

CHAPTER 1100
BOARD OF ACCOUNTANCY
LICENSING RULES

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1100.0100 DEFINITIONS.

Subpart 1. **Board.** "Board" means the Minnesota Board of Accountancy.

Subp. 2. **CPA.** "CPA" means certified public accountant.

Subp. 3. **Certificate.** "Certificate" means a certificate for a CPA or LPA issued by the board.

Subp. 4. **Contested case.** "Contested case" means a proceeding before the board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing.

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Subp. 5. **In public practice and rendering professional service.** "In public practice" and "rendering professional service" mean:

A. when used in reference to a CPA or LPA, that he individually or as an employer performs professional accounting services for a fee within this state;

B. when used in reference to a CPA partnership or LPA partnership, that it performs professional accounting services for a fee within this state;

C. when used in reference to a CPA corporation or LPA corporation, that it performs professional accounting services for a fee within this state.

Subp. 6. **LPA.** "LPA" means licensed public accountant.

Subp. 7. **License.** "License" means a license for a certified public accountant or licensed public accountant issued by the board.

Subp. 8. **Party.** "Party" means any person whose legal rights, duties, or privileges may be determined in a contested case. The term "party" shall include the board except when the board participates in the contested case in a neutral or quasi-judicial capacity only.

Subp. 9. **Person.** "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or any government or governmental subdivision, unit, or agency, other than a court of law.

Statutory Authority: *MS s 326.18*

1100.0200 INTERPRETATION OF RULES.

Subpart 1. **Interpretation in accord with Minnesota Statutes.** Except as otherwise specifically provided, these rules shall be interpreted in accordance with the provisions of Minnesota Statutes 1974, chapter 645.

Subp. 2. **Interpretation powers of board.** Nothing contained in these rules shall be deemed to prohibit or limit in any way the exercise by the board of powers granted to it by Minnesota Statutes, sections 319A.01 to 319A.22; 326.17 to 326.23; 326.53; and 214.001 to 214.12.

Subp. 3. **References to foreign accountancy boards.** References to the accountancy board of another state shall include appropriate boards of the territories of the United States and the District of Columbia.

Statutory Authority: *MS s 326.18*

1100.0300 ADOPTION OF RULES.

All rules of the board shall be adopted in the manner prescribed by Minnesota Statutes, chapter 14 and the rule hearing procedures of the Office of Administrative Hearings.

Statutory Authority: *MS s 326.18*

1100.0400 CONTESTED CASES.

All contested cases before the board shall be conducted in accordance with Minnesota Statutes, chapter 14 and the contested case procedures of the Office of Administrative Hearings.

Statutory Authority: *MS s 326.18*

1100.0500 SERVICE.

When required by parts 1100.0100 to 1100.7900, service shall be by first class United States mail, postage prepaid and addressed to the person at his last known address, unless some other manner of service is required by law.

Statutory Authority: *MS s 326.18*

1100.0600 COMMUNICATIONS WITH BOARD.

All communications should be addressed to "Secretary of the Minnesota Board of Accountancy."

Statutory Authority: *MS s 326.18*

1100.0700 APPLICATION FOR CERTIFICATION.

Subpart 1. **Compliance.** The requirements of subparts 2 and 3 are to be observed in submitting applications to the board for examination and reexamination for the certificate as certified public accountant and reciprocal certificate as certified public accountant.

Subp. 2. **Form.** Such applications must be submitted on a form provided by the board and in the case of a nonresident supported by a statement of the applicant's need for a Minnesota certificate.

Subp. 3. **Fee.** Such applications must be accompanied by the appropriate fee as hereinafter provided in the form of money order or check payable to "Treasurer, State of Minnesota."

Statutory Authority: *MS s 326.18*

1100.0800 DEFERRAL OF APPLICATION.

Applications for CPA examination or reexamination not reaching the board 60 or more days prior to the initial examination date may, at the board's discretion, be deferred for consideration for a subsequent examination.

Statutory Authority: *MS s 326.18*

1100.0900 EXPIRATION OF APPLICATION.

An application for CPA examination or reexamination shall expire five years from the date of the board's approval to sit for the initial examination. Once expired, the board may refuse to consider a new application or may require the applicant to be reexamined in all subjects.

Statutory Authority: *MS s 326.18*

1100.1000 EDUCATION REQUIREMENTS FOR CPA APPLICANTS.

Subpart 1. **High school graduation or equivalent.** An applicant must be a graduate of an accredited high school or possess an equivalent education. At the discretion of the board, an applicant not graduated from high school may be required to take the prescribed high school equivalency test given by the University of Minnesota.

Subp. 2. **Accounting major.** The credits from an accredited college or university constitute a major in accounting:

A. accounting and business law (includes financial, managerial, taxation, auditing, data processing, etc.), 24 semester hours, 36 quarter hours;

B. business, may include accounting and business law not listed in item A (Economics and mathematics may be classified as business or non-business. Not all courses of one discipline need be placed in the same category.), 24 semester hours, 36 quarter hours;

C. non-business, 48 semester hours, 72 quarter hours;

D. business or non-business, 24 semester hours, 36 quarter hours;

E. for a total of 120 semester hours, and 180 quarter hours.

Subp. 3. **Exemption from accounting degree.** Applicants who are currently registered in their final quarter or semester preceding graduation and who will be receiving a baccalaureate degree with a major in accounting or a higher accounting degree at that graduation will be permitted to sit for the examination. They will be considered for this purpose as having attained the degree and will qualify in the category of the degree to be attained. The applicant must submit an official transcript from the college he is attending and a statement by the college or university that he is enrolled in his final quarter or semester. A final

official transcript showing degree and date awarded must be submitted to the board before the examination grades are released to the candidate.

Statutory Authority: *MS 326.18*

1100.1100 QUALIFYING EXPERIENCE FOR CPA EXAMINATION AND GRANTING OF LICENSE FOR CPA AND LPA.

Subpart 1. **Intent.** It is the intent of this requirement that the applicant should have had practical public accounting experience of reasonable variety and importance, requiring independent thought and judgment on important accounting, auditing, and income tax matters, consistent with the competence generally expected of a certified public accountant or licensed public accountant.

Subp. 2. **Measuring experience.** Experience recognized by the board will ordinarily be measured on the basis of calendar months and days worked by the applicant as a full-time employee on the staff of a certified public accountant or public accountant.

Subp. 3. **Part-time work.** Part-time work in public accounting (regularly less than five working days per week, or less than a normal working day) will not be recognized unless unusual circumstances and conditions of such part-time employment or practice justify recognition as qualifying experience. Credit for recognized part-time work will be allowed in proportion to normal working time.

Subp. 4. **Qualifying governmental experience.** Qualifying governmental accounting experience may have been gained through employment in one or more of the following capacities:

A. as an examiner or supervising examiner in the office of legislative auditor or state auditor of the state of Minnesota, or in substantially identical offices of other governmental bodies, engaged in examining the books, records, accounts, and affairs of state or local governments or their instrumentalities;

B. as a field examiner or supervising examiner of federal or state tax agencies, engaged in examining the books, records, accounts, and documents of taxpayers for the purpose of verifying financial data contained in income tax returns;

C. as an auditor or examiner with any other agency of government if the experience is at least as comprehensive and diversified as that described in items A and B.

The burden rests with the applicant to demonstrate to the board that other governmental experience should be recognized as qualifying. A written statement should be filed with the board, giving a complete description of the purposes, work standards, and procedures of any position believed to be qualifying. It is desirable that this statement be provided by a responsible administrative officer of the applicable governmental unit.

Statutory Authority: *MS s 326.18*

1100.1200 APPEARANCE BEFORE THE BOARD.

An applicant, when requested, must appear before the board to answer any questions or produce any evidence to sustain such facts as may be necessary to determine his qualifications as prescribed by the law and rules of the board.

Statutory Authority: *MS s 326.18*

1100.1300 EXAMINATIONS FOR CPA APPLICANTS.

Subpart 1. **Standardized tests.** The examination shall consist of written tests provided by the examination service of the American Institute of Certified Public Accountants, which presently include auditing, commercial law, accounting theory, and accounting practice.

Subp. 2. **Professional ethics.** A written examination on professional ethics is required before issuance of a certificate. A grade of at least 75 percent is required to pass this examination.

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Subp. 3. **Additional oral session.** In addition, an oral examination and attendance at a lecture or discussion session may be required covering questions on professional qualifications, experience, general knowledge relating to accountancy, fitness as an accountant, and professional ethics.

Subp. 4. **Dates.** The dates of examination are those selected by the institute and correspond with the dates of the examination in the other states.

Subp. 5. **Notice.** Ample notice will be given to each applicant of the time and place selected for holding the examination.

Subp. 6. **Attendance.** Each applicant must be present and prepared to engage in the work promptly at the hours appointed. An applicant who is unable to be present must notify the board as soon as reasonably possible. Failure to do so will be considered, at the discretion of the board, just cause for exclusion and forfeiture of the amount of the fee. An applicant who is unable to be present at the examination for which his application was approved shall notify the board at least 60 days prior to a subsequent examination to which he desires to be admitted and furnish current information on forms provided by the board.

Subp. 7. **Examination in other states.** An applicant required to be temporarily out of the state on the date of the examination may request the Minnesota board to arrange to have his examination monitored by the accountancy board of another state.

Subp. 8. **Cheating.** Cheating on the examination is conduct unbecoming to a professional person and upon discovery will incur severe penalties. Instances of cheating during the course of the examination may include, but shall not be limited to:

- A. communications between candidates inside or outside of the examination room;
- B. copying another's answers;
- C. communication with others outside of the examination room;
- D. substitution by a candidate of another person to sit in the examination room in his stead and write one or more of the examination papers for him; or
- E. use of crib sheets, notes, or other unauthorized materials.

Penalties imposed for cheating may include the following: grade of zero on the examination, immediate expulsion from the examination room, and temporary or permanent suspension of the candidate's right to take the examination again.

Subp. 9. **Passing grade.** To pass an examination an applicant must receive a grade of at least 75 percent in each of the subjects covered by the examination.

Subp. 10. **Issuance of certificate.** Where an applicant has passed the examination, a certificate as certified public accountant shall be issued to him without an additional fee. Such certificate shall indicate that this certificate is not a license to practice.

Statutory Authority: *MS s 326.18*

1100.1400 CPA REEXAMINATIONS.

Subpart 1. **Applicants who fail all subjects.** An applicant who fails all subjects shall not be allowed to sit for reexamination at the next examination and must show proof of further study in order to sit for subsequent examinations.

Subp. 2. **Applicants who pass two subjects.** An applicant having passed two of the subjects given in the written examination and received no grade less than 50 in the subjects failed shall be reexamined only in the subjects in which he failed.

An applicant for reexamination pursuant to this subpart must pass the remaining subjects within the next five examinations given by the board or be reexamined in all subjects.

Subp. 3. Applicants who pass three subjects. An applicant having passed three of the subjects shall be reexamined only in the subject in which he failed.

Subp. 4. Application. An applicant for reexamination must apply for reexamination in all failed subjects.

Statutory Authority: *MS s 326.18*

1100.1500 RECIPROCITY WITH OTHER STATES.

Subpart 1. Reciprocity of privileges. Ordinarily a reciprocal CPA certificate will not be granted unless the state of origin grants similar privileges to holders of Minnesota certificates and the applicant conforms to all requirements which would be imposed by the state of origin upon the holder of a Minnesota CPA certificate seeking reciprocal recognition in that jurisdiction.

Subp. 2. Application. An applicant who has passed two or more parts of the uniform examination under the jurisdiction of the accountancy board of another state may request that the board recognize and adopt said passing grades. The request shall be granted if, in the opinion of the board, the applicant satisfied all of the qualifications which would have been required had he made application to the board on the date of his original application to the other accountancy board.

Statutory Authority: *MS s 326.18*

1100.1600 RECIPROCITY STATEMENT OF NEED.

Application for a reciprocal CPA certificate must be supported by a statement of the applicant's need for a Minnesota certificate.

Statutory Authority: *MS s 326.18*

1100.1700 FOREIGN CERTIFICATE AND DEGREE HOLDERS.

An individual who holds a certificate or degree of CPA, chartered accountant, or the equivalent thereof issued by a foreign government or recognized authority therein will not be eligible to have the examination waived unless he meets all the requirements set forth in Minnesota Statutes, section 326.19, subdivision 3 and part 1100.1500, subpart 1 for a CPA of another state, and in addition, demonstrates to the satisfaction of the board a fluency of language and a familiarity with accounting, auditing, and business practice in the United States which will enable him to perform with the competence and insight of a person permitted to style himself a CPA.

Statutory Authority: *MS s 326.18*

1100.1800 APPEARANCE TO OBTAIN WAIVER OF EXAMINATION.

Whenever the board cannot determine from documents presented to it whether an individual possesses the qualifications prescribed by law and these rules as necessary to permit waiver of the examination, the board may require the individual to appear personally to answer questions and present evidence which will permit the board to determine his qualifications.

Statutory Authority: *MS s 326.18*

1100.1900 LICENSURE REQUIREMENT FOR CPA'S AND LPA'S.

Each individual holder of an unrevoked Minnesota certificate or license as a certified public accountant or licensed public accountant who engages in or intends to be engaged in the practice of public accounting within the state of Minnesota during all or part of a calendar year is required to apply for and obtain from the board an annual license for that year. The application for the annual license and the appropriate fee shall be submitted to the board within 30

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days after engaging in public practice in any year.

Statutory Authority: *MS s 326.18*

1100.2000 NOTICE OF LICENSING REQUIREMENTS; RESPONSIBILITY FOR APPLICATION AND FEE.

Each November the board will notify each current licensee of the licensing requirements for the succeeding year. However, it is the responsibility of each licensee in public practice to apply for a license and pay the appropriate fee.

Statutory Authority: *MS s 326.18*

1100.2100 LICENSE APPLICATIONS.

The following requirements are to be observed in making applications for annual license issued to an individual holder of a Minnesota certificate. Applications must be submitted on a form provided by the board. Applications must be accompanied by the appropriate fee hereinafter provided in the form of money order or check payable to "Treasurer, State of Minnesota."

Statutory Authority: *MS s 326.18*

1100.2200 FAILURE TO APPLY AND PAY FEE.

Failure to apply for license and pay the appropriate fee by a CPA or LPA at the beginning of the year in public practice shall be deemed unprofessional conduct and may be cause for suspension or revocation of his certificate.

Statutory Authority: *MS s 326.18*

1100.2300 GRANTING OF LICENSES.

A license shall be granted to any person who meets the requirements of Minnesota Statutes, section 326.19, subdivision 2 as a certified public accountant or Minnesota Statutes, section 326.191 as a licensed public accountant who applies for licensure on forms provided by the board.

Statutory Authority: *MS s 326.18*

1100.2400 LICENSE DISPLAY.

The annual license granted by the board to a licensee shall be prominently displayed in the principal office of the licensee.

Statutory Authority: *MS s 326.18*

1100.2500 LICENSING FOR PARTNERSHIPS.

Each partnership consisting of one or more partners holding unrevoked Minnesota certificates and licenses which engages in or intends to be engaged in the practice of public accounting within the state of Minnesota during all or part of a calendar year is required to apply for and obtain from the board an annual license for that year. The application for license and the appropriate fee shall be submitted to the board within 30 days after engaging in public practice in any year.

Statutory Authority: *MS s 326.18*

1100.2600 NOTICE OF PARTNERSHIP'S REQUIREMENTS; RESPONSIBILITY FOR APPLICATION AND FEE.

Each November the board will notify each currently licensed partnership of the licensing requirements for the succeeding year. However, it is the responsibility of each partnership in public practice to apply for a license and pay the appropriate fee as provided in part 1100.3600, subpart 2.

Statutory Authority: *MS s 326.18*

1100.2700 PARTNERSHIP'S LICENSURE APPLICATION.

The following requirements are to be observed in making application for an annual license issued to a partnership. Applications must be submitted on a form provided by the board. Applications must be accompanied by the appropriate fee as provided in part 1100.3600, in the form of a money order or check payable to "Treasurer, State of Minnesota."

Statutory Authority: *MS s 326.18*

1100.2800 PARTNERSHIP'S FAILURE TO APPLY OR PAY FEE.

Failure to apply for a license and pay the appropriate fee as provided in part 1100.3600, subpart 2 by a partnership in public practice shall be deemed unprofessional conduct and may be cause for suspension or revocation of the certificates and licenses of the partnership and of each individual partner.

Statutory Authority: *MS s 326.18*

1100.2900 LIMITATIONS ON CORPORATE NAME.

A corporation shall not include the words "certified public accountant," "licensed public accountant," or the initials CPA or LPA in its corporate name.

Statutory Authority: *MS s 326.18*

1100.3000 CORPORATION'S LICENSE APPLICATION.

An application for license must be made on the form provided by the board and must be accompanied by a copy of the articles of incorporation and first annual report.

Statutory Authority: *MS s 326.18*

1100.3100 FIRST ANNUAL REPORT.

The first annual report must be accompanied by a fee of \$100 payable to the "Treasurer, State of Minnesota" and shall include the following:

- A. the name and address of each shareholder and each officer and director;
- B. a statement under oath whether or not all shareholders, directors, officers, employees, and agents rendering professional service in this state on behalf of the corporation are licensed by this state or otherwise authorized to render such professional service;
- C. proposed bylaws; and
- D. proposed agreement for buy and sell arrangements among the shareholders except if the corporation has only one shareholder (see part 1100.3400 for admittance of a second shareholder).

Statutory Authority: *MS s 326.18*

1100.3200 NOTICE OF CORPORATION'S LICENSE REQUIREMENTS; RESPONSIBILITY FOR FILING AND FEE.

Each November the board will notify each current corporate licensee of the requirement of the annual report for the succeeding calendar year. However, it is the responsibility of each corporate licensee to file the annual report, apply for annual license renewal, and pay the fee of \$25.

Statutory Authority: *MS s 326.18*

1100.3300 CORPORATION'S FAILURE TO APPLY.

Failure to apply for license renewal, file an annual report, and pay the annual license fee shall be deemed unprofessional conduct and may be cause for suspension or revocation of the certificate and license of the corporation and its officers, directors, and stockholders licensed to practice in this state.

Statutory Authority: *MS s 326.18*

1100.3400 ADMITTING ADDITIONAL STOCKHOLDER.

Before admittance of a second or additional stockholder to a corporation, the proposed written agreement binding stockholders to purchase any share offered for sale by a qualified stockholder must be submitted for the board's approval. See part 1100.3100, item B.

Statutory Authority: *MS s 326.18*

1100.3500 LICENSE RENEWAL AND CONTINUING EDUCATION.

To renew an unexpired license, a certificate holder or registrant shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed, and give evidence to the board that he has complied with the continuing education provisions.

Statutory Authority: *MS s 326.18*

1100.3600 FEES.

Subpart 1. **Application fees other than annual license fees.** Applications shall be accompanied by fees in the following amounts:

A. Application for certified public accountant examination by first time applicants, \$100.

B. Application for certified public accountant reexamination in failed subjects, \$25 per subject but not in excess of \$100. Accounting practice is considered to be two subjects. Part 1100.1400, subpart 4 provides that applicants must apply for reexamination in all failed subjects.

C. Application for reciprocal certificate and license for certified public accountant, \$75.

D. Application for certificate and license for licensed public accountant, \$75.

E. Application for reciprocal certificate and license for licensed public accountant, \$75.

Subp. 2. **Annual license fees.** Annual license fees shall be as follows: individuals, \$20, and partnerships, \$25.

Subp. 3. **Refunding fees.** Fees shall be refunded if an application is rejected. Once an application for examination or reexamination has been approved by the board, the fee will not be refunded. Such fee may be applied to any future examination fee at any time during a period of five years after approval of the application, after which the fee shall be forfeited.

Subp. 4. **Prorating fees.** License fees pertain to a calendar year and shall not be prorated.

Statutory Authority: *MS s 16A.128; 214.06; 326.17; 326.18*

History: *9 SR 693*

1100.3700 REVOCATION AND SUSPENSION OF CERTIFICATES AND LICENSES.

Subpart 1. **Conduct.** All revocation and suspension proceedings shall be conducted in accordance with Minnesota Statutes, chapter 14 and the contested case procedures of the Office of Administrative Hearings.

Subp. 2. **Grounds.** Failure to comply with the code of professional conduct, parts 1100.3800 to 1100.6300, shall be deemed unprofessional conduct and may be grounds for revocation or suspension of a certificate and license.

Statutory Authority: *MS s 326.18*

CODE OF PROFESSIONAL CONDUCT

1100.3800 DEFINITIONS.

Subpart 1. **Scope.** The definitions in subparts 2 to 12 of terminology are applicable wherever such terminology is used in parts 1100.3800 to 1100.6300 and interpretations.

Subp. 2. **Board.** "Board" means the Minnesota Board of Accountancy.

Subp. 3. **Certified public accountant; licensee.** "Certified public accountant" or "licensee" means a person holding such certificate or license issued under the accountancy law of Minnesota.

Subp. 4. **Client.** "Client" means the person or entity which retains a certified public accountant or his firm or a licensed public accountant or his firm, engaged in the practice of public accounting, for the performance of professional services.

Subp. 5. **Enterprise.** "Enterprise" means any person or entity, whether organized for profit or not, for which a CPA or LPA provides services.

Subp. 6. **Firm.** "Firm" means a partnership or professional corporation or association engaged in the practice of public accounting, including individual partners or shareholders thereof.

Subp. 7. **Financial statements.** "Financial statements" means statements and footnotes related thereto that purport to show financial position which relates to a point in time or changes in financial position which related to a period of time, and statements which use cash or other incomplete basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of changes in financial position, and statements of changes in owners' equity are financial statements.

Incidental financial data included in management advisory services reports to support recommendations to a client, and tax returns and supporting schedules do not, for this purpose, constitute financial statements; and the statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such opinion.

Subp. 8. **Institute.** "Institute" means the American Institute of Certified Public Accountants.

Subp. 9. **Interpretations of rules of professional conduct.** "Interpretations of rules of professional conduct" means pronouncements issued by the Division of Professional Ethics to provide guidelines as to the scope and application of the code of professional conduct.

Subp. 10. **Licensed public accountant; licensee.** "Licensed public accountant" or "licensee" means a person holding such certificate or license issued under the accountancy law of Minnesota.

Subp. 11. **Practice of public accounting.** "Practice of public accounting" means holding oneself out to be a CPA or LPA and at the same time performing for a client one or more types of services rendered by public accountants.

Subp. 12. **Professional services.** "Professional services" means one or more types of services performed in the practice of public accounting.

Statutory Authority: *MS s 326.18*

1100.3900 COMPLIANCE WITH CODE OF PROFESSIONAL CONDUCT.

In practice of accounting and in rendering professional accounting services a CPA and LPA shall adhere to the code, parts 1100.3800 to 1100.6300.

Statutory Authority: *MS s 326.18*

1100.4000 AUTHORITY FOR RULES.

Parts 1100.3800 to 1100.6300 are adopted under the authority granted by Minnesota Statutes, section 326.18 which delegates to the board the power and duty to make rules of professional conduct.

Statutory Authority: *MS s 326.18*

1100.4100 RATIONALE FOR RULES.

The reliance of the public and the business community on sound financial reporting and advice on business affairs imposes on the accounting profession an obligation to maintain high standards of technical competence, morality, and integrity. To this end, a certified public accountant or licensed public accountant shall at all times maintain independence of thought and action, hold the affairs of his clients in strict confidence, strive continuously to improve his professional skills, observe generally accepted auditing standards, promote sound and informative financial reporting, uphold the dignity and honor of the accounting profession, and maintain high standards of personal conduct.

Acceptance of licensure as a CPA or LPA implies that the licensee has assumed an obligation to be diligent in the performance of professional service, and fair and honest in relations with clients, fellow practitioners, and the public, and has a proper appreciation of his duties to the community and state. In recognition thereof the board has promulgated the following rules of professional conduct which each licensee agrees to regard as binding upon him.

Statutory Authority: *MS s 326.18*

1100.4200 SCOPE OF CODE OF PROFESSIONAL CONDUCT.

Subpart 1. **Limitations.** The rules of professional conduct which follow apply to all services performed in the practice of public accounting including tax and management advisory services except:

A. where the wording of the rule indicates otherwise; and

B. that a licensee who is practicing outside the United States will not be subject to discipline for departing from any of the rules stated herein so long as his conduct is in accord with the rules of the organized accounting profession in the country in which he is practicing. However, where a licensee's name is associated with financial statements in such a manner as to imply that he is acting as an independent public accountant and under circumstances that would entitle the reader to assume that United States practices were followed he must comply with the requirements of parts 1100.4800 and 1100.4900.

A licensee engaged in the practice of public accounting must observe all the rules of professional conduct. A licensee not engaged in the practice of public accounting must observe only parts 1100.4500, 1100.5600, and 1100.6200 since all other rules of professional conduct relate solely to the practice of public accounting.

Subp. 2. **Responsibility for the actions of others.** A licensee may be held responsible for compliance with the rules of professional conduct by all persons associated with him in the practice of public accounting who are either under his supervision or are his partners or shareholders in the practice.

A licensee shall not permit others to carry out on his behalf, either with or without compensation, acts which, if carried out by the licensee, would place him in violation of the rules of professional conduct.

Statutory Authority: *MS s 326.18*

1100.4300 NONEXCLUSIVENESS OF RULES.

These rules do not comprise all acts that may be considered incompatible with the obligations and responsibilities imposed by professional status or discreditable or harmful even though not specifically mentioned or described in the rules. Any licensee may be censured, suspended, or expelled for cause by the board, after due opportunity of a hearing upon charges preferred against him, whether or not the alleged misconduct is specifically enumerated or described in the following rules.

Statutory Authority: *MS s 326.18*

1100.4400 INDEPENDENCE.

A licensee or a firm of which he is a partner or shareholder shall not express an opinion on financial statements of an enterprise unless he and his firm are independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

A. During the period of his professional engagement, or at the time of expressing his opinion, he or his firm:

(1) had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

(2) had any joint closely held business investment with the enterprise or any officer, director, or principal stockholder thereof which was material in relation to his or his firm's net worth; or

(3) had any loan to or from the enterprise or any officer, director, or principal stockholder thereof. This latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms, and requirements: loans obtained by a licensee or his firm which are not material in relation to the net worth of such borrower; home mortgages; other secured loans, except loans guaranteed by a licensee's firm which are otherwise unsecured.

B. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, he or his firm:

(1) was connected with the enterprise as a promotor, underwriter, or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or an employee; or

(2) was a trustee of any trust or executor or administrator of any estate if such trust or estate had a direct or material indirect financial interest in the enterprise; or was a trustee for any pension or profit-sharing trust of the enterprise.

The above examples are not intended to be all-inclusive.

Statutory Authority: *MS s 326.18*

1100.4500 INTEGRITY AND OBJECTIVITY.

A licensee shall not knowingly misrepresent facts, and when engaged in the practice of public accounting, including the rendering of tax and management advisory services, shall not subordinate his judgment to others.

Statutory Authority: *MS s 326.18*

1100.4600 TAX PRACTICE.

In tax practice, a licensee may resolve doubt in favor of his client as long as there is reasonable support for his position.

Statutory Authority: *MS s 326.18*

1100.4700 LICENSING RULES

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1100.4700 COMPETENCE.

A licensee shall not undertake any engagement which he or his firm cannot reasonably expect to complete with professional competence. In determining "incompetence" or "negligence," the board may consider, among others, the generally accepted auditing standards and accounting principles promulgated by the institute and by the Financial Accounting Standards Board.

Statutory Authority: *MS s 326.18*

1100.4800 AUDITING STANDARDS.

A licensee shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent public accountant unless he has complied with the applicable generally accepted auditing standards promulgated by the institute. Statements on auditing procedure issued by the institute's Auditing Standards Executive Committee are, for purposes of this rule, considered to be interpretations of the generally accepted auditing standards, and departures from such statements (or other standards considered by the board to be applicable in the circumstances) must be justified by those who do not follow them.

Statutory Authority: *MS s 326.18*

1100.4900 ACCOUNTING PRINCIPLES.

A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from accounting principles promulgated by the institute or the Financial Accounting Standards Board, among others, which has a material effect on the statements taken as a whole, unless the licensee can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In such cases his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in an otherwise misleading statement.

Statutory Authority: *MS s 326.18*

1100.5000 FORECASTS.

A licensee shall not permit his name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the licensee vouches for the achievability of the forecast.

Statutory Authority: *MS s 326.18*

1100.5100 CONFIDENTIAL CLIENT INFORMATION.

A licensee shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client:

This rule shall not be construed to relieve a licensee of his obligation under parts 1100.4800 and 1100.4900, to affect in any way his compliance with a validly issued subpoena or summons enforceable by order of a court, to prohibit review of a licensee's professional practices as part of voluntary quality review under board authorization or to preclude a licensee from responding to any inquiry made by the board, under state statutes.

Members of the board and professional practice reviewers under board authorization shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their official responsibilities. However, this prohibition shall not restrict the exchange of information with an aforementioned duly constituted investigative or disciplinary body.

Statutory Authority: *MS s 326.18*

1100.5200 CONTINGENT FEES.

Professional services shall not be offered or rendered under an arrangement whereby no fee will be charged unless a specified finding or result is attained, or where the fee is otherwise contingent upon the findings or results of such services. However, a licensee's fees may vary depending, for example, on the complexity of the service rendered.

Fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

Statutory Authority: *MS s 326.18*

1100.5300 FURNISHING INFORMATION TO CLIENTS.

A licensee shall furnish to his client upon request:

- A. a copy of a tax return; or
- B. a copy of a report, or other document, that was previously issued to or for such client; or
- C. any accounting or other records belonging to or obtained for the client which he or his firm may have had occasion to remove from the client's premises or to receive for the client's account, but this shall not preclude him from making copies of such documents when they form the basis for work done by him (or his firm), but in no event shall the accountant have a lien on these accounting or other records; or
- D. a copy of an accountant's working papers if such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client. The information on these working papers must be treated the same as if it were part of the client's books and records.

A licensee shall not withhold any of the above because his fee has not been paid, unless the client agreed to pay such fee in advance.

Statutory Authority: *MS s 326.18*

1100.5400 SERVICES TO CLIENTS OF OTHER ACCOUNTANTS.

Subpart 1. **Prohibition and exceptions, generally.** A licensee shall not endeavor to provide a person or entity with a professional service which is currently provided by another public accountant except:

A. He may respond to a request for a proposal to render services and may furnish services to those who request them. However, if a client of another independent public accountant requests a licensee to provide such professional service, the licensee must first consult with the other accountant to ascertain that the licensee is aware of all the available relevant facts.

B. Where a licensee is required to express an opinion on combined or consolidated financial statements which include a subsidiary, branch, or other component audited by another independent public accountant, he may insist on auditing any such component which in his judgment is necessary to warrant the expression of his opinion.

Subp. 2. **Referrals; extension of service.** A licensee who receives an engagement for services by referral from another public accountant shall not accept the client's request to extend his service beyond the specific engagement without first notifying the referring accountant, nor shall he seek to obtain any additional engagement from the client.

Statutory Authority: *MS s 326.18*

1100.5500 OFFERS OF EMPLOYMENT.

A licensee in public practice shall not make a direct or indirect offer of employment to an employee of another public accountant on his own behalf or that of his client without first informing such accountant. This rule shall not apply if the employee of his own initiative or in response to a public advertisement applies for employment.

Statutory Authority: *MS s 326.18*

1100.5600 ACTS DISCREDITABLE.

A licensee shall not commit an act discreditable to the profession.

Statutory Authority: *MS s 326.18*

1100.5700 ADVERTISING.

A licensee shall not use or participate in the use of any form of public communication having reference to his professional services which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

- A. contains a misrepresentation of fact; or
- B. is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
- C. contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality that is not based on verifiable facts; or
- D. is intended or likely to create false or unjustified expectations of favorable results; or
- E. implies educational or professional attainments or licensing recognition not supported in fact; or
- F. states or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case; or
- G. represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional service that do not disclose all variables affecting the fees that will in fact be charged; or
- H. contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

Statutory Authority: *MS s 326.18*

1100.5800 COMMISSIONS.

A licensee shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. This rule shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates.

Statutory Authority: *MS s 326.18*

1100.5900 INCOMPATIBLE OCCUPATIONS.

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

Statutory Authority: *MS s 326.18*

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LICENSING RULES 1100.6500

1100.6000 FORM OF PRACTICE AND NAME.

A licensee may practice public accounting, whether as an owner or employee, only in the form of a proprietorship, a partnership, or a professional corporation, organized in accordance with the applicable provisions of the Minnesota accountancy law and the Minnesota Professional Corporations Act.

A licensee shall not practice under a firm name which includes any fictitious name, indicates specialization, or is misleading as to the type of organizations (proprietorship, partnership, or corporation). However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner surviving the death or withdrawal of all other partners may continue to practice under the partnership name for up to two years after becoming a sole practitioner.

Statutory Authority: *MS s 326.18*

1100.6100 SOLICITATION.

A licensee shall not by any direct personal communication solicit an engagement to perform professional services if the communication would violate part 1100.5700 if it were a public communication; or by the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct; or where the engagement would be for a person or entity not already a client of the licensee, unless such person or entity has invited such communication or is seeking to secure the performance of professional services and has not yet engaged another to perform them. The term "direct personal communication" as used in this rule means any in-person, written, telephonic, or similar communication directed to a specific recipient or tailored in content to a specific recipient.

Statutory Authority: *MS s 326.18*

1100.6200 COMMUNICATIONS.

A licensee shall respond to communications from the board within 30 days of the mailing of such communications, unless an earlier response is requested within the communications.

Statutory Authority: *MS s 326.18*

1100.6300 AGREEMENT TO OBSERVE THE CODE.

The act of filing an application for examination, certification, or licensure shall be deemed to and shall constitute an agreement upon the part of the applicant to observe the code of professional conduct.

Statutory Authority: *MS s 326.18*

CONTINUING EDUCATION RULES

1100.6400 STATUTORY AUTHORITY; PURPOSE.

Pursuant to the provision of Minnesota Statutes, section 214.12, the board prescribes the following rules establishing requirements of continuing education to be met from time to time by licensees in order to maintain their professional knowledge and competence, as a condition to continuing to practice as certified public accountants or licensed public accountants.

Statutory Authority: *MS s 326.18*

1100.6500 CONTINUING EDUCATION REQUIREMENT.

Subpart 1. **Basic requirement.** During the three-year period immediately preceding relicensing, applicants for license renewal must complete 120 hours of acceptable continuing education except as otherwise provided under subpart 2 and part 1100.7900.

Subp. 2. **Exceptions.** The board shall have authority to make exceptions for reasons of individual hardship including health, military service, foreign residency, retirement, or other good cause.

Subp. 3. **Effective date.** The effective date of this requirement shall be three years after the effective date of these rules, or three years after a licensee's initial registration, whichever is later.

Statutory Authority: *MS s 326.18*

1100.6600 CONTINUING EDUCATION POLICIES.

The board has adopted the following policies to assist licensees in complying with the accountancy statute and rules as they pertain to continuing education.

Statutory Authority: *MS s 326.18*

1100.6700 COMPLIANCE AND EXCEPTIONS.

Subpart 1. **Standards and exceptions.** The board anticipates that licensees will maintain the high standards of the profession in selecting quality education programs to fulfill the continuing education requirement.

All licensees are required to comply with the continuing education requirements except those individuals not engaged in public practice, such as licensees in private industry, governmental organizations, educational institutions, or similar activities, unless those individuals in addition to their basic employment engage in public practice, regardless of degree, or perform for compensation any services normally performed by public accountants whether or not a license is required to perform such services.

Subp. 2. **Nonresident licensees.** Licensees who are out-of-state residents and not engaged in public accounting in this state are excepted from the continuing education requirements until such time as they enter or reenter this state to practice public accounting. This exception also applies to nonresident licensees who are partners of public accounting partnerships or stockholders of professional accounting corporations that are licensed by the board to do business in this state, provided such nonresident licensees do not practice public accounting in this state.

An individual who holds a valid and unrevoked certified public accountant or licensed public accountant certificate issued by any state or political subdivision of the United States or a comparable certificate or degree issued by any foreign country, and who receives a license to practice in this state under the appropriate provisions of the accountancy law, will be required to comply with the continuing education requirement on a pro rata basis when his license is next renewed and each succeeding three-year period.

Subp. 3. **Attorney-licensees.** Persons occupying the dual status of attorney at law and certified public accountant or licensed public accountant are excepted from continuing education requirements only if they do not engage in the practice of public accounting under their accounting licenses.

Subp. 4. **Licensees reentering public practice.** A licensee reentering public practice from areas such as private industry, government, or education or who otherwise has been excepted from the provisions of the continuing education requirement shall notify the board upon reentry and will be required to comply with the continuing education requirement on a pro rata basis when his license is next renewed and each succeeding three-year period thereafter.

Subp. 5. **Retired licensees.** Licensees who are retired and who do not in fact perform public accounting services to any degree whatever, although participating in the profits of a public accounting entity, are excepted from continuing education requirements.

Statutory Authority: *MS s 326.18*

1100.6800 PROGRAMS WHICH QUALIFY.

Subpart 1. **Principles.** The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant.

Subp. 2. **Programs requiring attendance.** Continuing education programs requiring attendance will qualify only if an outline of the program is prepared in advance and preserved, the program is at least one hour (50-minute period) in length, the program is conducted by a qualified instructor, and a record of registration or attendance is maintained.

Subp. 3. **Programs presumed to qualify.** The following programs are deemed to qualify provided the criteria in subpart 2 are met:

A. Professional development programs of recognized national and state accounting organizations.

B. Technical sessions at meetings of recognized and state accounting organizations and their chapters.

C. University or college courses:

(1) Credit courses. Each semester hour credit shall equal 15 hours toward the requirement. A quarter hour credit shall equal ten hours.

(2) Noncredit short courses.

D. Formal organized in-firm educational programs.

E. Programs in other recognized organizations (accounting, industrial, professional, etc.)

Subp. 4. **Correspondence courses; individual study programs.** Formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify with the amount of credit to be determined by the board.

Subp. 5. **Assistance of accounting organizations in determining program eligibility.** The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

Statutory Authority: *MS s 326.18*

1100.6900 ACCEPTABLE SUBJECT MATTER AND PROGRAMS.

The following general subject matters are acceptable so long as they contribute to the professional competence of the individual practitioner:

A. accounting and auditing;

B. taxation;

C. management services;

D. computer science;

E. communication arts;

F. mathematics, statistics, probability and quantitative applications in business;

G. economics;

H. business law;

I. functional fields of business: finance, production, marketing, personnel relations, business management and organization;

J. social environment of business;

K. specialized areas of industry; e.g., film industry, real estate, farming, etc.; and

L. administrative practice; e.g., engagement letters, fee structures, personnel, etc.

Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to his professional competence. The

responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely with the licensee.

Statutory Authority: *MS s 326.18*

1100.7000 CREDIT FOR INDIVIDUAL STUDY PROGRAMS.

In determining the amount of credit to be allowed for specific correspondence and individual study programs (including taped study programs), the board will determine the equivalency of the program to a comparable seminar or a comparable course for credit in an accredited educational institution. Licensees claiming credit for such courses will be 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.

Statutory Authority: *MS s 326.18*

1100.7100 CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, OR SPEAKER.

Credit for one hour of continuing education will be awarded for each hour completed as an instructor or discussion leader to the extent that the particular activity contributes to the professional competence of the licensee as determined by the board. Credit as an instructor, discussion leader, or speaker will be allowed for any meeting or engagement provided that the session is one which would meet the continuing education requirements of those attending. The credit allowed an instructor, discussion leader, or a speaker will be on the basis of a maximum of two hours for actual subject preparation time for each hour of teaching. The maximum credit for such preparation and teaching will not exceed 50 percent of the renewal period requirement. Credit for licensees attending not as instructors, discussion leaders, or speakers is limited to the actual meeting time.

Statutory Authority: *MS s 326.18*

1100.7200 CREDIT FOR PUBLICATIONS.

Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. The amount of credit so awarded will be determined by the board. Credit for preparation of such publications may be given on a self-declaration basis up to 25 percent of the renewal period requirement. In exceptional circumstances a licensee may request additional credit by submitting the articles or books to the board with an explanation of the circumstances which he feels justify a greater credit.

Statutory Authority: *MS s 326.18*

1100.7300 CREDIT FOR COMMITTEE MEETINGS.

Participation in committee meetings of recognized professional societies, which are structured as educational programs, may qualify if they meet the appropriate requirements.

Statutory Authority: *MS s 326.18*

1100.7400 CREDIT FOR MEETINGS AT MEALS.

Dinner, luncheon, and breakfast meetings of recognized accounting organizations may qualify if they meet the appropriate requirements.

Statutory Authority: *MS s 326.18*

1100.7500 CREDIT FOR FIRM MEETINGS.

Firm meetings for staff or management groups may qualify if they meet the appropriate requirements. Portions of such meetings devoted to administrative and firm matters cannot be included.

Statutory Authority: *MS s 326.18*

1100.7600 QUALIFIED INSTRUCTOR.

A qualified instructor or discussion leader is anyone whose background training, education, or experience makes it appropriate for him to lead a discussion on the subject matter of the particular program.

Statutory Authority: *MS s 326.18*

1100.7700 MEASURING CREDIT HOURS.

The following standards will be used to measure the hours of credit to be given for acceptable continuing education programs completed by an individual applicant. A one-day program will be considered to equal eight hours. Only class hours or the equivalent will be counted, and not student hours devoted to preparation. Service as lecturer or discussion leader of continuing education programs will be counted to the extent that it contributes to the applicant's professional competence.

Continuing education credit will be given for whole hours only, with a minimum of 50 minutes constituting one hour. As an example, 100 minutes of continuous instruction would count for two hours; however, more than 50 minutes but less than 100 minutes of continuous instruction would count only for one hour. A one-day program qualifying for eight hours of credit is any program the duration of which is equivalent to a normal working day. Travel time cannot be claimed.

Statutory Authority: *MS s 326.18*

1100.7800 DOCUMENTING COMPLETION OF REQUIREMENTS.

Subpart 1. **Retaining documents.** Primary responsibility for documenting the requirements rests with the licensee, and evidence to support fulfillment of those requirements must be retained for a period of four years after the completion of educational courses.

Subp. 2. **Required documents.** Satisfaction of the requirements under part 1100.6800, subpart 2, including the retention of attendance records and written outlines, may be accomplished as follows:

A. In the case of courses taken for scholastic credit in accredited universities and colleges (state, community, or private) or high school districts, evidence of satisfactory completion of the course will be sufficient.

B. In all other instances, the licensee must maintain an outline and evidence of attendance. In the case of noncredit courses taken in educational institutions, a signed statement of the hours of attendance must be obtained from the instructor.

Subp. 3. **Controls and reporting.** Applicants for license renewal must provide a signed statement of the continuing education programs which they claim to be acceptable showing sponsoring organization, location of program, title of program or description of content, dates attended, and hours claimed.

Subp. 4. **Verification.** The board will verify on a test basis information submitted by licensees. If an application for license renewal is not approved the applicant will be so notified, and he may be granted a period of time by the board in which to correct the deficiencies noted.

Statutory Authority: *MS s 326.18*

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1100.7900 LICENSING RULES

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1100.7900 FIRST REPORTING PERIOD.

All certified public accountant licensees holding a license on or before December 31, 1977, may use acceptable continuing education programs from May 31, 1977, to meet the required number of hours for the first reporting period. All licensed public accountant licensees having made application for license on or before July 1, 1980, may use acceptable continuing education programs from January 1, 1980, to meet the required number of hours for the first reporting period.

Statutory Authority: *MS s 326.18*

1100.8000 EFFECTIVE DATE.

Parts 1100.6400 to 1100.7900 shall become effective for certified public accountants on January 1, 1978, and for licensed public accountants on January 1, 1981.

Statutory Authority: *MS s 326.18*