

**ADMINISTRATIVE RULES
FOR THE BOARD OF PUBLIC ACCOUNTANCY
Effective: June 1, 2014**

PART 1 INTRODUCTION

1.1 THE BOARD'S PURPOSE

The Board of Public Accountancy (the "Board") sets standards for issuing licenses, regulates the practice of public accounting within the State of Vermont and protects the public by enforcing Vermont professional conduct laws. Title 26, Chapter 1 contains the Board's enabling statutes.

1.2 BUSINESS LOCATION

The Board's mailing address is:
Vermont Board of Accountancy
Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, Vermont 05620-3402.

The Board's business location is: Office of Professional Regulation, 89 Main Street, 3rd Floor, Montpelier, Vermont 05620-3402 (the "Office").

Copies of these rules and other applicable statutes are found at <http://vtprofessionals.org>

1.3 APPLICABLE LAW

The Vermont Board of Public Accountancy is authorized by and responsible for implementing Title 26 V.S.A., Chapter 1. Laws that govern the Board include the following: Administrative Procedure Act (3 V.S.A. §§801-849), the Right to Know Law (1 V.S.A. §§311-314), Access to Public Records Law (1 V.S.A. §§315-320) and the Office of Professional Regulation enabling statutes (3 V.S.A. §§121-131). Law libraries and most Town Clerk's Offices maintain volumes of the Vermont Statutes Annotated. The Board posts the most recent statutes and administrative rules governing the practice of the profession at www.vtprofessionals.org and <http://vtprofessionals.org/opr1/accountants/>.

1.4 REGULATIONS

These administrative rules are promulgated pursuant to 26 V.S.A. §54. These rules represent the law governing Board proceedings. In revising these administrative rules, the Board shall follow the provisions of the Administrative Procedure Act.

PART 2 DEFINITIONS

2.1 DEFINITIONS

For purposes of these administrative rules the following terms have the meanings indicated:

- (a) "Act" means Title 26, Vermont Statutes Annotated, Chapter 1, Accountants.
- (b) "Advertising" includes print, television or radio ads of any type, internet, World Wide Web or electronic media displays of any variety, stationary, business cards, signs and other audio, visual or print notices or depictions related to professional services.
- (c) "AICPA" means the American Institute of Certified Public Accountants.
- (d) "Attest" is defined at 26 V.S.A. §13(1)(A).
- (e) "Client" means the person or entity that agrees with a licensee or registered firm to receive professional services.
- (f) "Compilation" is defined at 26 V.S.A. §13(3).
- (g) "Contingent fee" is a fee based on the result of a service. It is a fee obtained pursuant to a specified finding or result attained by the licensee. This definition does NOT include fees set by courts or other public authorities. A court ordered fee based on the results of judicial or government agency proceedings is NOT a contingency fee for purposes of these rules.
- (h) "CPA" means Certified Public Accountant holding a license pursuant to 26 V.S.A. §§71a, 72b, or 74c.
- (i) "CPE" means continuing professional education.
- (j) "Enterprise" means any person or entity, whether organized for profit or not, for which a licensee performs professional services.
- (k) "Examination" means the Uniform Certified Public Accountant Examination.
- (l) "Financial statements" means statements and footnotes related thereto that undertake to present an actual or anticipated financial position as of a point in time, or results of operations, cash flow, or changes in financial position for a period of time in conformity with U.S. generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting tax form schedules.
- (m) "Firm" is defined at 26 V.S.A. §13(5).

- (n) "One year of public accounting experience" means 2,080 hours of employment.
- (o) "Opinion on financial statements" means an opinion expressed in accordance with U.S. generally accepted auditing standards as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental, is in conformity with U.S. generally accepted accounting principles or some other comprehensive basis of accounting.
- (p) "Partner" includes an equity owner of any firm.
- (q) "Partnership" includes any firm.
- (r) "Peer review report" shall be the report, letter of acceptance, and may include at the request of the Board, any letter(s) of comment(s), responses or remedial actions and subsequent follow-ups by the licensee submitted to the individual or the firm by the peer review entity. Acceptable peer review entities include the AICPA, New England Peer Review (NEPR), and other nationally recognized organizations. The Board may accept other organizations that perform peer reviews, but only after Board review. The Board may review any organization that conducts peer reviews.
- (s) "Place of business" means a place that is regularly accessible by customers or clients and functions as a normal business location.
- (t) "Practicing accountant" means a certified public accountant or registered public accountant, including those practicing on a temporary basis from other jurisdictions.
- (u) "Professional services" means any service a licensee performs or offers to perform for a client in the course of the practice of public accountancy.
- (v) "Public bookkeeping" means the rendering of record keeping services, which are not the practice of public accountancy.
- (w) "Report" is defined at 26 V.S.A. §13(13).
- (x) "Review of financial statements" is defined at 26 V.S.A. §13(1)(A)(iii).
- (y) "RPA" means a Registered Public Accountant holding a license.
- (z) "Semester hours" means the conventional college semester hours. Quarter hours may be converted to semester hours by multiplying them by two-thirds.
- (aa) "Standards" means any reference to U.S. Generally Accepted Accounting Principles (GAAP) or other comprehensive bases of accounting, Generally Accepted Auditing Standards (GAAS), and other standards approved for use in the United States of America.

(bb) "V.S.A." means Vermont Statutes Annotated.

PART 3 PROHIBITIONS

3.1 ISSUANCE OF A REPORT

No report as defined herein shall be issued without the firm registration number or temporary registration number appearing somewhere on the report.

3.2 PUBLIC BOOKKEEPING AND TAX SERVICE; SAFE HARBOR LANGUAGE

(a) Nothing in the Act prohibits individuals, partnerships or corporations from rendering public bookkeeping and tax services, including those services specified at 26 V.S.A. §15(3).

(b) The following language may accompany the transmittal of financial information in order to conform with the Act:

(1) (I/we) have prepared as a bookkeeping service the following financial statement(s) [insert name(s) of statement(s)].

(2) (I am/we are) not licensed by the State of Vermont to express an opinion or any other assurance or representation on the financial information transmitted herewith.

PART 4 STATE BOARD OF PUBLIC ACCOUNTANCY

4.1 BOARD MEETINGS

An annual meeting of the Board shall be held each year and other meetings shall be held as deemed appropriate to conduct the business of the Board. Meeting dates are available from the office. The chairperson or any two members have the authority to call meetings of the Board. A majority of the board constitutes a quorum.

4.2 ELECTION AND TENURE OF OFFICERS

At the annual meeting, the Board shall elect from among its members the chairperson, secretary, and other officers the Board may determine appropriate. The officers shall assume their duties at the conclusion of the annual meeting at which they were elected. They shall serve a term of one year, and be eligible for reelection.

4.3 FEES

Application, licensing and renewal fees are established by statute. A current fee schedule may be obtained by writing to the office.

PART 5 INITIAL LICENSE TO PRACTICE

5.1 APPLICATIONS

(a) License applications are processed pursuant to §§ 71a and 72b of the Act. License applicants shall use forms provided by the office. Upon receipt of the licensing fee and all information required of an applicant, the Board shall deem the application “filed.”

(b) Applicants will have 4 years to complete the application process after passing the certified public accountant’s examination.

5.2 RECOGNIZED COLLEGES AND UNIVERSITIES

For purposes of §§ 71a and 72b of the Act, the Board will recognize a two or four year degree-granting college or university in the United States which, at the time the applicant's credits were received, was regionally accredited by bodies approved by the Council on Postsecondary Accreditation and the United States Department of Education; in Canada, held a membership in the Association of Universities and Colleges of Canada; or in other countries, was accredited by the respective official organization having such authority. The Board may recognize other educational experiences in exceptional circumstances.

5.3 STUDIES IN ACCOUNTING, AUDITING AND BUSINESS

Studies in accounting, auditing and business shall include accounting, auditing, and business subjects at the college level, of not less than six semester hours in financial accounting (which shall not include introductory financial accounting courses), three semester hours in auditing, three semester hours in United States income tax, and three semester hours in United States business law. Accounting, auditing, business, and other college level courses may be counted toward the total semester hours required. The Board may allow substitution of courses when an applicant can demonstrate that the course of study undertaken is fully equal to the course of study described above.

5.4 APPLICATIONS FOR EXAMINATION

(a) Applications to take the Examination must be made on a form obtained from the Board or its designee.

(b) Except as provided in subsection (c), an application will not be considered filed until the application fee and examination fee required by the Act and all required supporting documents have been received.

(c) Applicants whose course completion or graduation occurs within sixty days following the examination must file official transcripts not later than 120 days after the examination. Failure to file the required transcripts may void any conditional credit obtained.

(d) An applicant who fails to appear for examination or reexamination shall forfeit the fees charged for the examination or reexamination. Application fees will not be refunded for any reason. Upon request, examination or reexamination fees may be refunded at the Board's discretion for hardship or other just cause.

(e) Each applicant for examination shall submit with his or her application the required identification as required by the Board or its designee for identification purposes at the examination site.

5.6 ETHICAL MANDATE

(a) All candidates shall complete a course of study in professional ethics for accountants equivalent to eight hours of continuing professional education that shall include the AICPA Code of Conduct or Vermont accountancy statutes and rules. In order to qualify under this section, candidates must complete an ethics course within two years of the filing date of the application. *See* Rule 5.1 for when an application is deemed "filed."

(b) A candidate who engages in disorderly conduct or cheating during an examination may be prohibited from applying for reexamination or licensure for a period of five years.

5.7 PASSING GRADES

A passing grade for each subject shall be 75 as determined by a national recognized grading service approved by the Board.

5.8 CONDITIONAL CREDIT FOR SECTIONS OF THE EXAMINATION PASSED

Candidates for computer-based examinations may take each section of the exam individually and in any sequence and will retain credit for any section passed for eighteen months.

5.9 EXPERIENCE IN PUBLIC ACCOUNTING

(a) An applicant shall obtain accounting experience under direct supervision of a certified public accountant or other licensee deemed equal by the National Association of State Boards of Accountancy reciprocity agreements. The experience shall include practical public accounting experience or its equivalent including a reasonable variety of experience.

(b) Public accounting experience shall consist of a portfolio of experience of such non-routine accounting nature that continually requires independent thought and judgment on important accounting matters.

(1) Experience shall consist of the application of United States generally accepted accounting principles (GAAP) and the application of one or more of the following: generally accepted auditing standards (GAAS), standards of accounting and review services (SSARS), standards for accountants' services on prospective financial information, financial forecasts and projections, and other services subject to comprehensive sets of generally accepted professional standards issued by an appropriate standard setting body which the Board determines is equivalent. Examples of work qualifying under this section are:

- i. review and evaluation of internal control policies and procedures;
- ii. testing of compliance with control policies and procedures;
- iii. preparation of working papers in connection with elements of work accomplished;
- iv. planning, revision, or updating of audit programs to be followed;
- v. drafting or reviewing memoranda, conclusions, notes;
- vi. preparation and/or analysis of financial statements and reports;
- vii. performance of procedures for verification of transactions and balances; and
- viii. appropriate analytic review of accounts and comparison to industry data.

(2) Experience may consist of the review and preparation of tax provisions and reserves including research for determination of tax provision and related reserves, research for determination of taxable earnings and profits, reconciliation of book to tax return adjustments, review of tax returns to determine adequacy of income tax reserves, analysis of tax positions taken in making judgments affecting tax provisions and reserves.

(3) Experience may consist of financial statement preparation from the books of account without audit and the preparation of related tax returns; performance of other related services requiring a knowledge of generally accepted accounting principles; tax related activities; review of financial projections; accounting for estates and fiduciaries; preparation of books of original entry, preparation of

payrolls, checks, payroll tax reports, sales or similar tax returns, and posting of subsidiary ledgers.

(4) Experience may consist of design and installation of accounting, cost or other systems, when not related to an extension of auditing assignments and other management advisory services.

(5) If an applicant presents public accounting experience which satisfies the elements contained in 5.9(b)(2), (3), or (4), but not the elements included in 5.9(b)(1), the Board may consider a detailed evaluation of the applicant's portfolio of experience.

(c) Non-public accounting experience shall consist of a portfolio of experience of such non-routine accounting nature that continually requires independent thought and judgment on important accounting matters.

(1) The experience may have resulted in reports which comment on the financial condition and operating results of the agency or organization being audited and should be prepared for an executive function which does not have operating responsibility or control for the organization, department, division, or other entity being reported upon.

(2) The applicant's experience may include:

i. assessing the adequacy of the employer's internal controls by developing an understanding of the employer's transaction streams and information systems;

ii. tax return preparation and research, preparation and analysis of financial statements, cost accounting, budgeting and the application of accounting principles; and

iii demonstrating a working understanding of the industry in which the applicant's employer operates, including the employer's competition and key competitiveness factors that affect the industry.

(3) The Board shall consider whether:

i. the applicant performed work resulting in opinions on financial statements or in reports on financial analyses or accounts;

ii. the applicant participated with an independent auditor who relied on the applicant's work, wholly or partially, in attesting to the entity's finances;

- iii. the applicant performed substantial financial work, compliance work, systems design, or tax accounting;
- iv. any limitations on scope, approach or work were imposed;
- v. significant proportions of work consisted of field work as opposed to desk or office work;
- vi. there was exposure to two or more types of industries;
- vii. the work was of sufficient duration to permit meaningful involvement in the process; and
- viii. the applicant's accounting duties required fiduciary responsibilities, or does the applicant treat accounting related duties as a fiduciary to a third party.

(d) In order to qualify under this section, an applicant must attain the experience within a period beginning four (4) years prior to completing the examination and ending not more than four (4) years after completing the examination . Applications are complete when filed in accordance with Rule 5.1.

5.10 EVIDENCE OF APPLICANT'S EXPERIENCE

- (a) Licensees shall honor any reasonable applicant request to submit evidence to the Board of the applicant's experience.
- (b) Any licensee who has furnished evidence of an applicant's experience to the Board shall upon request by the Board explain in writing or in person the information so provided.
- (c) The Board may require inspection, by the Board or by its designee, of documentation relating to an applicant's experience.
- (d) Proof of experience must be submitted on a form provided by the Board.
- (e) Licensees submitting evidence of an applicant's experience must provide proof of holding a license in good standing as a CPA or equivalent license for the period of supervision.

5.11 ENDORSEMENT

An applicant to practice as a certified public accountant by endorsement must hold a license in good standing as a certified public accountant in a jurisdiction that has licensure requirements substantially equal to Vermont's.

- (a) An applicant by endorsement must provide the Board with a certificate of good standing from each jurisdiction where the applicant is licensed, and one photograph signed on the back before a notary public or similar public official.
- (b) Applicants by endorsement must provide proof of completing a four (4) hour professional ethics course for public accountants that shall include the AICPA Code of Conduct or Vermont accountancy statutes and rules. The ethics course shall be completed within two years of filing the application.
- (c) After review of an application for endorsement, the Board will notify applicants in writing of its decision. If the Board denies a license application, it will inform the applicant of the specific reason(s). The Board will also inform applicants of any appeal rights afforded by Vermont law.
- (d) Meet the requirements of 1 V.S.A. §72b.

PART 6 REGISTRATION OF FIRMS

6.1 APPLICATIONS

- (a) Applications by firms for initial registration pursuant to § 74 of the Act shall be made on a form provided by the Board. Applications will not be considered filed until the applicable fee is received.
- (b) A sole proprietor is considered a firm (See 26 V.S.A. §13(5)) and must apply for a firm registration.
- (c) Applications shall include the firm name, addresses and telephone numbers of the main office and of any branch office(s) of the firm in this state.
- (d) Registrations must be renewed every two years.
- (e) Each firm shall be assigned a firm registration number.

6.2 NOTIFICATION OF CHANGES BY FIRMS

- (a) A firm registered pursuant to these regulations shall file with the Board a written notification of any of the following events within thirty days after its occurrence:
 - (1) any change in the name of the firm;
 - (2) termination of the partnership or corporation;

(3) establishment of a new branch office or the closing or change of address of a branch office in this state; and

(4) the occurrence of any event or events, which would cause such partnership or professional corporation or other entity not to be in conformity with the provision of the Act or these rules.

(b) Within thirty days of a firm changing its legal form, the new firm shall file an application for initial registration in accordance with section 6.1.

PART 7 TEMPORARY REGISTRATION

7.1 TEMPORARY REGISTRATION

(a) Applications for temporary registration pursuant to §74a of the Act shall be made on a form provided by the Board, and accompanied by the appropriate fee.

(b) Each application shall include:

(1) the name and office address of each person who will be engaged in the performance of the engagement in this State.

(2) evidence that each person performing work for the firm is licensed and in good standing in another jurisdiction to practice public accounting;

(3) identification of the professional engagement to be performed pursuant to the temporary permit; and

(4) Applicants performing attest functions within the State of Vermont must provide satisfactory evidence of a peer review in accordance with Rule 10.7.

7.2 TIME LIMITS

Temporary registrations expire three months after issuance. A firm may receive only one temporary registration per calendar year. Practicing more than three months in a calendar year requires licensure by endorsement.

PART 8 RENEWALS and REINSTATEMENT

8.1 APPLICATION FOR RENEWAL OF LICENSURE AND FIRM REGISTRATION

(a) Application for renewal of licensure and firm registrations shall be made on a form provided by the Board.

(b) Licenses renew on a fixed biennial schedule: July 31st of odd-numbered years. Initial licenses issued within 90 days of the renewal date will not be required to renew or pay the renewal fee. The license will be issued through the next full license period. Applicants issued a license more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.

(c) Before the license expiration date, the Office will mail notice of the renewal fee and a renewal application to the address of record. A license will expire automatically if the application and fee are not returned to the office by the expiration date.

8.2. APPLICATION FOR REINSTATEMENT OF LICENSURE AND FIRM REGISTRATION

(a) An expired license or firm registration may be reinstated upon completion of the Board's reinstatement form, meeting all renewal requirements, and payment of all applicable reinstatement and renewal fees.

(b) An applicant whose license has expired for more than ten years must file a new application for licensure and satisfy the initial licensure requirements of the Board or the endorsement requirements of the Board.

8.3 HARDSHIP EXCEPTIONS

The Board may, in its discretion, make exceptions to the requirements for renewal or reinstatement set out in the statute for reasons of individual hardship including health, military service, foreign residence, or other good cause.

PART 9 CONTINUING PROFESSIONAL EDUCATION

9.1 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS FOR RENEWAL OF LICENSES

(a) A licensee seeking regular biennial renewal shall show that he or she has completed no fewer than 80 hours of continuing professional education during the two year period ending on the renewal date on a form provided by the Board (*see* rule 8.1(a)).

(b) A licensee seeking renewal after an initial license period, not by endorsement, shall show that he or she has completed 40 hours of continuing professional education for each full year the license has been held during the two year period preceding renewal.

(c) An applicant whose license has lapsed at the time of application for renewal shall have completed the continuing professional education hours required during the lapsed two year period immediately preceding the date of application for reinstatement.

(d) An applicant may carryover from one biennium a maximum of ten continuing professional education hours. The carryover hours cannot be the required eight hours of auditing and accounting or the four hours of ethics.

(e) In fulfilling these requirements, licensees must successfully complete at least four hours of continuing education in the subject area of ethics for accountants.

(f) Licensees must successfully complete at least eight hours of continuing education in the subject area of accounting and auditing.

9.2 PROGRAMS QUALIFYING FOR CONTINUING PROFESSIONAL EDUCATION CREDIT

(a) Standards - A program meets board qualifications if it is a formal course of learning, which contributes to the growth of professional knowledge, skills, and abilities in the practice of public accountancy, and meets the minimum standards of quality of development and presentation and of measurement and reporting of credits set forth in the National Registry of CPE Sponsors published by the National Association of State Boards of Accountancy or similar educational standards as may be established from time to time by the Board.

(b) Subject Areas - Acceptable programs may deal with the following general subject areas:

- (1) accounting and auditing;
- (2) taxation;
- (3) management;
- (4) information technology;
- (5) ethics;
- (6) mathematics, statistics, probability and quantitative applications in business;
- (7) economics;
- (8) business law;
- (9) functional fields of business, including finance, production, marketing, personnel relations, and business management and organization; and
- (10) specialized areas of industry (film industry, real estate, farming, etc.).

Subjects other than those listed above may be acceptable if the applicant can demonstrate that they contribute to his or her professional competence as a CPA. The responsibility for demonstrating that a particular program is acceptable rests solely upon the applicant.

(c) Group Programs - Group programs such as the following are acceptable so long as they meet the standards specified in subsection (a) and deal with subjects referred to in subsection (b):

- (1) Professional education and development programs of national, state and local accounting organizations;
- (2) Technical sessions at meetings of national, state and local accounting organizations and their chapters;
- (3) University or college courses, both credit and non- credit;
- (4) Formal in-firm education programs;
- (5) Programs of other organizations (accounting, industrial, professional, etc.);
- (6) Committee meetings of professional societies, which are structured as formal educational programs;
- (7) Dinner, luncheon and breakfast meetings, which are structured as formal educational programs; and
- (8) Firm meetings for staff or management groups, which are structured as formal education programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify; but portions devoted to firm administrative, financial and operating matters generally will not qualify.

(d) Credit - Continuing professional education credit will be given for whole hours only, with a minimum of fifty minutes constituting one hour. As an example, one hundred minutes of continuous instructions would count as two hours; however, more than fifty minutes but less than one hundred minutes of continuous instruction would count only as one hour. Only time spent in instruction, and not preparation time, will be credited. For university or college courses, each semester hour of credit shall equal fifteen hours toward the requirement, and a quarter hour of credit shall equal ten hours.

(e) Correspondence and Formal Individual Study Programs - The amount of credit to be allowed for correspondence and formal individual study programs (including taped study programs) will be that which is recommended by the program sponsor. Applicants claiming credit for such correspondence or formal individual study courses are required

to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed.

(f) Instructor, Discussion Leader, or Speaker - Applicants who have served as instructors, discussion leaders, and speakers at programs coming under subsections (a), (b) and (c) may claim continuing professional education credit for both preparation and presentation time. Credit may be claimed for actual preparation time up to two times the program or class contact hours. The maximum credit for such preparation and teaching is fifty percent of the applicable renewal period requirement. Credit may be claimed only once, unless the program or course has changed substantially. The responsibility for demonstrating that a particular program or course has changed rests solely upon the applicant.

(g) Published Articles, Books - Credit toward the continuing professional education requirement may be claimed for published articles and books, provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be claimed on a self- declaration basis for up to twenty-five percent of the renewal period requirement. In exceptional circumstances, a licensee may request additional credit by submitting the article(s) or book(s) to the Board with an explanation of the circumstances which justify a greater allowable credit. The amount of credit awarded for a given publication will be determined at the Board's discretion.

9.3 CONTINUING PROFESSIONAL EDUCATION RECORDS

(a) Applicants for renewal of licenses shall file with their applications a signed statement affirming that they have completed the required continuing professional education programs.

(b) Responsibility for documenting the acceptability of the program, completion of the hours and the validity of the credits rests with the applicant. Licensees must retain the documentation for a period of five years after the completion of the program. Documentation may consist of the following:

(1) Copy of the course outline prepared by the course sponsor along with the following information:

- (i) sponsoring organization;
- (ii) location of program;
- (iii) title of program or description of content;
- (iv) dates attended; and
- (v) hours completed.

- (2) For courses taken for scholastic credit in accredited universities and colleges, evidence of satisfactory completion of the course is sufficient; for non-credit courses, a statement of the hours of attendance signed by the instructor is required.
- (3) Formal individual study programs require documented evidence of completion.
- (c) The Board will randomly verify information submitted by applicants. If the Board determines an applicant did not meet the requirement it may, for cause shown, grant additional time to cure deficiencies prior to taking further action.

PART 10 PROFESSIONAL CONDUCT

10.1 INTRODUCTION

- (a) The professional conduct rules are promulgated pursuant to 26 V.S.A. § 54(b)(2), which delegates to the Board the authority and duty to adopt rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy. These rules of conduct are in addition to the laws governing professional conduct at 3 V.S.A. §129a.
- (b) The rules of conduct are based on the premise that the general public has a right to rely upon the professional competence that inheres to the use of a legally restricted title relating to the practice of public accountancy.
- (c) Acceptance of licensure to engage in the practice of public accountancy requires the licensee to abide by the laws governing the practice of the profession.
- (d) The rules of conduct apply to all professional accountancy services.
- (e) A licensee practicing public accountancy outside the United States shall conform to the standards of professional conduct applicable to the practice of public accountancy in the country where the licensee is practicing. If a licensee's foreign practice reasonably implies to clients conformity with United States conduct standards, the licensee shall comply with these rules of conduct.

10.2 INDEPENDENCE

A licensee shall not perform attest services unless the licensee is exercising independent judgment. The Board considers a licensee's independence to be impaired if a licensee fails to follow the current AICPA Code of Conduct, PCAOB, the Government Accountability Office standards or Securities and Exchange Commission's standards.

10.3 INTEGRITY AND OBJECTIVITY

A licensee shall not knowingly misrepresent facts or subordinate his or her judgment to others. In tax practice it shall not be unprofessional conduct for a licensee to resolve doubt in a client's favor based on reasonable support for the position.

10.4 COMMISSIONS

To help insure the public receives independent judgment, licensees shall not accept or pay commissions in the following circumstances:

(a) Licensees shall not recommend or refer to a client any product or service for a commission and licensees shall not receive a commission for recommending or referring any product or service supplied by a client when the licensee also performs for that client:

(1) an audit or review of a financial statement; or

(2) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(3) an examination of prospective financial information.

(b) The prohibition on commissions applies during the period in which the licensee is engaged to perform any professional service listed in this section, and the period covered by any historical financial statement related to a professional service listed in this section.

(c) A licensee who is not prohibited from receiving a commission, and who is paid or expects to be paid a commission, shall disclose this fact to any person the licensee recommends or refers a product or service that may generate a commission.

(d) If a licensee *accepts* a referral fee for recommending professional services, the licensee shall disclose this to any client who is the subject of a referral fee. If a licensee *pays* a referral fee to obtain a client, the licensee shall disclose the fee to any client who is the subject of a referral fee.

10.5 CONTINGENT FEES

(a) Licensees may not work for or receive a contingency fee for any professional service rendered to a client for whom the licensee or the licensee's firm performs:

(1) an audit or review of a financial statement; or

(2) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(3) an examination of prospective financial information.

(b) Licensees may not receive contingency fees for preparing an original or amended tax return or claim for a tax refund for any client.

(c) The prohibition on contingency fees applies during the period in which the licensee is engaged to perform any professional service listed in this section, and the period covered by any historical financial statement related to a professional service listed in this section.

10.6 INCOMPATIBLE OCCUPATIONS

A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation that impairs the licensee's independence or objectivity in rendering professional services.

10.7 PEER REVIEW

(a) If no attest services were performed by a firm within the meaning of the Act, then no peer review is required. A firm must state to the Board, under penalty of perjury, that no reports within the meaning of the Act were issued during the immediately preceding three years. Each application for renewal or reinstatement under Part 8 of these rules by a firm required to participate in a peer review program shall include an attestation that the firm, within the three years immediately preceding the application, had been subjected to a peer review conducted in accordance with a peer review program approved by the Board, except for a firm subject to its initial peer review as defined by Rule 10.7(e).

(b) Such peer review reports are exempt from disclosure to the public under 1 V.S.A. §317(b)(3) and (b)(6), except in cases of continuing deficiencies and noncompliance as described below.

(c) Each firm required to participate in a peer review program shall continue participating in a peer review program until the firm or its successor in interest has, for a period of at least one year outside of its peer review year, not performed any attest services and has no intention to do so in the foreseeable future. A peer review report and letter of acceptance shall be submitted to the Board no later than 30 days of receipt from the peer review entity.

(d) Any firm that receives a report with a rating of pass with deficiency(ies) or fail (formerly a qualified or adverse report) shall abide by the peer review entity's required follow-up action(s) recommendations, including fulfilling such follow-up action(s) recommendations within the time frame established by the peer review entity, and subsequently obtain a final peer review acceptance letter from the peer review entity. A peer review shall not be considered by the Board to be complete until the final letter of acceptance has been issued by the peer review entity. Such final letter of acceptance shall indicate the new due date of the firm's next peer review.

(e) Within 30 days of first performing an attest service, a firm shall notify the board in writing and provide proof of enrollment in a peer review program that meets the requirements of this part. Failure to comply with the peer review requirements of this part shall subject the firm to disciplinary action by the board in accordance with 26 V.S.A. §78. Within 18 months of the year-end date of the report on the attest engagement the firm first agrees to undertake, the firm shall undergo a peer review. Within 28 months of the year-end date of the report on the engagement the firm first agrees to undertake for a service listed above, the firm shall furnish to the Board a peer review final acceptance letter. If a firm is unable to furnish a final acceptance letter within 28 months of being issued a report with a rating of pass with deficiency(ies) or fail (formerly a qualified or adverse report), the firm shall, within the 28 month period, provide to the board an accept-provided-that letter, describing required follow-up actions and their due date, from the peer review entity. If the final letter of acceptance has not been issued as of the date the CPA firm files a firm registration, renewal or reinstatement form, the status of the peer review in process, as is within confidentiality requirements, must be obtained from the peer review entity and submitted with the firm registration, renewal or reinstatement form or if the firm is unable to furnish a final acceptance letter due to being issued a report with a rating of pass with deficiency(ies) or fail (formerly a qualified or adverse report), the firm shall provide to the board an accept-provided-that letter, describing required follow-up actions and their due date, from the peer review entity.

(f) In the case of an individual associated with a firm, the individual will be covered by the firm peer review.

(g) Such reports shall not be used to initiate a disciplinary action against a licensee or firm unless the deficiency is found to continue after due notice to the licensee or firm. Due notice means the Board has received a report, or reports, of a firm which are substandard; that correspondence has been provided by the peer review entity detailing the deficiencies; that the firm has had an opportunity to respond to the correspondence; and that after such response by the firm the peer review entity directs the firm to take corrective action and the firm does not or refuses to take the corrective action. Such corrective action recommended by the peer review entity is a recommendation only and the Board, if it desires to enforce the peer review entity's recommendations, must then initiate an investigation or disciplinary proceeding in accordance with these rules.

10.8 CONFIDENTIAL CLIENT INFORMATION; RETENTION OF RECORDS

(a) A licensee shall treat any information obtained from a client confidentially. A licensee shall not disclose, without the consent of the client, any information pertaining to his or her client obtained in the course of performing professional services. If a licensee receives a subpoena or other judicial process seeking a client's information, the licensee has an obligation to immediately notify the client and cooperate with any lawful and good faith effort of the client to prevent disclosure of the client's information.

(b) In addition to all legal and contractual provision governing specific engagements licensees shall retain records for no less than five years from the date of completion of the

engagement. Records shall include work papers and other documents that contain conclusions, opinions and analyses or financial data related to the engagement.

10.9 ACTING THROUGH OTHERS

A licensee shall not delegate any task that, if performed by the licensee, would violate the statutes or rules governing the practice of public accountancy.

10.10 ADVERTISING

(a) A licensee shall not use or permit advertising that contains false, fraudulent, misleading, deceptive or unfair statements or claims. False, fraudulent, misleading, deceptive or unfair statements or claims include:

- (1) Misrepresentations of fact;
- (2) Failure to make full disclosure of relevant facts;
- (3) Statements intended or likely to create false expectations of favorable results;
or
- (4) Any representation an ordinarily prudent person will likely misunderstand, cause them to be deceived or which the licensee reasonably believes will lead to misunderstanding or deception.

(b) Any licensee performing professional services on-line or offering to perform professional services on-line shall prominently display for clients and potential clients:

- (1) the licensee's name, firm name and firm registration number;
- (2) the licensee's principal place of business;
- (3) the licensee's business phone number;
- (4) a statement that the individual holds a Vermont license; and
- (5) a link to the Office of Professional Regulation's Website at <http://vtprofessionals.org> or its successor or updated site URL.

(c) Any direct personal communication or solicitation related to professional services must comply with the advertising guidelines set forth in section (a).

10.12 MISLEADING FIRM NAMES

(a) A licensee may not use a misleading firm name.

(b) Firm names that are misleading include, but are not limited to:

(1) A name that falsely implies the existence of a corporation when the firm is not a corporation (for example: by using abbreviations such as "P.C." or "P.A."); or

(2) A firm name that falsely implies the existence of a partnership when there is not a partnership (for example: "Smith & Jones, C.P.A.s").