] shall 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 CPE 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 CPE 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 CPE program sponsor shall review the course materials 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 when appropriate, and obsolete material should be deleted. 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.

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

(6) *Selection and review of instructors.* A CPE program sponsor shall select and assign qualified instructors for the [continuing education] CPE program. A CPE program sponsor [should] shall evaluate the performance of instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors in the future.

(7) *Number of participants and adequacy of physical facilities.* A CPE program sponsor 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 physical facilities, a CPE program sponsor 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] shall 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] shall be made available to encourage communication with a small group.

(8) *Program evaluation.* A CPE program sponsor shall provide a program evaluation in accordance with the following:

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

* * * * *

(ii) Evaluations may take the form of pretests for advanced preparation, posttests for effectiveness of the program, questionnaires completed at the end of the program or later[,] and oral feedback to the instructor

or CPE program sponsor[, and so forth]. Instructors [should] shall be informed of their performance, and the CPE program sponsor [should] shall systematically review the evaluation process to ensure its effectiveness.

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

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

(11) *Certificate of completion.* A CPE program sponsor shall provide [participants with] a certificate of completion [evidencing satisfactory completion and attendance of the program] to each participant who satisfactorily completes a program. A certificate of completion must contain the information in § 11.68(a)(1) (relating to documentation of CPE hours).

(12) *Promotional materials.* A CPE program sponsor shall identify the subject area[—see] of a program under § 11.63 (relating to [continuing education] CPE subject areas; relevance to professional competence)[—of the program] in the program's promotional materials.

§ 11.71a. Offsite review of CPE program sponsor.

A CPE program sponsor shall be subject to an offsite review of its [continuing education] CPE programs to ensure compliance with this chapter. The review will involve an in-depth audit of all course materials, documents and records maintained by the CPE program sponsor under this chapter, including:

(1) The information in § 11.69a(c) (relating to approval of CPE program sponsor).

* * * * *

§ 11.72. Withdrawal of approval of CPE program sponsor.

(a) 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 CPE program sponsor that the Board finds guilty of:

* * * * *

(2) Failing to comply with [§§ 11.65,] § 11.69a or § 11.71 (relating to [criteria for continuing education programs;] approval of CPE program sponsor; and responsibilities of CPE program sponsor).

(3) Refusing to provide information requested by the Board pursuant to an offsite review under § 11.71a (relating to offsite review of CPE program sponsor).

(4) Indicating in any manner that it has been approved as a CPE program sponsor prior to a CPE program sponsor approval number having been issued to it.

(b) The Board's withdrawal of a CPE program sponsor's approval will not affect the [credit] CPE hours earned by persons who completed programs of the sponsor prior to the withdrawal of its approval.

[Pa.B. Doc. No. 11-1430. Filed for public inspection August 19, 2011, 9:00 a.m.]



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF ACCOUNTANCY
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-1404

September 4, 2012

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Accountancy
16A-5511: CONTINUING PROFESSIONAL EDUCATION

Dear Chairman Lutkewitte:

Enclosed is a copy of a final rulemaking package of the State Board of Accountancy pertaining to Continuing Professional Education.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Dugan".

Patrick J. Dugan, CPA, Chairperson
State Board of Accountancy

PJD/JJW:rs

Enclosure

cc: Katie True, Commissioner
Bureau of Professional and Occupational Affairs
Rebecca Oyler, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Jeffrey J. Wood, Counsel
State Board of Accountancy
State Board of Accountancy

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

I.D. NUMBER: 16A-5511

SUBJECT: CONTINUING PROFESSIONAL EDUCATION

AGENCY: DEPARTMENT OF STATE (STATE BOARD OF ACCOUNTANCY)
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

TYPE OF REGULATION

Proposed Regulation

XX 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

2012 SEP -4 AM 10:54

RECEIVED
IRRC

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/4/12	<i>Michele Warren</i>	MAJORITY CHAIR <u>Julie Harhart</u>
9/4/12	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIR <u>Robt. M. Tomlinson</u>
9/4/12	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

August 24, 2012