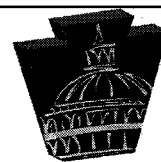


# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

(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

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(3) Short Title: **Continuing Professional Education**

(4) PA Code Cite: **49 Pa. Code §§11.1, 11.61-11.65, 11.67-11.69a, 11-71-11.72**

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

Primary Contact: **Cynthia K. Montgomery, Regulatory Counsel, One Penn Center, 2601 North Third Street Third Floor, Harrisburg, PA 17110; Tele: (717) 783-7200; Fax: (717) 787-0251; E-mail: cymontgome@pa.gov**

Secondary Contact: **Jeffrey J. Wood, Board Counsel, State Board of Accountancy, One Penn Center, 2601 North Third Street, Third Floor, Harrisburg, PA 17110; Tele: (717) 783-7200; Fax: (717) 787-0251; E-mail: jefwood@pa.gov**

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) 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

## Regulatory Analysis Form

(8) 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.**

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

- |   |   |
|---|---|
| A. The date by which the agency must receive public comments:                               | <b>September 19, 2011</b>   |
| B. The date or dates on which public meetings or hearings will be held:                     | <b>The board's meeting schedule is available at <u><a href="http://www.dos.state.pa.us">www.dos.state.pa.us</a></u></b> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <b>Spring 2012</b>  |
| D. The expected effective date of the final-form regulation:                                | <b>Spring 2012</b>  |
| E. The date by which compliance with the final-form regulation will be required:            | <b>January 1, 2012</b>  |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <b>N/A</b>  |

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

**The Board regularly evaluates the effectiveness of regulations at its meetings. The Board holds at least nine meetings each year.**

## Regulatory Analysis Form

### **SECTION II: STATEMENT OF NEED**

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

**Section 3(a)(10) of the CPA Law, Act of May 26, 1947, P.L. 318, as re-enacted and amended, 63 P.S. §9.3(a)(10), empowers the Board to promulgate regulations relating to CPE.**

(12) 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 regulations are not mandated by any federal or state law, regulation or court order.**

(13) 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 regulations. Clients of licensed certified public accountants and public accountants would indirectly benefit from the regulations.**

## Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

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

**The Board cannot identify any group that would be adversely affected by the regulations.**

(16) 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 regulations would 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 regulations is not known.**

## Regulatory Analysis Form

### **SECTION III: COST AND IMPACT ANALYSIS**

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

**The regulations would not result in any significant or quantifiable costs or savings to the regulated community. Because the 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.**

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

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

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

**The regulations would 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.**

## Regulatory Analysis Form

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

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	None					
Regulated Community		See #17	See #17	See #17	See #17	See #17
Local Government						
State Government		See #19	See #19	See #19	See #19	See #19
<b>Total Savings</b>						
<b>COSTS:</b>	None	None	None	None	None	None
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>	None	None	None	None	None	None
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

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

Program	FY -3	FY -2	FY -1	Current FY
Accountancy Bd.	\$927,487	\$1,062,108	\$1,129,000 (est.)	\$1,163,000 (est.)

## Regulatory Analysis Form

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

**The regulations would 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.**

(22) 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 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.**

(23) 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.

**The Board did not consider any alternative regulatory provisions.**

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

**There are no federal standards applicable to the subject matter of the regulations.**

## Regulatory Analysis Form

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

**The regulations do not increase the overall CPE requirement of 80 hours biennially. Nearly all states require 40 hours of CPE on an annualized basis. The regulations' 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 regulations would not have any adverse impact on Pennsylvania's competitiveness with other states.**

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

**The regulations would not affect other existing or proposed regulations of the Board or of any other state agency. However, the regulations do reference the Board's Act 48 schedule of civil penalties, which is currently being revised pursuant to rulemaking promulgated by the BPOA Commissioner (#16A-48).**

(27) 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 regulations would ease, rather than expand, the CPE reporting requirements for licensees. The regulations 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.**



## Regulatory Analysis Form

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

**The regulations would apply uniformly to all licensed certified public accountants and public accountants, subject to the provisions authorizing the waiver or modification of CPE requirements in individual cases for cause.**

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

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(Pursuant to Commonwealth Documents Law)

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Executive or Independent  
Agencies.

BY: Angela M. Elliott  
(DEPUTY ATTORNEY GENERAL)

State Board of Accountancy  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-5511

BY: Andrew C. Clark

JUN 29 2011

DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

MAY 31 2011

DATE OF APPROVAL

BY: Michael J. Menear

Michael J. Menear, CPA

Chairman

TITLE: \_\_\_\_\_

(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

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

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

PROPOSED RULEMAKING

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

Continuing Professional Education

## **PREAMBLE**

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 (63 P.S. §§ 9.8b(b) and 9.9b(d)), an individual applicant for initial issuance of a license, for renewal of a current license, or for 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 CPA Law (63 P.S. § 9.3(a)(10)) empowers the Board to adopt regulations implementing CPE requirements. Section 8.2(c) and (d) of the CPA Law (63 P.S. § 9.8b(c) and (d)) authorizes the Board to waive CPE requirements, or to extend deadlines for compliance with CPE requirements, for good or reasonable cause. Section 9.1(a)(4) and (10) of the CPA Law (63 P.S. § 9.9a(a)(4) and (10)) makes it a violation of the CPA Law for an individual to violate a Board regulation relating to professional conduct or fail to comply with CPE requirements.

The Board initially adopted CPE regulations in September 1979 and revised them in February 1985, December 1994 and January 2001. The last set of revisions 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 a certified public accountant (CPA) or public accountant (PA). Specifically, the proposed rulemaking would 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 proposed rulemaking also would expand the categories of pre-approved 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 CPA Law must comply with CPE requirements set forth in §§ 11.62-11.65, 11.67-11.69 and 11.71. The proposed rulemaking would revise § 11.61 to state more fully the individuals and entities that are subject to the regulations in Chapter 11 relating to CPE and to correct the cross-references to the other regulations.

*§ 11.62 (Credit-hour requirements)*

Section 11.62 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.

Section 11.62(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 § 11.62(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 as 50 minutes of participation). Section 11.62(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 CPA Law. Section 11.62(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 CPA Law. Section 11.62 (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 retitle § 11.62 as “CPE requirement for issuance of license; waiver or extension,” and would 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 § 11.62 to other sections.

Revised § 11.62(a) would require a regular or reciprocal applicant for an initial license to have completed 80 CPE hours, in appropriate subject areas under § 11.63 (relating to continuing education subject areas) as revised, 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 must 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.

Revised § 11.62(b) would require an applicant for renewal of a current license to have completed 80 CPE hours, in appropriate subject areas under revised § 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 CPA Law, 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.

Revised § 11.62(c) would require an applicant for reactivation of an expired or inactive license to have completed 80 CPE hours, in appropriate subject areas under revised § 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 CPA Law prescribes the CPE reporting period applicable to the reactivation of an expired or inactive license.

Revised § 11.62(d) would provide that the Board may waive any 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 CPA Law sets forth the Board's authority to relax or extend CPE requirements.

The proposed rulemaking would relocate the contents of § 11.62 relating to required CPE subjects to revised § 11.63; relocate information about the awarding of CPE hours, including for "preparation time," to revised § 11.64 (relating to sources of continuing education credit); and relocate 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 (Continuing education subject areas)*

Section 11.63 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 retitle § 11.63 as “CPE subject areas; relevance to professional competence”; reorganize the existing provisions regarding subject matter, as revised with substantive and editorial changes, into subsection (a); and add a new subsection (b).

Revised § 11.63(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, revised § 11.63 would provide that a minimum of 8 CPE hours must be in taxation and a minimum of 16 CPE hours must be in accounting and attest.

Revised § 11.63(a) also would add the subject area of professional ethics and provide that a minimum of 4 CPE hours must 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 had notified licensees to plan accordingly. However, delays in promulgating this 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.

Revised § 11.63(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.

Revised § 11.63(b) would incorporate the requirement, currently set forth 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 continuing education credit)*

Section 11.64 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 program sponsor). The sources of CPE hours are currently identified in eight separately numbered paragraphs as follows: (1) continuing education programs of National and 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 continuing professional educational courses.

The current listing of sources of CPE hours in § 11.64 tends to confuse the reader because it combines methodologies for obtaining CPE hours with categories of CPE program sponsors. The proposed rulemaking would retitle § 11.64 as “Sources of CPE hours” and would reorganize it into four sources of CPE hours based on methodology: group study programs offered by approved CPE program sponsors, as set forth in revised § 11.64(1); individual study programs offered by approved CPE program sponsors, as set forth in revised § 11.64(2); service as an instructor during group study programs offered by approved CPE program sponsors, as set forth in revised § 11.64(3); and authorship of articles, books and other publications relevant to maintaining professional competence, as set forth in revised § 11.64(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. Revised § 11.64(1) would restate these requirements, together with the requirement, currently set forth 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 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 one-half 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.

Revised § 11.64(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 change 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. Revised § 11.64(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 any undergraduate course in auditing, intermediate accounting, cost accounting, income taxation and advanced accounting or any 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.

Revised § 11.64(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 such 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. Revised § 11.64(3) also would provide that an instructor will not receive any CPE credit until there has been at least 50 minutes of instruction.

Section 11.64 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 must submit a copy of the writing at the time of application for license renewal.

Revised § 11.64(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 desire 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.

Revised § 11.64(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 (BPOA) that require documentary evidence relating to CPE hours to be submitted in connection with a post-renewal CPE audit rather than as part of the license renewal process. Revised § 11.64(4) would further provide, consistent with the requirements relating to 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 program)*

Section 11.65 currently provides that in order 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 set forth in § 11.63.

The proposed rulemaking would delete § 11.65 as unnecessary because its provisions are either already covered by other sections or being been 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 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 revised § 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 continuing education credit)*

Section 11.67(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(s) 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 retitle § 11.67 as “Reporting of CPE hours” and would revise and reorganize the content of its subsections. Revised § 11.67(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 retention of continuing professional education records) as revised. Revised § 11.67(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. Revised § 11.67(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 revised § 11.68. The current contents of § 11.67(b) would be relocated to new § 11.68a.

Revised § 11.67(a) clarifies 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 such applicant, as a condition of also being issued a CPA certificate, submit satisfactory documentation of having completed post-secondary education and experience requirements and passed the CPA examination.

In revised § 11.67(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 CPA Law (63 P.S. § 9.8(a)), which, as amended by the act of July 9, 2008 (P.L. 954, No. 73), provides that a CPA or PA shall 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 be no more burdensome than is necessary for the Board to carry out its statutory functions. The provisions in revised § 11.67(b) are consistent with this view and mirror the practices of other licensing boards within the BPOA 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 BPOA, 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 (Retention of continuing professional education records)*

Section 11.68 currently sets forth the requirements relating to the documentation of CPE hours. Existing § 11.68(a) provides that a licensee bears responsibility for documenting completion of CPE hours and that CPE documentation must be retained for 5 years. Existing § 11.68(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 no certificate of completion is 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. Existing § 11.68(b) provides that a licensee must provide the documentation specified in § 11.68(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 retitle § 11.68 as "Documentation of CPE hours" and would

revise and reorganize its contents. Revised § 11.68(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. Revised § 11.68(a)(1) would require 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. Revised § 11.68(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. Revised § 11.68(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 must be signed by the participant and contain all the information in revised § 11.68(a)(1) except the name and signature of the program sponsor's representative. Revised § 11.68(a)(4) would require, for CPE hours claimed as an instructor, a signed statement from the program sponsor's representative, containing the information in revised § 11.68(a)(1), that verifies the licensee's participation as an instructor. Revised § 11.68(a)(5) would require, for CPE hours claimed as an author, a copy of the article, book or other publication that the licensee authored.

Revised § 11.68(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 revised § 11.67 and new § 11.68a, respectively.

*§11.68a (Disciplinary action for failure to comply with CPE requirements)*

The proposed rulemaking would establish a new § 11.68a, titled "Disciplinary action for failure to comply with CPE requirements," that sets forth the disciplinary procedures that will be followed for enforcement of noncompliance with CPE requirements.

New § 11.68a(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 CPA Law, which proscribes violations of Board regulations and noncompliance with CPE requirements.

Section 43b.10a sets forth a schedule of civil penalties for certain violations of the CPA Law and the Board's regulations that was initially promulgated by the Commissioner of Professional and Occupational Affairs on November 28, 1998, based on recommendations from the Board, under authority set forth 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 BPOA'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) 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 BPOA Commissioner has contemporaneously submitted proposed rulemaking, published at [Note to LRB: Insert publication citation for Regulation 16A-48], 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 CPA Law.

New § 11.68a(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 CPA Law (63 P.S. § 9.9a(a)(1)(iii)), which proscribes 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.

New § 11.68a(c) would provide that a licensee who fails to comply with CPE requirements must satisfy any CPE deficiency no later than 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 CPA Law 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 delete § 11.69 as unnecessary because its content has been relocated to revised § 11.62.

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

Section 11.69a relates to the approval of sponsors of CPE programs. Section 11.69a(a) currently requires any individual or entity desiring 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 § 11.69a(a) also contains provisions relating to the expiration of previously approved program sponsors on April 30, 2001, unless such 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. Section 11.69a(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. Section 11.69a(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 title and subsections of § 11.69a, including inserting the abbreviation "CPE" before "program sponsor" and deleting the outdated references to previously approved program sponsors before April 30, 2001, and to commencement of

the biennial renewal requirement on January 1, 2004.

The proposed rulemaking also would expand the categories of deemed approved program sponsors in § 11.69a(b) to include any accredited college or university. The revision codifies the Board's long-standing interpretation that an accredited college or university is exempt from program sponsor approval requirements because accreditation procedures ensure that all course offerings, including noncredit courses, satisfy minimum pedagogical requirements.

The proposed rulemaking would further expand the categories of deemed approved program sponsors to include any 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 relating to CPA education, experience and examination to practice public accounting in other states that have adopted such 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. At present, 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 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 inserting the abbreviation "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 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 inserting the abbreviation “CPE” before “program sponsor” and in place of “continuing education.”

*§ 11.72 (Withdrawal of approval of 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 inserting the abbreviation “CPE” before “program sponsor” and providing accurate cross-references to other sections.

**Statutory Authority**

Section 3(a)(10) of the CPA Law (63 P.S. § 9.3(a)(10)) grants the Board authority to promulgate regulations relating to CPE.

**Fiscal Impact**

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

### **Regulatory Review**

On August 8, 2011, under authority of section 5(a) and (f) of the Regulatory Review Act (71 P.S. §745.5(a) and (f)), the Board submitted copies of the proposed rulemaking and a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC). A copy of the Regulatory Analysis Form is available to the public upon request.

In accordance with section 5(a) and (f) of the Regulatory Review Act, the Board will deliver copies of the proposed rulemaking and the Regulatory Analysis Form to the Chairpersons of the House Standing Committee on Professional Licensure and the Senate Standing Committee on Consumer Protection and Professional Licensure by the second Monday after the date on which committee designations for the 2011-2012 session of the General Assembly are published in the *Pennsylvania Bulletin*.

Under section 5(g) of the Regulatory Review Act (71 P.S. §745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures that permit the Board, the General Assembly and the Governor to review any comments, recommendations or objections prior to final publication of the rulemaking.

**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*.

**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 that 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.] The provisions of §§ 11.62-11.64, 11.67-11.68a, 11.69a, 11.71 and 11.71a apply, as appropriate, to individuals who need CPE in order to obtain or maintain licenses to practice public accounting and to individuals and entities that serve, or desire to serve, as CPE program sponsors.

### § 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.)

A regular or reciprocal applicant for an initial license shall have completed 80 CPE hours, in the subject areas set forth 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) [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)).] An applicant for renewal of a current license shall have completed 80 CPE hours, in the subject areas set forth 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) [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)).] An applicant

for reactivation of an expired or inactive license shall have completed 80 CPE hours, in the subject areas set forth 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) [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.] 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.**

(a) [The following subject areas are acceptable for continuing education] The CPE hours required in § 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.

**§ 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)] The following are the acceptable sources of CPE hours:

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

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

(i) Except as provided in (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) [*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 offered by approved CPE program sponsors under §*

11.69a.

(i) [Noninteractive individual study programs shall be given credit based on ½ the average completion time calculated by the sponsor. The Board will make a final determination based upon the recommendation of the program sponsor.] 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) [Interactive individual study programs will be given 1 credit hour of continuing education credit for each 50 minutes of participation.] 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) [Credit for individual study programs will only be given in the renewal period in which the certificate of completion is dated.] An individual study program is considered complete on the date the program sponsor issues a certificate of completion.

(iv) [Maximum continuing education credit per biennium will be 50% of the biennial requirement.] A participant may receive up to 40 CPE hours in individual study programs during each reporting period.

[(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)] (3) *Service as [a lecturer, discussion leader, speaker or professor] an instructor during group study programs offered by approved CPE program sponsors under § 11.69a.*

[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.] 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) [Credit will not be awarded for subsequent sessions unless in a subsequent session the subject matter has substantially changed.] A participant will not receive CPE credit for repeating instruction in the same program during the same reporting period.

(iii) [The maximum continuing education credit will be 50% of the biennial requirement.] A participant may receive up to 40 CPE hours as an instructor during each reporting period.

[(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)] (4) *[Publications,] Authorship of articles, books and [continuing professional education courses] other publications relevant to maintaining professional competence (until January 1, 2012).* [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.] 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) [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.] An individual may receive up to 40 CPE hours for authorship of all publications combined during each reporting period.

(iv) CPE hours will be awarded for the year in which publication occurs. No CPE hours will 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.]

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 in § 11.68 (relating to documentation of CPE hours).

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

The following are acceptable forms of documentation of CPE hours:

- (1) A certificate of completion issued by the CPE program sponsor that sets 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.

A consolidated certificate of completion for multiple CPE programs from the same CPE program sponsor is acceptable so long as it includes the information in clauses (i)-(vii).

(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) [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



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

### **Regulatory Review**

On August 8, 2011, under authority of section 5(a) and (f) of the Regulatory Review Act (71 P.S. §745.5(a) and (f)), the Board submitted copies of the proposed rulemaking and a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC). A copy of the Regulatory Analysis Form is available to the public upon request.

In accordance with section 5(a) and (f) of the Regulatory Review Act, the Board will deliver copies of the proposed rulemaking and the Regulatory Analysis Form to the Chairpersons of the House Standing Committee on Professional Licensure and the Senate Standing Committee on Consumer Protection and Professional Licensure by the second Monday after the date on which committee designations for the 2011-2012 session of the General Assembly are published in the *Pennsylvania Bulletin*.

Under section 5(g) of the Regulatory Review Act (71 P.S. §745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures that permit the Board, the General Assembly and the Governor to review any comments, recommendations or objections prior to final publication of the rulemaking.

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 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 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. \* \* \*

\* \* \* \* \*

(2) *Recommendation of education and experience prerequisites.* A CPE program sponsor shall clearly identify what prerequisites are suggested for enrollment. If no prerequisite is 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. \* \* \*

(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. \* \* \*

(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. \* \*

(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:

- (1) Having acquired the Board's approval by misrepresentation.
  - (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.

\* \* \* \* \*



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

August 8, 2011

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


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

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed 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,

  
Michael J. Menear, Chairperson  
State Board of Accountancy

MJM/CKM: rs

Enclosure

cc: Katie True, Acting 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 E. 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

**TYPE OF REGULATION**

X Proposed Regulation

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

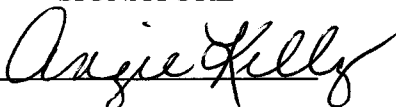
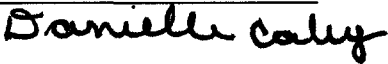
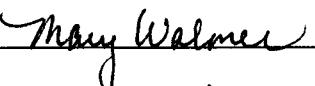
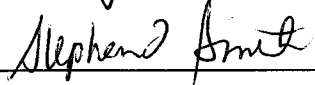


a. With Revisions

b.

Without Revisions

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IRRC  
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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
8/8/11		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Julie Harhart</u>
8/8/11		
8/8/11		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
8/8/11		MAJORITY CHAIRMAN <u>Robt. M. Tomlinson</u>
8/8/11		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
8-8-11		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

July 6, 2011