

**CHAPTER 1100**  
**BOARD OF ACCOUNTANCY**  
**LICENSING; CONDUCT; CONTINUING EDUCATION**

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**LICENSING**

**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 individually or as an employer the CPA or LPA 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*

**History:** *17 SR 1279*

### 1100.0200 INTERPRETATION OF RULES.

Subpart 1. **Interpretation in accord with Minnesota Statutes.** Except as otherwise specifically provided, this chapter shall be interpreted in accordance with Minnesota Statutes, 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 326.229; 326.53; and 214.001 to 214.12.

Subp. 2a. **Oral requests for opinions and interpretations.** Oral requests to board or staff members for oral opinions and interpretations of parts 1100.0100 to 1100.8000 and Minnesota Statutes, sections 326.165 to 326.229, are discouraged. Whenever given, oral opinions are nonbinding and applicants, certificate holders, licensees, or other persons who act in reliance upon them do so at their own risk.

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*

**History:** *17 SR 2274; L 1992 c 542 s 4*

### 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 the last known address, unless some other manner of service is required by law.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

**1100.0600 COMMUNICATIONS WITH BOARD.**

Communications should be addressed to "Executive Secretary, Board of Accountancy."

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.0650 AGREEMENT TO OBSERVE CODE.**

The act of filing an application for examination, certification, or licensure constitutes an agreement upon the part of the applicant to observe the Code of Professional Conduct, parts 1100.3800 to 1100.6200.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**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.** The applications must be accompanied by the appropriate fee as provided in part 1100.3600 in the form of money order or check payable to "Minnesota Board of Accountancy."

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.0800 APPLICATION DEADLINE AND DOCUMENTATION.**

Subpart 1. **Application deadline.** Deadlines for application for CPA examination or reexamination are March 1 for the May examination and September 1 for the November examination. For purposes of this subpart, applications for the examination are not filed timely unless they are received at the board office by 4:30 p.m. on the date specified. If the deadline falls on a Saturday, Sunday, or holiday, the application shall be received in the board office by 4:30 p.m. on the first working day thereafter.

Subp. 2. **Supporting documentation.** If the board has not received all the necessary supporting documentation by 4:30 p.m. on April 1 for the May examination or by 4:30 p.m. on October 1 for the November examination, the file is incomplete and shall be deferred for consideration for a later examination.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.0900 EXPIRATION OF APPLICATION.**

An application for CPA examination or reexamination expires five years from the date of the board's approval to sit for the initial examination. Once an application has expired, the board shall require a new application, new supporting documentation, and examination in all subjects if the file has not been reactivated during the five-year period.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.1000 EDUCATION REQUIREMENTS FOR CPA EXAMINATION 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. 1a. **Accounting major.** An applicant with an accounting major or concentration in accounting granted by a college or university fully accredited by the North Central

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Association of Schools and Colleges or its equivalent regional accrediting association is considered to meet the educational requirements in Minnesota Statutes, section 326.19, subdivision 1, clause (c)(ii).

**Subp. 2. Accounting major equivalency.** The following credits from a college or university fully accredited by the North Central Association of Schools and Colleges or its equivalent regional accrediting association constitute the equivalent of an accounting major:

	Semester Hours	Quarter Hours
A. Accounting and Business Law	24	36
B. Business and Economics (may include accounting and business law not listed in item A)	24	36
C. Nonbusiness	32	48
D. Other	40	60
Total	120	180

Applicants shall have successfully completed the following courses: elementary financial accounting, elementary managerial accounting, intermediate accounting, cost and managerial accounting, and auditing. Credit is not permitted for duplicate courses.

The credits in item A must include a minimum of 27 quarter or 18 semester credits of accounting.

Subp. 3. [Repealed, 17 SR 2274]

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

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

**Subpart 1. Intent.** It is the intent of this requirement that applicants shall 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.

**Subp. 2. Measuring experience.** Experience recognized by the board shall be measured on the basis of calendar months and days worked by the applicant as an employee on the staff of an actively licensed certified public accountant, actively licensed licensed public accountant in public practice, or in qualifying governmental experience or self-employment. Part-time work in public accounting shall be recognized in proportion to full-time work, with a maximum of eight hours per day or 40 hours a week. The experience shall be verified by the employer. Self-employment experience shall be verified by five clients.

Subp. 3. [Repealed, 17 SR 2274]

**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 Minnesota, or in a substantially identical office of another governmental body, 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 as determined by the board.

The burden rests with the applicant to demonstrate to the board that other governmental experience should be recognized as qualifying. A written statement shall be filed with the board, giving a complete description of the purposes, work standards, and procedures of any

position believed to be qualifying. This statement shall be provided by a responsible administrative officer of the applicable governmental unit as determined by the board.

**Subp. 5. Continuing professional education compliance for certain certificate holders.** A certificate holder who applies for a license more than 30 months after having passed the uniform CPA examination shall comply with continuing professional education requirements as specified in part 1100.6700, subpart 3a.

**Subp. 6. Qualifying self-employment.** In accordance with Minnesota Statutes, section 326.19, subdivision 4, clause (3), the board shall grant a license to an applicant who shows to the satisfaction of the board that the applicant has experience in:

A. applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records;

B. preparation of audit working papers covering the examination of the accounts usually found in accounting records;

C. planning programs of audit work including the selection of procedures to be followed;

D. preparation of written explanations and comments on the findings of an examination and on the content of accounting records; and

E. preparation and analysis of financial statements together with explanations and notes.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

#### **1100.1200 APPEARANCE BEFORE BOARD.**

At the request of the board, or the attorney general on behalf of the board, a holder of a certificate or license issued by the board and an applicant for examination, certificate, or license shall appear before the board, committees of the board, or the attorney general, respond to any questions of the board, committees of the board, or the attorney general, and produce any evidence requested by the board, committees of the board, or the attorney general to assist the board in determining the person's qualifications or compliance with Minnesota statutes and rules.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

#### **1100.1300 EXAMINATIONS AND CERTIFICATION FOR CPA APPLICANTS.**

**Subpart 1. Standardized tests.** The examination shall consist of written tests provided on a uniform national basis by the American Institute of Certified Public Accountants.

**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.

**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 for the uniform national examination by the American Institute of Certified Public Accountants or other body providing the examination and deemed appropriate by the board and shall 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.** An applicant shall be present and prepared to engage in the work promptly at the hours appointed. An applicant who is unable to be present shall notify the board as soon as reasonably possible, but no later than 4:30 p.m. on the day before the first day of the complete examination. Failure to do so shall be considered just cause for exclusion and forfeiture of the examination fee. An applicant who is unable to be present at the examination for which an application was approved by the board shall reapply for a later ex-

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amination consistent with the examination application deadlines in part 1100.0800 and furnish current information on forms provided by the board. An applicant shall apply for and be present at the next examination given or the applicant's fee shall be forfeited.

**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 board to arrange to have the applicant's examination monitored by the accountancy board or the licensing agency or entity 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 and write one or more of the examination papers for the candidate; 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 indicating passage of the certified public accountant examination shall be issued:

A. without an additional fee;

B. if the applicant complies with all applicable statutes and rules;

C. upon passage of the ethics examination issued by the board; and

D. if the applicant has not engaged in conduct for which the board is authorized to act pursuant to Minnesota Statutes, section 326.229.

The certificate shall indicate that it is not a license to practice.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

### 1100.1400 CPA REEXAMINATIONS.

**Subpart 1. Applicants who fail three or more subjects.** An applicant who fails three or more subjects and receives no grade less than 50 shall be allowed to sit for reexamination at the next examination given and shall be required to retake all subjects of the examination. An applicant who fails three or more subjects and receives a grade of less than 50 in any subject shall not be allowed to sit for reexamination at the next examination but may sit for subsequent examinations.

**Subp. 2. Applicants who pass two subjects.** An applicant who has 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 failed.

An applicant who passed two of the subjects given in the examination and received one or more grades less than 50 has failed the examination and shall retake all subjects of the examination.

**Subp. 3. Applicants who pass three subjects.** An applicant who has passed three of the subjects in one examination shall be reexamined only in the subject failed.

**Subp. 4. Application for reexamination.** An applicant for reexamination shall apply for and be reexamined in all failed subjects at each examination for which the applicant applies.

Subp. 5. **Conditioning.** An applicant for reexamination under subparts 2 and 3 shall be reexamined in all subjects unless the applicant passes the remaining subjects within the next five examinations given by the board.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

#### 1100.1500 RECIPROCITY WITH OTHER STATES.

Subpart 1. **Reciprocity of privileges.** A reciprocal CPA certificate shall 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 the board determines the applicant satisfied all of the qualifications which would have been required had application been made to the Minnesota board on the date of original application to the other accountancy board.

Subp. 3. **Proctoring out-of-state candidates.** Application requests for proctoring out-of-state applicants shall be submitted to the board by April 1 for the May examination and October 1 for the November examination. A proctoring fee shall accompany the request as required in part 1100.3600.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

#### 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 and license and a passing score in the Minnesota ethics examination.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

#### 1100.1700 HOLDERS OF FOREIGN CERTIFICATES AND DEGREES.

Subpart 1. **Waiver of examination.** An individual who holds a certificate or degree of CPA, chartered accountant, or the equivalent issued in a foreign country or by a recognized authority in that country shall not be eligible to have the examination waived unless the individual meets all the requirements 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 in the English language and a familiarity with accounting, auditing, and business practice in the United States which will enable the individual to perform with the competence and insight of a person permitted to be styled as a CPA.

Subp. 2. **Experience obtained in a foreign country.** Experience obtained in a foreign country shall be accepted for licensure if obtained from a United States-based accounting firm or from an associate firm of a United States-based accounting firm.

Subp. 3. **Education obtained in a foreign country.** Education obtained in a foreign country shall be evaluated by an evaluation service approved by the board, at the expense of the applicant.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

#### 1100.1800 [Repealed, 17 SR 2274]

#### 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

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application for the annual 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*

**History:** *17 SR 2274*

### 1100.1905 ADDITIONAL PERMITTED AND PROHIBITED USE OF CPA OR LPA DESIGNATION.

Subpart 1. **Who may use designation.** An individual may use the designation "certified public accountant" or "licensed public accountant" on business cards and resumes and may display a CPA or LPA certificate if the individual:

A. holds a CPA or LPA certificate without holding an active CPA or LPA license or holds an inactive CPA or LPA license; and

B. is not employed or otherwise retained by or associated with a sole proprietor, partnership, or corporation engaged in the practice of public accounting as defined by Minnesota Statutes, section 326.165, or in part 1100.0100.

Subp. 2. **Registration requirement.** The designation may be used only if the individual:

A. registers annually with the board by December 31; and

B. files an affidavit annually with the individual's registration attesting to the fact that the individual has not been, is not now, and shall not practice public accounting without obtaining an active CPA or LPA license.

Subp. 3. **Misleading use prohibited.** In addition to the other requirements of this part, an individual must not use the CPA or LPA designation in a context that may lead a reasonable person to believe that the individual holds an active license as a CPA or LPA when that is not the case.

Subp. 4. **Employees of certain entities.** Holders of CPA or LPA certificates or of active and inactive CPA and LPA licenses who are employed by financial services or other entities practicing public accounting in a legal entity which is restricted in its form of practice by Minnesota Statutes, section 326.211, shall not use the CPA or LPA designation or be held out to the public in any form as a CPA or LPA but must register with the board. The individual shall sign an affidavit annually attesting to the fact that the individual is not using the CPA or LPA designation. In addition, the individual's employer shall submit an affidavit, signed by a vice-president or above, attesting to the same. The affidavit shall be filed annually with the individual's registration with the board.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

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

The board shall notify each current active and inactive licensee of the licensing requirements for the succeeding year as required in part 1100.3500. In the absence of such notification, it is the responsibility of each licensee to apply for a license, pay the appropriate fee as required in part 1100.3600, and inform the board of any address changes within 60 days of the date of occurrence.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 1100.2100 LICENSE APPLICATIONS.

The requirements in parts 1100.2110 to 1100.2400 shall be observed in making application for an annual license issued to an individual holder of a Minnesota certificate. Applications must be submitted on a form provided by the board and shall be accompanied by the appropriate fee in the form of money order or check payable to "Minnesota Board of Accountancy."

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.2110 TYPES OF LICENSES.**

A license is required for persons who:

A. engage in the practice of public accounting; and

B. hold certified public accountant or licensed public accountant certificates, are eligible for licensure as certified public accountants or licensed public accountants, and who are employed by certified public accountants, licensed public accountants, or certified public accountants or licensed public accountant corporations or partnerships. For purposes of this chapter, such a license shall be referred to as an active license.

Persons who have held active licenses in the past who are not currently engaged in the practice of public accounting and are exempt from the continuing professional education requirements of parts 1100.6400 to 1100.7900 pursuant to part 1100.6700, subpart 1, shall be licensed. For purposes of this chapter, such a license shall be referred to as an inactive license.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.2120 VALIDITY OF LICENSES.**

A license is valid until it is suspended or revoked or until it expires, whichever occurs first. All licenses are annual licenses for the year beginning on January 1 or on the date of original licensure, whichever is later, and ending on December 31 of the same calendar year.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.2130 LICENSE APPLICATIONS FOR PERSONS WHO HAVE BEEN PREVIOUSLY LICENSED.**

**Subpart 1. Applications by licensees with active licenses for active licenses.** A licensee with an active license shall apply for an active license for the next year by submitting by December 31 an application, an annual license fee, and any required evidence of compliance with continuing education requirements.

**Subp. 2. Applications by licensees with inactive licenses for active licenses.** A licensee with an inactive license who wishes to apply for an active license for the next year shall submit by December 31 an application and an annual license fee. The licensee shall comply with the continuing education requirements in part 1100.6700, subpart 4.

**Subp. 3. Applications by licensees for inactive licenses.** A licensee with either an active or inactive license may apply for an inactive license for the next year by submitting by December 31 an application and an annual license fee.

**Subp. 4. Applications by people whose previous licenses have expired or been revoked.** A person whose previous license expired in a year prior to the current year and was not renewed or was revoked may apply for an active license for the next year by submitting by December 31 an application, an annual license fee, and applicable reinstatement fees as required in part 1100.3600, subpart 2b. The applicant shall comply with the continuing education requirements in part 1100.6700, subpart 4, and all conditions contained in any order for revocation of a license issued by the board and any other condition determined by the board to be necessary to protect the public. Granting of a license to a person whose license has been revoked shall be at the discretion of the board.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.2150 TIMELINESS OF INDIVIDUAL LICENSE RENEWAL.**

**Subpart 1. Renewal application filing deadline.** License renewal applications are not filed timely unless received by the board office by 4:30 p.m. on December 31. If December 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

**Subp. 1a. Late processing fee.** A licensee who applies for a license, active or inactive, after the license has expired but before January 31 of the renewal year, shall pay a late processing fee in addition to an annual license fee as required in part 1100.3600, subpart 2a. For the

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purposes of this subpart, license renewals are not filed timely unless received by the board office by 4:30 p.m. on January 31. If January 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

**Subp. 2. Reinstatement fee.** An individual who applies for a license, active or inactive, after the license has expired and after January 31 of the renewal year, shall pay a reinstatement fee per year of nonrenewal in addition to the annual license fees as required in part 1100.3600, subpart 2a. For the purposes of this subpart, license renewal applications are not filed timely unless received by the board office by 4:30 p.m. on January 31. If January 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

**Subp. 3. Action by board.** The payment of a late processing fee or reinstatement fee as required by subparts 1a and 2 shall not prevent the board from taking action against a licensee for having engaged in the practice of public accounting without being licensed by the board.

**Statutory Authority:** *MS s 16A.128; 214.06; 326.17; 326.18; 326.22*

**History:** *11 SR 1005; 17 SR 2274*

### 1100.2200 FAILURE TO APPLY AND PAY FEE.

Failure to apply for an annual license and pay the appropriate fee by a CPA or LPA shall be deemed unprofessional conduct and may be cause for suspension or revocation of the certificate.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

### 1100.2300 GRANTING OF LICENSES.

A license shall be granted to any person who:

A. meets the requirements of parts 1100.0100 to 1100.8000 and Minnesota Statutes, section 326.19, subdivision 2, as a certified public accountant or Minnesota Statutes, section 326.191, as a licensed public accountant;

B. applies for licensure on forms provided by the board;

C. pays the appropriate fee; and

D. is not subject to proceedings brought by the board pursuant to Minnesota Statutes, section 214.11.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 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.

A partnership consisting of one or more partners practicing public accounting in Minnesota, all of whom hold unrevoked Minnesota certificates and licenses, that engages in or intends to be engaged in the practice of public accounting within Minnesota during all or part of a calendar year shall apply for and obtain from the board an annual license for that year before engaging in public practice.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

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

The board shall notify each currently licensed partnership of the licensing requirements for the succeeding year. In the absence of such notification, 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. The partnership shall be responsible for determining that each of its certified public accountant or licensed public accountant partners and employees practicing public accounting in Minnesota is currently licensed as an individual with the board.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

#### **1100.2700 PARTNERSHIP'S LICENSURE APPLICATION.**

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

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

#### **1100.2750 TIMELINESS OF PARTNERSHIP LICENSE RENEWAL.**

**Subpart 1. Renewal application filing deadline.** Partnership renewal applications are not filed timely unless received by the board office by 4:30 p.m. on December 31. If December 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

**Subp. 1a. Late processing fee.** A partnership that applies for a license after the license has expired but before January 31 of the renewal year, shall pay a late processing fee in addition to an annual license fee as required in part 1100.3600, subpart 2a. For the purposes of this subpart, license renewal applications are not filed timely unless received by the board office by 4:30 p.m. on January 31. If January 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

**Subp. 2. Reinstatement fee.** A partnership that applies for a license after the license has expired and after January 31 of the renewal year, shall pay a reinstatement fee per year of nonrenewal in addition to the annual license fees as required in part 1100.3600, subpart 2a. For the purposes of this subpart, license renewal applications are not filed timely unless received by the board office by 4:30 p.m. on January 31. If January 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

**Subp. 3. Action by board.** The payment of a late processing fee or reinstatement fee as required by subparts 1a and 2 shall not prevent the board from taking action against a licensee for having engaged in the practice of public accounting without being licensed by the board.

**Statutory Authority:** *MS s 326.18*

**History:** *11 SR 1005; 17 SR 2274*

#### **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 certified copy of the articles of incorporation filed with the Minnesota secretary of state and the first annual report. Applications must be accompanied by the appropri-

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ate fee as provided in part 1100.3600, in the form of a money order or check made payable to "Minnesota Board of Accountancy."

A corporation incorporated as a business corporation under Minnesota Statutes, chapter 302A, before December 31, 1985, shall be licensed by the board provided that the corporation amends its articles to conform to Minnesota Statutes, sections 319A.07 to 319A.17 and 319A.21.

To qualify under this part, the amended articles must be in effect and filed with the board by March 1, 1992.

A corporation that does not amend and file its articles by March 1, 1992, and a corporation applying for initial licensure after December 31, 1985, must incorporate under the Minnesota Professional Corporations Act, Minnesota Statutes, chapter 319A.

To qualify under this part, a corporation incorporated in another state must be incorporated as a corporation under the laws of that state provided the laws are at least equivalent to the Minnesota Professional Corporations Act, Minnesota Statutes, chapter 319A.

A foreign corporation, incorporated as a business corporation, shall amend its articles, bylaws, and buy-sell agreements in accordance with the Minnesota Professional Corporations Act, Minnesota Statutes, chapter 319A.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 1100.3100 FIRST ANNUAL REPORT.

The first annual report shall be accompanied by a fee of \$100 payable to the "Minnesota Board of Accountancy" 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.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

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

The board shall notify each currently licensed corporation of the requirement of the annual report for the succeeding year. In the absence of such notification, it is the responsibility of each corporation in public practice to file the annual report, apply for annual license renewal, and pay the appropriate fee as provided in part 1100.3600, subpart 1. The corporation is responsible for determining that each of its CPA or LPA shareholders and employees practicing public accounting in Minnesota is also currently licensed as an individual with the board.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 1100.3250 TIMELINESS OF CORPORATION LICENSE RENEWAL.

Subpart 1. **Renewal application filing deadline.** Corporation renewal applications are not filed timely unless received by the board office by 4:30 p.m. on December 31. If December 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

Subp. 1a. **Late processing fee.** A corporation that applies for a license, active or inactive, after the license has expired but before January 31 of the renewal year, shall pay a late processing fee in addition to an annual license fee as required in part 1100.3600, subpart 2a. For the purposes of this subpart, license renewal applications are not filed timely unless received by the board office by 4:30 p.m. on January 31. If January 31 falls on a Saturday,

Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

Subp. 2. **Reinstatement fee.** A corporation that applies for a license after the license has expired and after January 31 of the renewal year, shall pay a reinstatement fee per year of nonrenewal in addition to the annual license fees as required in part 1100.3600, subpart 2a. For the purposes of this subpart, license renewal applications are not filed timely unless received by the board office by 4:30 p.m. on January 31. If January 31 falls on a Saturday, Sunday, or holiday, the renewal application must be received in the board office by 4:30 p.m. on the first working day thereafter.

Subp. 3. **Action by board.** The payment of a late processing fee or reinstatement fee as required by subparts 1a and 2 shall not prevent the board from taking action against a licensee for having engaged in the practice of public accounting without being licensed by the board.

**Statutory Authority:** *MS s 16A.128; 214.06; 326.17; 326.18; 326.22*

**History:** *11 SR 1005; 17 SR 2274*

### 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 license of the corporation and the certificates and licenses of its officers, directors, and stockholders licensed to practice in this state.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 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 shall be submitted to the board. See part 1100.3100, item B.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 1100.3500 LICENSE RENEWAL AND CONTINUING EDUCATION.

To renew an unexpired license, a licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board. A licensee subject to parts 1100.6400 to 1100.8000 shall give evidence to the board that the licensee has complied with the continuing professional education provisions of those parts.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

### 1100.3600 FEES.

Subpart 1. **Initial application fees.** Applications shall be accompanied by fees in the amounts described in items A to G.

A. Application for certified public accountant examination by first-time applicants, \$150.

B. Application for certified public accountant reexamination in failed subjects, \$40 per subject but not in excess of \$150. Accounting practice is considered to be two subjects. Part 1100.1400, subpart 4, provides that applicants shall apply for reexamination in all failed subjects.

C. Application for initial license for certified public accountant, \$50.

D. Application for reciprocal license for certified public accountant, \$150.

E. Application for reciprocal license for licensed public accountant, \$150.

F. Nonrefundable fee to proctor out-of-state examination candidates applying to sit in Minnesota, \$50.

G. Application for initial corporation license and first annual report, \$100.

Subp. 2. **Annual license renewal fees.** Annual license renewal fees shall be as follows:

A. active individuals, \$45;

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B. inactive individuals, \$10;

C. partnerships, \$35; and

D. corporations, in addition to the \$25 annual reporting fee in part 1100.3200, a \$10 processing fee.

Subp. 2a. **Annual license late processing fees.** Annual license late processing fees shall be as follows: active individuals, \$20; inactive individuals, \$10; and partnerships/corporations, \$25.

Subp. 2b. **Annual license reinstatement fees.** Annual license reinstatement fees shall be as follows: \$50 per year of nonrenewal; and \$20 for application for reinstatement after one year of nonrenewal.

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 shall not be refunded. The fee may be applied to the next examination given, after which the fee shall be forfeited.

Subp. 3a. **Examination cancellation fees.** Applicants canceling sitting for an examination 14 to 30 days before the examination shall forfeit \$25 of their fee. Applicants canceling sitting for an examination less than 14 days before the examination shall forfeit \$50 of their fee.

Subp. 3b. **Verifications and transfer of grades.** Requests for verification of data on examinees, certificate holders, or licensees, and requests for transfer of grades, must be made in writing and accompanied by a \$20 administrative processing fee and a self-addressed stamped envelope.

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; 326.22*

**History:** *9 SR 693; 10 SR 1122; 11 SR 1005; 12 SR 412; 17 SR 2274; 17 SR 2507*

### 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 any provision of this chapter and Minnesota Statutes, sections 326.165 to 326.229, shall be deemed unprofessional conduct and shall constitute grounds for revocation or suspension of a certificate or license.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### CODE OF PROFESSIONAL CONDUCT

#### 1100.3800 DEFINITIONS.

Subpart 1. **Scope.** The definitions in subparts 2 to 12 are applicable wherever the term is used in parts 1100.3800 to 1100.6200 and interpretations.

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

Subp. 3. **Certified public accountant or CPA.** "Certified public accountant" or "CPA" means a person holding a certified public accountant active license issued under the accountancy law of Minnesota.

Subp. 3a. **Licensed public accountant or LPA.** "Licensed public accountant" or "LPA" means a person holding a licensed public accountant certificate and active license issued under the accountancy law of Minnesota.

Subp. 3b. **Licensee.** "Licensee" means a person holding an active or inactive license issued under the accountancy law of Minnesota.

Subp. 4. **Client.** "Client" means the person or entity which retains a certified public accountant, a licensed public accountant, or the accountant's 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 to the statements that purport to show financial position or results of operation which are related to a point in time or periods of time, or statements of cash flow, which relate to periods of time, and statements which use cash or other incomplete basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of cash flow, 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. [Repealed, 17 SR 2274]

Subp. 10. [Repealed, 17 SR 2274]

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*

**History:** *17 SR 1279; 17 SR 2274*

### 1100.3900 COMPLIANCE WITH CODE OF PROFESSIONAL CONDUCT.

In the practice of public accounting and in rendering professional accounting services a CPA and LPA shall adhere to the code, parts 1100.3800 to 1100.6200.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 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 clients in strict confidence, strive continuously to improve 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 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.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

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LICENSING; CONDUCT; CONTINUING EDUCATION 1100.4400

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

A licensee engaged in the practice of public accounting shall observe all the rules of professional conduct. A licensee not engaged in the practice of public accounting shall observe only parts 1100.4500, 1100.5600, and 1100.6200 since all other rules of professional conduct relate only 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 associates in the practice of public accounting who are either under the licensee's supervision or are the licensee's partners or shareholders in the practice.

A licensee shall not permit others to carry out on the licensee's behalf, either with or without compensation, acts which, if carried out by the licensee, would violate the rules of professional conduct.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

## 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, whether or not the alleged misconduct is specifically enumerated or described in the following rules.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

## 1100.4400 INDEPENDENCE.

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

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

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

(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 the firm's net worth; or

(3) had any loan to or from the enterprise or any officer, director, or principal stockholder. This latter proscription does not apply to home mortgage loans obtained from a financial institution when made under normal lending procedures, terms, and requirements.

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

(1) was connected with the enterprise as a promoter, 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 the trust or estate had a direct or indirect financial interest in the enterprise; or was a trustee for any pension or profit-sharing trust of the enterprise.

Items A and B are examples and are not intended to be all-inclusive.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

**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 or her judgment to others.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

**1100.4600 TAX PRACTICE.**

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

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

**1100.4650 INCORPORATION BY REFERENCE.**

For the purposes of parts 1100.4700, 1100.4800, and 1100.4900, the following documents are incorporated by reference, are subject to frequent change, and are available through the state law library:

A. AICPA Professional Standards, published for the American Institute of Certified Public Accountants by Commerce Clearing House, Inc. (June 1, 1991);

B. Current Text, Accounting Standards as of June 1, 1991, published by the Financial Accounting Standards Board (June 1, 1991); and

C. Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, by the Comptroller General of the United States, published by the United States General Accounting Office (1988 Revision).

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

**1100.4700 COMPETENCE.**

A licensee shall not undertake any engagement which the licensee or the licensee's firm cannot reasonably expect to complete with professional competence. In determining "incompetence" or "negligence," the board may consider, among others, the documents incorporated by reference in part 1100.4650, items A, B, and C.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

**1100.4800 AUDITING STANDARDS.**

Licensees shall not permit their names to be associated with financial statements in such a manner as to imply that they are acting as independent public accountants unless they have complied with AICPA Professional Standards incorporated by reference in part 1100.4650, item A. Statements on auditing procedure in that document are, for purposes of this part, 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*

**History:** *17 SR 1279; 17 SR 2274*

**1100.4900 ACCOUNTING PRINCIPLES.**

A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if the statements contain any departure

from accounting principles in AICPA Professional Standards or Current Text, Accounting Standards as of June 1, 1991, incorporated by reference in part 1100.4650, item A or B, 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 the licensee's 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*

**History:** *17 SR 1279; 17 SR 2274*

#### **1100.5000 FORECASTS.**

A licensee shall not permit his or her 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*

**History:** *17 SR 1279*

#### **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 the obligation under parts 1100.4800 and 1100.4900, to affect in any way 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*

**History:** *17 SR 1279*

#### **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 a client upon request:

A. original records given to the licensee by the client, taken from the client's premises, or obtained from the client; or

B. a copy of the licensee's workpapers which contain data which should properly be reflected in the client's books and records but which for convenience have not been duplicated. Examples of working papers that are considered to be client's records include:

- (1) worksheets in lieu of books of original entry, for example, listings and distributions of cash receipts or cash disbursements on columnar working paper;
- (2) worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers or similar depreciation records;
- (3) all adjusting and closing journal entries and supporting details. If the supporting details are not fully set forth in the explanation of the journal entry but are contained

in analysis of accounts in the accountant's working papers, then copies of such analysis shall be furnished to the client; and

(4) consolidating or combining journal entries and worksheets and supporting detail used in arriving at final figures incorporated in an end product such as financial statements or tax returns.

A licensee may not withhold accounting or other records received from or on behalf of the client, irrespective of whether the fee has been paid.

The licensee shall not have a lien on the client's records. If a licensee is engaged to perform certain work for a client and the engagement is terminated before the completion of such work, the licensee shall return or furnish copies of these records originally given to the licensee by the client or taken from the client's premises.

If the licensee completes the engagement, but the client refuses to pay the fee, the licensee shall return or furnish copies of records originally given to the licensee by the client or taken from the client's premises.

Once the certified public accountant or licensed public accountant has returned the client's records or furnished copies of the records or necessary supporting data, the obligation has been discharged in this regard and it is not necessary to comply with any subsequent requests to again furnish the records.

If the certified public accountant or licensed public accountant has retained copies of a client's records already in possession of the client, the certified public accountant or licensed public accountant is not required to release copies to the client.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

#### **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. A licensee 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 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, a licensee may insist on auditing any such component which in his or her judgment is necessary to warrant the expression of the licensee's 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 service beyond the specific engagement without first notifying the referring accountant, nor shall the licensee seek to obtain any additional engagement from the client.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

#### **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 the licensee's own behalf or that of a client without first informing such accountant. This rule shall not apply if the employee of the employee's own initiative or in response to a public advertisement applies for employment.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

#### **1100.5600 ACTS DISCREDITABLE.**

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

**Statutory Authority:** *MS s 326.18*

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### 1100.5700 ADVERTISING.

A licensee shall not use or participate in the use of any form of public communication having reference to the licensee's 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*

**History:** *17 SR 1279*

### 1100.5800 COMMISSIONS.

A licensee shall not pay a commission to obtain a client, nor 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*

**History:** *17 SR 1279*

### 1100.5900 INCOMPATIBLE OCCUPATIONS.

A licensee who is engaged in the practice of public accounting shall not concurrently engage in any other business or occupation that creates a conflict of interest in rendering professional services.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

### 1100.6000 FORM OF PRACTICE AND NAME.

**Subpart 1. Forms of practice.** A licensee may practice public accounting, whether as an owner or employee, only in the form of a sole proprietorship, a partnership, or a professional corporation, organized in accordance with the applicable provisions of Minnesota laws governing the practice of public accounting and the organization and operation of partnerships and professional corporations.

**Subp. 2. Names.** A licensee shall not practice under a firm name which includes any fictitious name, indicates specialization, or is misleading as to the type of organization (proprietorship, partnership, or corporation), as to the ownership of the organization, or as to the ability, resources, or size of the organization.

**Subp. 3. Names of past or deceased partners or shareholders.** Names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Where a partner or shareholder survives the death or withdrawal of all other partners or shareholders, the remaining partner or shareholder may continue to practice un-

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der the partnership or corporation name for up to two years after becoming a sole practitioner or a professional corporation with one shareholder. No name shall be used when the withdrawn partner or shareholder continues to practice public accounting or does not consent to the use of the name.

**Subp. 4. Other designations.** For purposes of Minnesota Statutes, section 326.211, subdivision 9, the term "other similar designations" includes the designation "and Associates" and any abbreviation.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 1100.6100 SOLICITATION.

A licensee shall not solicit an engagement to perform professional services:

A. if the communication of the solicitation, whether oral or written, would violate part 1100.5700 if it were a public communication; or

B. by the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct against another licensee, the client, or a potential client.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 1100.6200 COMMUNICATIONS.

An applicant, certificate holder, or licensee shall respond to communications from the board, committees of the board, or the attorney general on behalf of the board within 30 days of the mailing of communications, unless an earlier response is requested within the communications. An applicant, certificate holder, or licensee shall appear before the board, committees of the board, or the attorney general on behalf of the board when requested to do so.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 1100.6300 [Repealed, 17 SR 2274]

## CONTINUING EDUCATION

### 1100.6400 STATUTORY AUTHORITY; PURPOSE.

Under Minnesota Statutes, section 214.12, the board prescribes parts 1100.6400 to 1100.7900 to establish 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 licensed certified public accountants or licensed public accountants.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 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 a licensee's initial licensure except for persons subject to part 1100.6700, subpart 3a.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 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.** Licensees shall 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 the license is next renewed and each succeeding three-year period.

Subp. 3. [Repealed, 17 SR 2274]

Subp. 3a. **Original licenses.** A certificate holder who does not apply for the license within 30 months of having passed the uniform examination shall furnish satisfactory evidence of having completed 40 hours of acceptable continuing education within the 12 months before application. The applicant shall also complete and report 40 hours of acceptable continuing education before the next December 31.

Subp. 4. **Licensees reentering public practice.** An individual reentering public practice who has held an inactive license, not held any license, or otherwise been excepted from the continuing education requirement shall report continuing education as described in items A to E.

A. Before receipt of a license and reentry to public practice, the individual shall submit evidence of completion of 40 hours of continuing education meeting the criteria in part 1100.6900 to 1100.7900 within the last 12 months before licensure.

B. If at the time of application for inactive status, the licensee had not yet reported continuing education for the years of the reporting cycle during which the licensee was actively licensed, the licensee shall be required to report continuing education on a pro rata basis for those years.

C. The licensee shall be required to report 40 hours of continuing education by December 31 of the year of reentry.

D. The licensee shall be placed on a three-year reporting cycle based on the date the licensee was originally approved for licensure and shall report continuing education accordingly.

E. During each of the first five years after licensure or relicensure, the licensee shall report additional continuing professional education in the amount of ten hours per year for every year of nonlicensure, not to exceed 50 hours. The additional continuing professional education shall be reported on an annual basis at no less than ten hours per year.

Subp. 5. [Repealed, 17 SR 2274]

Subp. 6. **Inactive license status.** A licensee may surrender an active license and request exemption from the continuing education requirements if the licensee does not hold out as a public accountant, perform public accounting services to any degree whatever, with or without any form or remuneration, or is not engaged in an employment which was used as experi-

ence for initial licensure. Requests for inactive status are subject to approval by the board and shall be reported annually at renewal time.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

### 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 that contributes directly to the professional competence of an individual licensed to practice as a certified public accountant or as a licensed 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 national 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. Participation in committee meetings of recognized professional societies which are structured as educational programs.

F. Meetings at dinner, luncheon, and breakfast which are structured as formal educational programs.

G. Firm meetings for staff or management groups, except that portions of such meetings devoted to administrative and firm matters do not qualify.

H. 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*

**History:** *17 SR 2274*

### 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 or 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;

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

J. social environment of business;

K. specialized areas of industry; for example, film industry, real estate, or farming; and

L. administrative practice; for example, engagement letters, fee structures, or personnel.

Areas other than those in items A to L may be acceptable if the licensee can demonstrate that they contribute to professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests only with the licensee.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279; 17 SR 2274*

### 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 preparation and teaching will not exceed 50 percent of the renewal period requirement. A qualified instructor or discussion leader is anyone whose background, training, education, or experience makes it appropriate to lead a discussion on the subject matter of the particular program.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 2274*

### 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 justifying a greater credit.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

**1100.7300** [Repealed, 17 SR 2274]

**1100.7400** [Repealed, 17 SR 2274]

**1100.7500** [Repealed, 17 SR 2274]

**1100.7600** [Repealed, 17 SR 2274]

### 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 may be granted a period of time by the board in which to correct the deficiencies noted.

**Statutory Authority:** *MS s 326.18*

**History:** *17 SR 1279*

#### **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*