

July 2007

We are pleased to announce that the Uniform Accountancy Act (UAA), Fifth Edition, July 2007, is now available. As you may recall, in December 2006, the UAA exposure draft was released for comment by the AICPA/NASBA UAA Committee, and re-released with amended language in March 2007. After a careful review of the submitted comments, all the committees involved agreed to the changes as shown in the accompanying document.

The revisions to Section 23 of the Uniform Accountancy Act (UAA) and conforming changes to Sections 3, 7 and 14 provide a comprehensive system for permitting licensee mobility while making explicit the boards' authority to regulate all who offer or render professional services within their jurisdiction regardless of how those services are being provided. These changes achieve the goals of enhancing public protection, facilitating consumer choice and supporting the efficient operation of the capital markets.

These revisions to the Uniform Accountancy Act were approved by the AICPA Board of Directors on July 12, 2007 and the NASBA Board of Directors on July 27, 2007 and thus are now officially adopted. They are the first changes to the statute since December 2005, and will be reflected in the electronic version of the document available on the AICPA (www.aicpa.org) and NASBA (www.nasba.org) Web sites. The document will now be referenced as "Uniform Accountancy Act Fifth Edition, July, 2007."

If you need additional assistance or have questions, please contact the AICPA at 202-737-6600 or NASBA at 212-644-6469.

Thank you for your continued support and assistance.

Sincerely,

William Strain, CPA
AICPA UAA Committee Chair

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NASBA UAA Committee Chair

Uniform Accountancy Act

**Fifth Edition
July, 2007**

Standards for Regulation Including
Substantial Equivalency

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July 2007

Foreword

This *Uniform Accountancy Act* was approved for publication by the Boards of Directors of the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA).

July 2007

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Uniform

Accountancy

Act

American Institute of Certified Public Accountants

National Association of State Boards of Accountancy

July 2007

Preface

The modern public accounting profession originated in Great Britain during the latter half of the nineteenth century. In 1896 the New York state legislature passed the first law creating the title “certified public accountant,” thereby setting the pattern for state government regulation of the Public Accounting profession in the United States.

As with other professions, the public accounting profession is built upon a statutory foundation providing for the examination and licensing of members of the profession, and for the regulation of their professional conduct. All CPAs are examined, licensed, and regulated under state accountancy laws, and there is such a law in every American jurisdiction.

A model bill to regulate the practice of public accountancy was first published in 1916 by the American Institute of Accountants, the predecessor of the American Institute of Certified Public Accountants (AICPA), the national membership organization of certified public accountants. In 1984, the AICPA and the National Association of State Boards of Accountancy (NASBA) published the first joint model bill, later renamed the Uniform Accountancy Act (UAA). Ultimately, a substantial majority of the state accountancy laws followed, in their principal provisions, the example provided by earlier model accountancy bills and the Uniform Act.

A joint working group made up of representatives from the AICPA’s State Legislation Committee and from NASBA’s Uniform Accountancy Act Committee was formed to make changes which were incorporated into the 1992 Uniform Accountancy Act. That group has continued to develop the language for revisions to the UAA, including that found in this edition.

While past joint efforts at promoting high professional standards, protecting the public and increasing uniformity of regulation have been important, they have not produced the level of results either organization felt were satisfactory. This coupled with other significant factors occurring in the global marketplace for accounting services, led both AICPA and NASBA to begin to examine new ways to respond in this area. The AICPA, through the work of the Special Committee on Regulation and Structure and NASBA through its Reciprocity Committee and Future Licensing, Litigation and Legislation Committee, each began to explore new regulatory concepts and approaches that would be responsive to the challenges to the current regulatory system.

In March 1996, the Joint Committee on Regulation of the Profession (Joint Committee) was formed by AICPA and NASBA to share the concepts and ideas of each organization’s committees and to work to develop consensus on some significant new regulatory changes for the future. The members of the Joint Committee were leaders of AICPA and NASBA, as well as the state board Executive Directors group and the Certified Public Accountants’ Society Executives Association (CPA/SEA). After a year of meetings and discussions, the Joint Committee reached agreement on a new regulatory framework that it believed would: enhance interstate reciprocity and practice across state lines by CPAs, meet the future needs of the profession, respond to the marketplace and, most important, protect the public that the profession

serves. The Joint Committee's recommendations were approved by AICPA and NASBA leadership and were incorporated into the Third Edition of the Uniform Accountancy Act, in 1997.

Differing requirements for CPA certification, reciprocity, temporary practice, and other aspects of state accountancy legislation in the 55 American licensing jurisdictions (the 50 states, Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands) constitute artificial barriers to the interstate practice and mobility of certified public accountants. The Uniform Act seeks to eliminate such differences and the barriers that they pose to effective practice of CPAs under modern conditions through the standard of "substantial equivalency" that was added to the Act in 1998. It is fitting that this latest edition of the UAA is being released in the year of the 100th anniversary of NASBA's founding. The mobility and enforcement enhancements that have been added can assure stronger and more efficient state board enforcement in the context of modern transborder and electronic commerce in which state lines are often blurred.

Many of the organizations requiring the professional services of certified public accountants transact business on an interstate, and even on an international, basis; as a result, the practice of CPAs typically extends across state lines and, often international boundaries as well. Thus, there is a compelling need for the enactment of uniform state accountancy laws that foster rather than inhibit interstate professional practice and for laws that provide appropriately for international practice.

This Uniform Act is provided as a single comprehensive piece of legislation that could be adopted in place of existing state laws. Because there is an accountancy law now in effect in every jurisdiction, however, the Uniform Act is also designed to the extent possible with separable provisions, so that particular parts of this Act could, with appropriate amendments, be added to existing laws instead of replacing such laws entirely. In the interest of uniformity and to promote mobility through the substantial equivalency standard, the AICPA and NASBA strongly urge states to adopt the entire Act.

The Uniform Act reflects applicable AICPA and NASBA legislative policies. The principal AICPA legislative policy, as approved by its governing Council, is set out (in annotated form) in Appendix A. Appendix B now contains the new Statement on Standards for Continuing Professional Education (CPE) Programs approved by AICPA and NASBA. Appendix C sets out guidelines as to the substantial equivalency standard.

The Uniform Accountancy Act is designed to achieve several objectives. As the name of the Act suggests, the Act advances the goal of uniformity. In addition, the Act's provisions protect the public interest and promote high professional standards.

With respect to this edition, pages are dated so that in the future individual provisions can be revised without the necessity of reprinting the entire Act.

Introductory Comments

A Note About Format

Beginning with the 1992 edition, the Uniform Accountancy Act has been designed as an “evergreen” document. This edition makes revisions to Section 23 of the Uniform Accountancy Act (UAA) and conforming changes to Sections 7 and 14 to provide a comprehensive system for permitting licensee mobility while making explicit the boards’ authority to regulate all who offer or render professional services within their jurisdiction regardless of how those services are being provided. These changes achieve the goals of enhancing public protection, facilitating consumer choice and supporting the efficient operation of the capital markets.

The Uniform Act comprises the complete text of a statute (in boldface type) that could be adopted in place of any accountancy law now in effect, with explanatory comments (not intended to be enacted as part of the law) following some provisions printed in regular type. It may happen that a particular legislature will be interested in considering not a complete new law but only certain provisions, to be substituted for or added to provisions of the law already in effect.

An effort has been made to make the provisions of the Uniform Act readily adaptable for this purpose. However, in the event of piecemeal adoption, it is likely that changes in particular provisions will be required in order to tailor them to the terminology and structure of the existing legislation. The comments attempt to identify important matters that might need to be considered in such circumstances, but no effort has been made to identify every point regarding which adaptation might be required; that can better be done (and in any event would have to be done) when particular legislation is actually under consideration.

Whether the Uniform Act is considered for adoption wholly or only in part, adjustments may also be appropriate in light of other laws in effect in the particular state in question. Some provisions included in the Uniform Act may be unnecessary, for example, because they are covered by other laws of general applicability, such as a state administrative procedure act. Other provisions may be at odds with the way a particular matter is generally dealt with in the state—for example, the authority of licensing Boards, or their procedures, or their composition. Again, the comments attempt to identify the principal points requiring consideration in this regard. Provisions, such as the one related to the size of the Board (Section 4(a)) on which this Uniform Act presents specific choices, are flagged by brackets.

The Fundamental Principles That Should Govern the Regulation of Certified Public Accountants¹

The fundamental principles of the AICPA's and NASBA's legislative policies, and of the resulting Uniform Act, are few, and can be simply stated.

First, statutory regulation of CPAs, as of any other profession or occupation, is justified only by considerations of the public interest. The public interest must be a substantial one, since regulation necessarily involves restrictions on who can perform certain services and the manner in which they are performed. The conventional formulation is that regulatory legislation must be reasonably designed to protect the public health, safety, or welfare; the practice of CPAs has a significant impact on the public welfare.

Second, appropriately designed regulation of CPAs serves to protect the public welfare in two principal ways: (a) by providing reasonable assurance of competence on the part of persons and entities that perform those services that require a substantial degree of skill and competence for proper performance and regarding which the consequences of inadequate performance may be of serious dimension; and (b) by preventing deception of the public regarding the level of competence that may reasonably be expected of a given practitioner. A central element in the protection of the public welfare through the regulation of CPAs is prevention of circumstances in which persons who are not themselves in a position to judge the competence of a particular practitioner or the reliability of particular financial information may be induced to rely on assurances of such competence or reliability (explicit or implied) that are not reasonably supported in fact. Third-party reliance—reliance by persons not themselves clients of the certified public accountants whose professional work is relied on—is an example of the need for regulating CPAs in the public interest.

Third, although an expectation of some minimal level of competence is involved when a person or entity is engaged to perform services for hire, whatever the services may be, the degree to which such an expectation involves a substantial public interest and, in consequence, the degree to which it justifies legal regulation, varies significantly with both the level of skill required for adequate performance of the service, and the range and severity of adverse consequences that may derive from inadequate performance. Among the many different professional services that CPAs perform, one is, to a far greater degree than any other, affected by considerations of competence, namely, the expression of formal professional opinions upon financial statements.

Not only does the expression of opinions on financial statements call for the greatest breadth and most intense development of the professional skills employed by CPAs, but it invites the

¹Including licensed public accountants

highest degree of reliance by the widest segment of the public. When attest and compilation services are not competently and properly performed, the breadth and severity of the possible adverse consequences are far greater than those attendant upon other services performed by CPAs. For these reasons, the keystone of the Uniform Act reserves the issuance of reports in standard form on audited, reviewed and compiled financial statements to licensees who have demonstrated qualifications to perform attest and compilation services.

A professional service similar in nature to the audit function, although differing in the level of assurance implied, is the conduct of “reviews” of financial statements and the issuance of reports upon such reviews. Formal standards have been promulgated by the AICPA in a series of Statements on Standards for Accounting and Review Services (SSARS), and reviews conducted in accordance with such standards may call upon the same level of knowledge as does an audit. Although the degree of assurance (explicit and implied) in reports upon reviews purporting to comply with the AICPA’s formal standards is less than that expressed and implied by reports represented to be based upon an audit, the issuance of such reports is restricted to persons who have demonstrated the qualifications necessary to perform the audit function.

Still another professional service, founded on the same array of skills and the same level of knowledge as audits, but not involving any explicit assurance, is the issuance of reports on “compilations” of financial statements. Again, formal standards have been promulgated in the SSARS pronouncements for the conduct of such compilations and for reports thereon. A danger of innocent reliance on the implicit representations of skill and assurances of reliability of such reports exists if they are issued by persons not having the professional qualifications that such reports imply.

Included in attest services, because of the public’s reliance, is an important service defined in the Statements on Standards for Attestation Engagements (SSAE), examination of prospective financial information. The skills necessary to perform such a service are at least as demanding as the level of knowledge necessary to perform the audit process.

Accordingly, this Uniform Act extends the definition and reservation of attest and compilation services to include audits, reviews and compilations of financial statements and the examination of prospective financial information when the reports on those services are in standard form, and prescribed by authoritative pronouncements, so as to imply assurances and the professional qualifications underlying such assurances. And, because of the especially great need for public protection in connection with these services, only licensees (or individuals with practice privileges) may perform these services and must do so only through firms registered with a state board.

Fourth, the requirements for licensing persons to perform the professional services thus reserved should be designed to provide significant assurance that those who undertake to perform such services have at least a minimum level of professional qualification for adequate performance. Two means are commonly employed to provide this kind of assurance of

competence (not only with respect to the CPA profession, but other professions as well): (a) reserve the performance of the services in question to persons licensed to do so; and (b) require, as a condition of such licensing, demonstration of skill and knowledge, typically by means of examinations, education requirements and experience or competency requirements. Uniformity of the required demonstration of skill and competence among licensees within a given state and those of different states is obviously desirable from the public interest point of view. Nevertheless, in the interest of equity, legislatures of most jurisdictions have made provisions for “grandfathering” persons who, though they had not met the requirements for issuance of a certificate as certified public accountant, were nonetheless engaged in unregulated attest and compilation services when the licensing law became effective. Because relatively few jurisdictions exist without “grandfathering” provisions, this Uniform Act does not include a provision for a new “grandfathered” entitlement to perform attest and compilation services. It does, however, contain provisions to deal with such a class of public accountants where the prior law established such a class.

Fifth, an effective regulatory plan will also prohibit persons who have not met the licensing requirements from representing to the public that they have done so, thus protecting the public against incompetence and deception. Provisions should be designed to prevent would-be practitioners from representing to the public, directly or indirectly, that they have a higher degree of competence than they in fact command.

Sixth, the need to assure the public of reasonable competence and the need to protect the public against deception combine to support regulation of the conduct of all licensees, even in their performance of work which unlicensed persons may also perform. If a given person has demonstrated the high level of competence required for licensure, even though the license has its central justification and purpose in the performance of attest and compilation services, nonetheless the qualifications required to be demonstrated in order to merit such a license will reasonably support public expectations that the licensee has special competence and higher professional conduct in other areas of practice as well and that the licensee adheres to a higher level of professional conduct than unlicensed persons. Such a reasonable expectation of special competence in other areas than the one for which a license is specifically required calls for regulation of the professional conduct of all licensees who promote themselves to the public as such.

Seventh, the need to assure the public of reasonable competence supports the requirement that all licensees maintain professional competence in their area of responsibility through continuing professional education. The provisions for such education should provide for wide latitude in selection of continuing education and should prescribe full credit for any course that contributes to the general professional competence of the licensee.

Eighth, it is desirable that there be, to the maximum extent feasible, uniformity among jurisdictions with regard to those aspects of the regulatory structure that bear upon the qualifications required of licensees. Because many of the clients or employers of CPAs are multistate enterprises, much of the practice of CPAs has an interstate character; consequently,

CPAs must be able to move freely between states. The need for interstate mobility and maintenance of high minimum standards of competence in the public interest requires uniform licensing qualifications, insofar as possible, among the states.

Ninth, and finally, it is essential that mobility for CPAs be enhanced. With respect to the goal of portability of the CPA title and mobility of CPAs across state lines, the cornerstone of the approach recommended by this Act is the standard of “substantial equivalency” set out in Section 23. Under substantial equivalency, a CPA’s ability to obtain reciprocity would be simplified and they would have the right to practice in another state without the need to obtain an additional license in that state unless it is where their principal place of business is located, as determined by the licensee. Individuals would not be denied reciprocity or practice rights because of minor or immaterial differences in the requirements for CPA certification from state-to-state. However, individuals with practice privileges who wish to provide certain attest services for a client whose home office is in a state must do so only through a firm with a permit in the practice privilege state.

Substantial equivalency is a determination by the Board of Accountancy, or NASBA, that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed, the education, examination and experience requirements contained in the Uniform Accountancy Act. If the state of licensure does not meet the substantial equivalency standard, individual CPAs may demonstrate that they personally have education, examination and experience qualifications that are comparable to or exceed those in the Uniform Accountancy Act.

For purposes of practice rights, an applicant that has an active certificate as a certified public accountant from any jurisdiction that has obtained from the Board of Accountancy or NASBA a determination of substantial equivalency with the Uniform Accountancy Act’s CPA certificate requirements shall be presumed to have qualifications substantially equivalent to this jurisdiction’s. Individual CPAs from states that are not substantially equivalent may qualify under the substantial equivalency standard on an individual basis. Any CPA that wants to obtain a reciprocal certificate under substantial equivalency must personally possess qualifications that are substantially equivalent to, or exceed, the CPA licensure provisions in the Uniform Accountancy Act.

In the interest of obtaining maximum uniformity and interstate mobility, and assuring that CPAs are subject to only one type of regulatory scheme, the Uniform Act should be the standard of regulation for certificate holders in the U.S. and its jurisdictions. All states and jurisdictions should seek to adopt the Uniform Act to provide uniformity in accountancy regulation. Uniformity will become even more essential in the future as international trade agreements continue to be adopted causing the accounting profession to adopt a global focus.

Implementation of the Governing Principles in the Uniform Accountancy Act

Reflecting the fundamental principles just discussed, following are the key features of the Uniform Act.

1. The only kinds of professional services for which licensing is required are attest services defined as (a) the audit function--the expression of opinions on financial statements; (b) the issuance of reports in standard form upon reviews of financial statements; and (c) the examination of prospective financial information. Licensure is also required to perform compilations of financial statements in accordance with SSARS. (See Section 3(p), defining the term "report;" and Section 14(a) prohibiting unlicensed persons or persons without practice privileges from issuing reports on audits, reviews, and compilations of financial statements.) These services are restricted to licensees under the Act. Other attestation services are not restricted to licensees, however, when licensees perform those services they are regulated by the state board of accountancy. Anyone, whether licensed or not, may offer and perform any other kind of accounting service, including tax services, management advisory services, and the preparation of financial statements as permitted under section 14(a).

2. In order to perform attest services, a CPA firm or sole practitioner must meet certification requirements (under Section 6) for individuals and permit requirements (under section 7) for firms. The Uniform Accountancy Act involves a regulatory system in which applicants obtain and renew a license. Certain attest services may only be rendered through firms holding permits from this state. All licensees who are responsible for supervising attest or compilation services and sign or authorize someone to sign reports on financial statements on behalf of their firm must meet the competency requirements contained in professional standards before they may perform attest or compilation services. All licensees, whether in private industry, education, government, or public practice, must meet the same continuing education requirement. Only licensed individuals may perform compilations of financial statements in accordance with SSARS, but they need not do so through a firm that holds a permit under Section 7.

3. In order to facilitate interstate practice and free movement of practitioners between states, a provision is made for reciprocal recognition of licenses issued by other states. Those individual licensees who meet the substantial equivalency standard may freely practice across state lines without the need for additional licensure. Under Section 23, they need not provide notice to the state board of the state in which they want to practice. However, if a firm provides certain services through substantially equivalent individuals with practice privileges, the firm must obtain a permit from the practice privilege state. In cases in which the requirements of the other state are not in compliance with the Uniform Accountancy Act and the individual does not personally meet its standard for education, the Act allows the individual to demonstrate professional experience as a substitute for the education qualifications (See Section 6(c)). Reciprocity for those CPAs who establish their principal place of business in another state requires an application process; however, upon a demonstration that the individual's qualifications for the other state's certificate were in compliance with the standards set out in this

Uniform Act, a reciprocal license will be issued (Sections 6, 23).

4. The Uniform Act includes provisions that would preserve a class of “grandfathered” practitioners licensed to use the title “public accountant” and to perform the audit function, where an existing accountancy law to be superseded by the Uniform Act has provided for such licensing (Section 8), but would not provide for the creation of any new such class where it had not existed under prior law. There are a few states where the accountancy law currently in effect, though providing for the issuance of CPA certificates, does not restrict unlicensed persons from performing any sort of professional accounting service, including the audit function so long as the unlicensed persons do not trade upon the CPA title. If those states should decide to change to a form of accountancy law that restricts the compilation and attest function to licensees, like all other American jurisdictions, the recommendation implicit in this Uniform Act is that they not create any second class of licensees, “grandfathered” or other. There are some states where a provision is currently made for a second class of licensees, given exclusive right to use a particular title but not the right to perform the audit function. Because no public interest is served by such a second class of licensees, this Uniform Act contains no such provision.

5. Licensees are subject to regulation of their professional conduct in their performance of any professional service including those services for which a license is not required and regarding which, in consequence, other persons are entirely unregulated under the Act.

6. In order to prevent misleading the public regarding the qualifications or licensure status of persons who are not licensed, the Uniform Act contains a series of prohibitions on the use by unlicensed persons or firms of titles restricted to licensees under the Act, or titles misleadingly similar to such titles (see Section 14(c)-(h)).

7. The Uniform Act contemplates that, as with most accountancy laws now in effect, responsibility for administration and implementation will be vested in a State Board of Accountancy (Section 4). The Board adopts and administers examinations and issues certificates (Sections 5 and 6); issues permits to firms (Section 7); promulgates rules that govern the conduct of licensees and that otherwise implement the Act (Section 4(h)); and has principal responsibility for disciplinary enforcement (Sections 10-13, 15) and prevention of unauthorized practice (Sections, 14, 15, 16 and 17).

8. The desirability of uniformity among jurisdictions, mentioned above as one of the fundamental principles of both the AICPA’s and NASBA’s legislative policies, is recognized in the Uniform Act provisions dealing with such matters as examinations, education and experience requirements for the initial granting of a certificate (Section 5), and the continuing professional education requirements for the renewal of certificates (Section 6). As mentioned in the comments following several of these provisions, they are framed in a substantially more detailed fashion than might otherwise be expected (dealing with matters that might often be addressed by regulation rather than statute) in order to encourage uniformity among the various states.

9. The proposal for regulatory change which is included in this Act seeks to accomplish the

broad objectives of mobility and uniformity and public protection within today's state-based regulatory model. It includes implementation of a "substantial equivalency" standard to simplify reciprocity and to provide a no notice, no fee, and no escape approach for granting practice privileges across state lines for CPAs from states meeting UAA standards as well as for CPAs who individually meet UAA standards.

Uniform Accountancy Act

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SECTION 1
TITLE

This Act may be cited as the “Accountancy Act of 20__.”

1 **SECTION 2**
2 **PURPOSE**

3
4 **It is the policy of this State, and the purpose of this Act, to promote the reliability of**
5 **information that is used for guidance in financial transactions or for accounting for or**
6 **assessing the financial status or performance of commercial, noncommercial, and**
7 **governmental enterprises. The public interest requires that persons professing special**
8 **competence in accountancy or offering assurance as to the reliability or fairness of**
9 **presentation of such information shall have demonstrated their qualifications to do so, and**
10 **that persons who have not demonstrated and maintained such qualifications, not be**
11 **permitted to represent themselves as having such special competence or to offer such**
12 **assurance; that the conduct of persons licensed as having special competence in**
13 **accountancy be regulated in all aspects of their professional work; that a public authority**
14 **competent to prescribe and assess the qualifications and to regulate the conduct of licensees**
15 **be established; and that the use of titles that have a capacity or tendency to deceive the**
16 **public as to the status or competence of the persons using such titles be prohibited.**

17
18 *COMMENT:* This statement of legislative purposes reflects the fundamental principles
19 governing the regulation of holders of certificates as certified public accountants.

1 **SECTION 3**
2 **DEFINITIONS**

3
4 **When used in this Act, the following terms have the meanings indicated:**

- 5
6 (a) **"AICPA" means the American Institute of Certified Public Accountants.**
7
8 (b) **“Attest” means providing the following financial statement services:**
9
10 (1) **any audit or other engagement to be performed in accordance with the**
11 **Statements on Auditing Standards (SAS);**
12
13 (2) **any review of a financial statement to be performed in accordance with the**
14 **Statements on Standards for Accounting and Review Services (SSARS);**
15
16 (3) **any examination of prospective financial information to be performed in**
17 **accordance with the Statements on Standards for Attestation Engagements**
18 **(SSAE); and**
19
20 (4) **any engagement to be performed in accordance with the standards of the**
21 **PCAOB**

22
23 **The standards specified in this definition shall be adopted by reference by the**
24 **Board pursuant to rulemaking and shall be those developed for general**
25 **application by recognized national accountancy organizations, such as the**
26 **AICPA, and the PCAOB.**

27
28 *COMMENT:* Subject to the exceptions set out in Section 7, 14, and 23 (a)(4), these services are
29 restricted to licensees and CPA firms under the Act and licensees can only perform the attest
30 services through a CPA firm. Individual licensees may perform the services described in Section
31 3(f) as employees of firms that do not hold a permit under Section 7 of this Act, so long as they
32 comply with the peer review requirements of Section 6(j). Other attestation services are not
33 restricted to licensees or CPA firms; however, when licensees perform those services they are
34 regulated by the state board of accountancy. See also the definition of Report. The definition
35 also includes references to the Public Company Accounting Oversight Board (PCAOB) which
36 make it clear that the PCAOB is a regulatory authority that sets professional standards applicable
37 to engagements within its jurisdiction.
38

- 39
40 (c) **“Board” means the _____ Board of Accountancy established under Section 4 of**
41 **this Act or its predecessor under prior law.**
42

43 *COMMENT:* The general purpose of references to prior law, in this provision and others below,
44 is to assure maximum continuity in the regulatory system, except where particular changes are
45 specifically intended to be brought about by amendment of the law.

1
2 **(d) “Certificate” means a certificate as “certified public accountant” issued under**
3 **Section 6 of this Act or corresponding provisions of prior law, or a corresponding**
4 **certificate as certified public accountant issued after examination under the law of**
5 **any other state.**

6 *COMMENT:* The term here defined is used in section 3(o), defining the term “peer review”;
7 section 4(a), regarding the composition of the Board of Accountancy; section 4(h)(6), regarding
8 Board rules governing use of the titles “certified public accountant” and “CPA”; section 10(a),
9 regarding enforcement proceedings; and section 14(c), prohibiting use of the titles “certified
10 public accountant” and “CPA” by persons not holding certificates.

11
12 In a few states the law allows for the issuance of “certificates” to certain practitioners who have
13 not passed the examination ordinarily required (and provided for by section 5 of this Uniform
14 Act). The definition of the term “certificate,” insofar as it has reference to those issued by other
15 states, excludes any certificate for which an examination was not required.

16
17 **(e) “Client” means a person or entity that agrees with a licensee or licensee's employer**
18 **to receive any professional service.**

19
20 *COMMENT:* This term is used in a number of Sections throughout this Act including the
21 provisions related to acceptance of commissions and contingent fees, client records and
22 confidential communications. For that reason it is useful to include a definition of the term.

23
24 **(f) "Compilation" means providing a service to be performed in accordance with**
25 **Statements on Standards for Accounting and Review Services (SSARS) that is**
26 **presenting in the form of financial statements, information that is the representation**
27 **of management (owners) without undertaking to express any assurance on the**
28 **statements.**

29
30 **(g) “CPA Firm” means a sole proprietorship, a corporation, a partnership or any other**
31 **form of organization issued a permit under Section 7 of this Act.**

32
33 *COMMENT:* This defined term is used in section 7, on permits to practice for firms, in such a
34 way as to allow the Uniform Act, unlike some accountancy laws now in effect, to treat both
35 partnerships and corporations in a single provision rather than in two separate but parallel
36 provisions for the two different forms of organization. It is also used in section 12(j), on rights
37 of appeal from an adverse Board decision in an enforcement proceeding; section 14(a),
38 prohibiting issuance of reports on financial statements or attest services by unlicensed persons
39 and firms; 14(d), (f), (g) and (h), regarding use of certain titles by unlicensed persons and firms;
40 section 14(i), regarding misleading firm names; and section 14(j), defining certain rights of
41 foreign licensees to serve foreign clients. The definition of “firm” is designed to be broad
42 enough to include any type of business entity or combination of business entities, recognized by

1 the state.

2
3 Inclusion of sole proprietorships in the definition of the term “firm” has the effect of requiring
4 sole practitioners to secure both individual certificates under section 6 and firm permits to
5 practice under section 7. This will assure that all practice units have firm permits. The Board
6 would have the power to alleviate the burden of duplicate applications (where the same person
7 must secure both an individual certificate and a firm permit) by providing for joint application
8 forms.

9
10 **(h) “Home office” is the location specified by the client as the address to which a service**
11 **described in Section 23(a)(4) is directed.**

12
13 *Comment:* Under this provision, as a practical matter, a firm must have a permit in the state
14 specified by the client for Section 23(a)(4) services. Thus, for example, the client may specify
15 that a Section 23(a)(4) service for a subpart or subsidiary of an entity be directed to the location
16 of that subpart or subsidiary. It should also be remembered that, regardless of whether or not the
17 firm has a permit in that state, under Section 23(a)(3), a state board has administrative
18 jurisdiction over individual licensees as well as firms offering or rendering professional services
19 in that state. It should also be noted that other terms such as “headquarters” and “principal place
20 of business” were not used because of extant uses of both terms that might be confusing or defeat
21 the purpose of the mobility revisions.

22
23
24 **(i) “License” means a certificate issued under Section 6 of this Act, a permit issued**
25 **under Section 7 or a registration under Section 8; or, in each case, a certificate or**
26 **permit issued under corresponding provisions of prior law.**

27
28 *COMMENT:* See commentary to section 3(j) below.

29
30 **(j) “Licensee” means the holder of a license as defined in Section 3(j).**

31
32 *COMMENT:* This term is intended simply to allow for briefer references in provisions that
33 apply to holders of certificates, holders of permits and holders of registrations: See section 4(h),
34 regarding rules to be promulgated by the Board of Accountancy; section 5(b), regarding the
35 meaning of “good moral character” in relation to the professional responsibility of a licensee;
36 Sections 11(c) and (d), regarding Board investigations; Sections 12(a)-(c), (i), and (k), relating to
37 hearings by the Board; section 18, relating to confidential communications; and Sections 19(a)
38 and (b), regarding licensees’ working papers and clients’ records.

39
40 **(k) “Manager” means a manager of a limited liability company.**

41
42 **(l) “Member” means a member of a limited liability company.**

43
44 *COMMENT:* The two defined terms “manager” and “member” assume that the state has adopted

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1 a limited liability company law, and that these terms are used in that law. If this is not the case,
2 then these terms should not be included in the Act, either here, or in the substantive provisions of
3 the Act: Sections 7(c), 7(f), 12(c), 14(h), 14(i), 19(a). The point is an important one, since the
4 two terms are in general use in circumstances where their meaning is different from what is
5 intended here.

6
7 **(m) "NASBA" means the National Association of State Boards of Accountancy.**

8
9 **(n) "PCAOB" means the Public Company Accounting Oversight Board.**

10
11 **(o) "Peer Review" means a study, appraisal, or review of one or more aspects of the**
12 **professional work of a certificate holder or CPA firm that issues attest or**
13 **compilation reports, by a person or persons who hold certificates and who are not**
14 **affiliated with the certificate holder or CPA firm being reviewed.**

15
16 *COMMENT:* This defined term is employed in section 4(h)(7), which empowers the Board to
17 issue rules prescribing how such reviews are to be performed; section 7(h), contemplating such
18 reviews in connection with renewals of firm permits; section 10(b)(1), specifying that such
19 reviews are available as remedies in enforcement proceedings; section 13(c), providing that the
20 Board may require such reviews as a condition of reinstatement after a suspension or revocation
21 of a certificate or permit; and section 18, on confidential communications, which recognizes an
22 exception for peer review. The rules issued by the Board under section 4(h)(7) would
23 presumably prescribe, among other things, how the requirement of independence, or non-
24 affiliation, of the reviewer to the person or firm being reviewed is to be implemented. See also
25 Sections 6(j), 14(k) and 14(l) with regard to certificate holders who perform compilations other
26 than through a CPA firm.

27
28 **(p) "Permit" means a permit to practice as a CPA firm issued under Section 7 of this**
29 **Act or corresponding provisions of prior law or under corresponding provisions of**
30 **the laws of other states.**

31
32 **(q) "Principal place of business" means the office location designated by the licensee for**
33 **purposes of substantial equivalency and reciprocity.**

34
35 *COMMENT:* "Principal place of business" has been defined to assure consistency in the use of
36 that term. Under substantial equivalency, a licensee must obtain a certificate from the state
37 board in the state where the licensee has an office and establishes it as the principal place of
38 business. Because states have adopted more than one statutory definition of "principal place of
39 business," both AICPA and NASBA agree that the simple definition above will not only enhance
40 mobility, but also be easier to implement and enforce.

41
42 **(r) "Professional" means arising out of or related to the specialized knowledge or**
43 **skills associated with CPAs.**

1 (s) **“Report,” when used with reference to financial statements, means an opinion,**
2 **report, or other form of language that states or implies assurance as to the**
3 **reliability of any financial statements and that also includes or is accompanied by**
4 **any statement or implication that the person or firm issuing it has special knowledge**
5 **or competence in accounting or auditing. Such a statement or implication of special**
6 **knowledge or competence may arise from use by the issuer of the report of names or**
7 **titles indicating that the person or firm is an accountant or auditor, or from the**
8 **language of the report itself. The term “report” includes any form of language**
9 **which disclaims an opinion when such form of language is conventionally**
10 **understood to imply any positive assurance as to the reliability of the financial**
11 **statements referred to and/or special competence on the part of the person or firm**
12 **issuing such language; and it includes any other form of language that is**
13 **conventionally understood to imply such assurance and/or such special knowledge**
14 **or competence.**
15

16 *COMMENT:* As has been explained in the introductory comments, the audit function, which this
17 term is intended to define, is the principal kind of professional accounting service for which a
18 license would be required under the Uniform Act. The term has its most important operative use
19 in section 14(a) of the Act, which prohibits persons not licensed from performing that function as
20 well as any attest or compilation services as defined above.
21

22 It is a point of fundamental significance that the audit function is defined, not in terms of the
23 work actually done, but rather in terms of the issuance of an opinion or a report--that is, the
24 making of assertions, explicit or implied--about work that has been done. It is such reports, or
25 assertions, upon which persons using financial statements (whether clients or third parties) rely,
26 reliance being invited by the assertion, whether explicit or by implication, of expertise on the
27 part of the person or firm issuing the opinion or report. Thus, this definition is sought to be
28 drawn broadly enough to encompass all those cases where either the language of the report itself,
29 or other language accompanying the report, carries both a positive assurance regarding the
30 reliability of the financial information in question, and an implication (which may be drawn from
31 the language of the report itself) that the person or firm issuing the report has special competence
32 which gives substance to the assurance.
33

34 The definition includes disclaimers of opinion when they are phrased in a fashion which is
35 conventionally understood as implying some positive assurance, because authoritative
36 accounting literature contemplates several circumstances in which a disclaimer of opinion in
37 standard form implies just such assurances. The same reasoning that makes it appropriate to
38 include disclaimers of opinion in conventional form within the definition of this term makes it
39 appropriate to apply the prohibition on the issuance by unlicensed persons of reports, as so
40 defined, on “reviews” and “compilations” and other communications with respect to
41 “compilations” within the meaning of the AICPA’s Statements on Standards for Accounting and
42 Review Services (SSARS), when the language in which the report or other compilation
43 communication is phrased is that prescribed by SSARS. This is done in section 14(a). These
44 prohibitions, again, do not apply to the services actually performed--which is to say that there is

1 no prohibition on the performance by unlicensed persons of either reviews or compilations, in
2 the sense contemplated by SSARS, but only on the issuance of reports or other compilation
3 communications asserting or implying that their author has complied or will comply with the
4 SSARS standards for such reviews and compilations and has the demonstrated capabilities so to
5 comply.

6
7 **(t) “Rule” means any rule, regulation, or other written directive of general application**
8 **duly adopted by the Board.**

9
10 **(u) “State” means any state of the United States, the District of Columbia, Puerto**
11 **Rico, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands,**
12 **and Guam; except that “this State” means the State of _____.**

13
14 **(v) “Substantial Equivalency” is a determination by the board of accountancy or its**
15 **designee that the education, examination and experience requirements contained in**
16 **the statutes and administrative rules of another jurisdiction are comparable to, or**
17 **exceed the education, examination and experience requirements contained in the**
18 **Uniform Accountancy Act or that an individual CPA’s education, examination and**
19 **experience qualifications are comparable to or exceed the education, examination**
20 **and experience requirements contained in the Uniform Accountancy Act. In**
21 **ascertaining substantial equivalency as used in this act the Board shall take into**
22 **account the qualifications without regard to the sequence in which experience,**
23 **education, or examination requirements were attained.**

24
25 *COMMENT:* For purposes of practice privileges, an applicant that has an active certificate as a
26 certified public accountant from any jurisdiction that has obtained from the Board of
27 Accountancy or NASBA a determination of substantial equivalency with the Uniform
28 Accountancy Act’s CPA licensure requirements shall be presumed to have qualifications
29 substantially equivalent to this jurisdiction’s. An individual who has obtained from the Board of
30 Accountancy or NASBA a determination of substantial equivalency with the Uniform
31 Accountancy Act’s CPA licensure requirements shall be entitled to reciprocity under the
32 substantial equivalency standard.

1 **SECTION 4**
2 **STATE BOARD OF ACCOUNTANCY**

3
4 (a) **There is hereby created the _____ Board of Accountancy, which shall have**
5 **responsibility for the administration and enforcement of this Act. The Board shall**
6 **consist of ___ members, appointed by the Governor, all of whom shall be residents**
7 **of this State. At least [a majority plus one] of such members shall be holders of**
8 **currently valid certificates issued under Section 6 of this Act or corresponding**
9 **provisions of prior law; and any members of the Board not having such**
10 **qualifications shall have had professional or practical experience in the use of**
11 **accounting services and financial statements, so as to be qualified to make**
12 **judgments about the qualifications and conduct of persons and firms subject to**
13 **regulation under this Act. The term of each member of the Board shall be ___ years,**
14 **the term of each to be designated by the Governor. [Alternatively: except that**
15 **members of the _____ Board of Accountancy appointed and serving as such**
16 **under prior law at the effective date of this Act shall serve out the terms for which**
17 **they were appointed, as members of the Board created by this Section.] Vacancies**
18 **occurring during a term shall be filled by appointment by the Governor for the**
19 **unexpired term. Upon the expiration of the member’s term of office, a member shall**
20 **continue to serve until a successor shall have been appointed and taken office. Any**
21 **member of the Board whose certificate under Section 6 of this Act is revoked or**
22 **suspended shall automatically cease to be a member of the Board, and the Governor**
23 **may, after a hearing, remove any member of the Board for neglect of duty or other**
24 **just cause. No person who has served two successive complete terms shall be eligible**
25 **for reappointment, but appointment to fill an unexpired term shall not be**
26 **considered a complete term for this purpose.**

27
28 *COMMENT:* A number of decisions have to be made with regard to the structure and
29 composition of licensing bodies such as state boards of accountancy, and these decisions will
30 vary from state to state according to the patterns prevailing in the different states with respect to
31 other licensing Boards. This provision of the Uniform Act is intended to identify the principal
32 decision points and to suggest, on the basis of general experience, what seem to be the preferable
33 solutions.

34
35 As respects the number of Board members, it is suggested that the appropriate range is from five
36 to nine, and that the number should be an odd one, so as to minimize the likelihood of tie votes.

37
38 This provision assumes that, as is ever more widely the case, one or more members of the Board
39 will be other than licensees (sometimes called “public” members). It also reflects the view that,
40 in light of the technical nature of much of the Board’s responsibilities, it is desirable that an
41 effective majority of the Board be certificate holders: This would be achieved by the requirement
42 that one more than a majority of the Board be certificate holders. As respects the terms of Board
43 members, it is desirable that the terms be staggered; that they be long enough to allow effective
44 service, though not so long that a Board member who proves ineffective remains in office any
45 longer than necessary; and that they be renewable but that there be a limit on the number of times

1 they may be renewed. This provision reflects the view that the length of the term should be four
2 years rather than three years, as is now more commonly the case. Although there seems to be an
3 increasing trend toward not reappointing Board members for a second term, it takes any new
4 Board member some time in office before he is fully effective. A somewhat longer term seems
5 an appropriate way of balancing these two considerations.
6

7 **(b) The Board shall elect annually from among its members a chairman and such other**
8 **officers as the Board may determine to be appropriate. The Board shall meet at**
9 **such times and places as may be fixed by the Board. Meetings of the Board shall be**
10 **open to the public except insofar as they are concerned with investigations under**
11 **Section 11 of this Act and except as may be necessary to protect information that is**
12 **required to be kept confidential by Board rules or by the laws of this State. A**
13 **majority of the Board members then in office shall constitute a quorum at any**
14 **meeting duly called. The Board shall have a seal which shall be judicially noticed.**
15 **The Board shall retain or arrange for the retention of all applications and all**
16 **documents under oath that are filed with the Board and also records of its**
17 **proceedings, and it shall maintain a registry of the names and addresses of all**
18 **licensees under this Act. In any proceeding in court, civil or criminal, arising out of**
19 **or founded upon any provision of this Act, copies of any of said records certified as**
20 **true copies under the seal of the Board shall be admissible in evidence as tending to**
21 **prove the contents of said records.**
22

23 *COMMENT:* This subsection, like the preceding one, presents a number of decision points that
24 may vary according to state practice, and it includes some provisions (notably the ones regarding
25 open meetings and confidential information) that may be unnecessary in the accountancy law
26 because they are covered by state laws of general application. Subject to such variances, the
27 provisions recommended appear to be desirable ones in the light of general experience.
28

29 **(c) Each member of the Board shall be paid an amount established by law for each day**
30 **or portion thereof spent in the discharge of the member's official duties and shall be**
31 **reimbursed for the member's actual and necessary expenses incurred in the**
32 **discharge of the member's official duties.**
33

34 **(d) All moneys collected by the Board from fees authorized to be charged by this Act**
35 **shall be received and accounted for by the Board and shall be deposited in the State**
36 **Treasury to the credit of the Board. Appropriation shall be made for the expenses of**
37 **administering the provisions of this Act, which may include, but shall not be limited**
38 **to, the costs of conducting investigations and of taking testimony and procuring the**
39 **attendance of witnesses before the Board or its committees; all legal proceedings**
40 **taken under this Act for the enforcement thereof; and educational programs for the**
41 **benefit of the public and licensees and their employees.**
42

43 *COMMENT:* A provision of this kind, effectively providing that at least a substantial portion of
44 the revenues raised from fees required to be paid by applicants and licensees will be applied to

1 defraying the expenses of administering the law, has proved a desirable one in those jurisdictions
2 where the statute contains such a provision. The typical pattern is that the regulation of public
3 accountancy is, from the state's point of view, self-supporting. The extent to which the Board has
4 adequate staff to assist it (as provided in subsection (f) below) and other resources necessary to
5 do its job effectively may well depend on the extent to which such revenues are available for use
6 in the administration of the Act.

7
8 **(e) The Board shall file an annual report of its activities with the Governor and the**
9 **legislature, which report shall include a statement of all receipts and disbursements**
10 **and a listing of all current licensees under this Act. The Board shall mail a copy of**
11 **the annual report to any person requesting it and paying a reasonable charge**
12 **therefor.**

13
14 **(f) The Board may employ an executive director and such other personnel as it deems**
15 **necessary in its administration and enforcement of this Act. It may appoint such**
16 **committees or persons, to advise or assist it in such administration and enforcement,**
17 **as it may see fit. It may retain its own counsel to advise and assist it in addition to**
18 **such advice and assistance as is provided by the Attorney General of this State.**

19
20 *COMMENT:* Adequate staffing can be an important determinant of how effective a Board of
21 Accountancy is in discharging its statutory obligations. The same is true of the ability of a Board
22 to employ independent counsel from time to time for special purposes, in addition to the counsel
23 normally provided to it by the state attorney general's office. With regard to the financing
24 necessary to implement such provisions, see the comment following subsection (d).

25
26 An additional way for a Board to increase its effectiveness, which does not involve significant
27 expense, is the appointment of committees or individuals not on the Board or its staff, to advise
28 and assist it in various ways, including disciplinary investigations (see section 11(b)).

29
30 **(g)(1) The Board shall have the power to take all action that is necessary and proper to**
31 **effectuate the purposes of this Act, including the power to sue and be sued in its**
32 **official name as an agency of this State. The Board shall also have the power to**
33 **issue subpoenas to compel the attendance of witnesses and the production of**
34 **documents; to administer oaths; to take testimony, to cooperate with the PCAOB**
35 **and the appropriate state and federal regulatory authorities having jurisdiction over**
36 **the professional conduct in question in investigation and enforcement concerning**
37 **violations of this Act and comparable acts of other states; to cooperate in**
38 **enforcement with appropriate foreign regulatory authorities in instances which**
39 **have or may result in criminal conviction, loss of license or suspension,**
40 **admonishment or censure; and to receive evidence concerning all matters within the**
41 **scope of this Act. In case of disobedience of a subpoena, the Board may invoke the**
42 **aid of any court or other appropriate regulatory authority in requiring the**
43 **attendance and testimony of witnesses and the production of documentary evidence.**
44 **For purposes of this subsection, "appropriate foreign regulatory authorities" shall**

1 be those foreign authorities granting substantially equivalent foreign designations in
2 accordance with Section 6(g) of this Act.
3

- 4 **(2) The Board, its members, and its agents shall be immune from personal liability for**
5 **actions taken in good faith in the discharge of the Board’s responsibilities, and the**
6 **State shall hold the Board, its members, and its agents harmless from all costs,**
7 **damages, and attorneys’ fees arising from claims and suits against them with**
8 **respect to matters to which such immunity applies.**
9

10 *COMMENT:* In many accountancy laws now in effect, the provisions regarding subpoenas and
11 testimony that are included in this paragraph dealing with Board powers generally are found
12 instead in the section dealing with hearings, which is section 12 in this Uniform Act, or are
13 specified in the state’s administrative procedure act. Subsection 4(g)(1) has been strengthened to
14 facilitate greater multistate enforcement cooperation.
15

- 16
17 **(h) The Board may adopt rules governing its administration and enforcement of this**
18 **Act and the conduct of licensees, including but not limited to--**
19

- 20 **(1) Rules governing the Board’s meetings and the conduct of its business;**
21
22 **(2) Rules of procedure governing the conduct of investigations and hearings by**
23 **the Board;**
24
25 **(3) Rules specifying the educational and experience qualifications required for**
26 **the issuance of certificates under Section 6 of this Act and the continuing**
27 **professional education required for renewal of certificates under Section 6;**
28
29 **(4) Rules of professional conduct directed to controlling the quality and probity**
30 **of services by licensees, and dealing among other things with independence,**
31 **integrity, and objectivity; competence and technical standards;**
32 **responsibilities to the public; and responsibilities to clients;**
33
34 **(5) Rules governing the professional standards applicable to licensees;**
35
36 **(6) Rules governing the manner and circumstances of use of the titles “certified**
37 **public accountant” and “CPA”;**
38
39 **(7) Rules regarding peer review that may be required to be performed under**
40 **provisions of this Act;**
41
42 **(8) Rules on substantial equivalence to implement Section 23; and**
43
44 **(9) Such other rules as the Board may deem necessary or appropriate for**

1 **implementing the provisions and the purposes of this Act.**

2
3 *COMMENT:* See the comment following section 3(n) regarding paragraph (7). Some states may
4 have laws requiring that state boards expressly adopt by reference the applicable professional
5 standards.
6

- 7 **(i) At least 60 days prior to the proposed effective date of any rule or amendment**
8 **thereto under subsection (h) of this Section or any other provision of this Act, the**
9 **Board shall publish notice of such proposed action and of a public hearing to be**
10 **held no more than 30 days prior to such effective date, in [the State Register or**
11 **equivalent official publication].**
12

13 *COMMENT:* The provision for publication of proposed rules and amendments thereto in an
14 official state register, and for public hearings thereon, may be covered in some states by a state
15 statute of general application, such as an Administrative Procedure Act; but where this is not the
16 case, it appears a desirable provision for a state accountancy law. Some existing laws also have a
17 provision requiring separate notice by mail to all licensees of any proposed rule or amendment;
18 but, no such provision is included here because the expense of notice by mail seems unjustified
19 when adequate notice by publication is available.
20

- 21 **(j) Records, papers, and other documents containing information collected or compiled**
22 **by the Board, its members, employees, contractors or agents, including its legal**
23 **counsel, as a result of a complaint, investigation, inquiry, or interview in connection**
24 **with an application for examination, certification, or registration, or in connection**
25 **with a licensee's professional ethics and conduct, shall not be considered public**
26 **records within the meaning of this State's public records laws. Additionally, any**
27 **record, paper, or other document received by the Board as a result of a self-**
28 **reporting requirement shall not be considered public records within the meaning of**
29 **this State's public records laws. When any such record, paper, or other document is**
30 **admitted into evidence in a hearing held by the Board, it shall then be a public**
31 **record within the meaning of this State's public records laws. However, upon a**
32 **showing of good cause, the presiding officer at such a hearing may order that**
33 **confidential or privileged information be redacted or admitted under seal.**
34

- 35 **(1) Notwithstanding any other provision of this act, information protected by this**
36 **confidentiality provision shall not be disclosed to other authorities unless the**
37 **recipient confirms in writing that it will assure preservation of confidentiality**
38 **and the licensee has been given reasonable notice that the information will be**
39 **provided to another entity.**
40

- 41 **(2) Notwithstanding any contrary provision in the State's Public Records law,**
42 **disclosures to law enforcement and regulatory authorities and, only to the**
43 **extent deemed necessary to conduct an investigation, to the subject of the**
44 **investigation, persons whose complaints are being investigated and witnesses**

1 **questioned in the course of investigation, as provided in Section 11(b), shall not**
2 **be considered public disclosures and shall not deprive such records of their**
3 **confidential status.**

4
5 **(3) Nothing in this subsection shall be construed as a waiver of any privilege, such**
6 **as attorney-client privilege, which may also apply to any records covered by**
7 **this subsection.**

8
9 **(4) Nothing in this subsection shall confer confidential status on any record**
10 **collected under this subsection which was a public record when collected or**
11 **thereafter becomes a public record through other lawful means.**

1 **SECTION 5**
2 **QUALIFICATIONS FOR A CERTIFICATE AS A CERTIFIED PUBLIC**
3 **ACCOUNTANT**

4
5 **(a) The certificate of “certified public accountant” shall be granted to persons of good**
6 **moral character who meet the education, experience and examination requirements**
7 **of the following subsections of this Section and rules adopted thereunder and who**
8 **make application therefor pursuant to Section 6 of this Act.**
9

10 *COMMENT:* As mentioned in the introductory comments, this Uniform Act, like many
11 accountancy laws now in effect, involves a licensure system that eliminates questions as to who
12 may use the CPA title. All individuals who wish to use the CPA title in a state must have a
13 certificate from that state or have practice privileges pursuant to Section 23.
14

15 It may be noted that this provision contemplates that there will be no certificate requirements
16 with respect to citizenship, age, or residency. A citizenship requirement would not be
17 constitutional; in view of the education requirement, a separate age requirement seems without
18 utility; and in light of the desirability, explained in the introductory comments, of achieving
19 maximum uniformity and reciprocity among the various states, a residency requirement seems
20 not merely useless but counterproductive.
21

22 **(b) Good moral character for purposes of this Section means the propensity to provide**
23 **professional services in a fair, honest, and open manner. The Board may refuse to**
24 **grant a certificate on the ground of failure to satisfy this requirement only if there is**
25 **a substantial connection between the lack of good moral character of the applicant**
26 **and the professional responsibilities of a licensee and if the finding by the Board of**
27 **lack of good moral character is supported by clear and convincing evidence. When**
28 **an applicant is found to be unqualified for a certificate because of a lack of good**
29 **moral character, the Board shall furnish the applicant [a] statement containing the**
30 **findings of the Board, a complete record of the evidence upon which the**
31 **determination was based, and a notice of the applicant’s right of appeal.**
32

33 *COMMENT:* The precise meaning of a “good moral character” is difficult to prescribe, but the
34 definition offered in this section has been understood and sustained by courts. This provision is
35 intended both to assure that the requirement of good moral character will be narrowly and
36 precisely construed, avoiding problems of both vagueness and over breadth and to assure
37 procedural fairness in any instance where a certificate is denied on the basis of lack of good
38 moral character. The right of appeal referred to would presumably be prescribed by a statute of
39 general application, such as an Administrative Procedure Act.
40

41 **(c) The education requirement for a certificate, which must be met before an applicant**
42 **is eligible to apply for the examination prescribed in subsection (d), shall be as**
43 **follows:**
44

1 **(1) During the five -year period immediately following the effective date of this**
2 **Act, a baccalaureate degree or its equivalent conferred by a college or**
3 **university acceptable to the Board, with an accounting concentration or**
4 **equivalent as determined by Board rule to be appropriate;**
5

6 **(2) After the expiration of the five -year period immediately following the effective**
7 **date of this Act, at least 150 semester hours of college education including a**
8 **baccalaureate or higher degree conferred by a college or university acceptable**
9 **to the Board, the total educational program to include an accounting**
10 **concentration or equivalent as determined by Board rule to be appropriate.**
11

12 *COMMENT:* Paragraph (2) of this provision would, after the lapse of the specified number of
13 years, put into effect a 150-hour education requirement. The report of the Commission on
14 Professional Accounting Education (issued in August 1983) sets out the considerations that
15 underlie the policies of both the AICPA and NASBA favoring establishment of such a
16 requirement.
17

18 **(d) The examination required to be passed as a condition for the granting of a**
19 **certificate shall be held regularly throughout the year, and shall test the applicant's**
20 **knowledge of the subjects of accounting and auditing, and such other related**
21 **subjects as the Board may specify by rule, including but not limited to business law**
22 **and taxation. The Board shall prescribe by rule the methods of applying for and**
23 **conducting the examination, including methods for grading and determining a**
24 **passing grade required of an applicant for a certificate provided, however, that the**
25 **Board shall to the extent possible see to it that the examination itself, grading of the**
26 **examination, and the passing grades, are uniform with those applicable in all other**
27 **states. The Board may make such use of all or any part of the Uniform Certified**
28 **Public Accountant Examination and Advisory Grading Service of the American**
29 **Institute of Certified Public Accountants and may contract with third parties to**
30 **perform such administrative services with respect to the examination as it deems**
31 **appropriate to assist it in performing its duties hereunder.**
32

33 *COMMENT:* The Uniform Certified Public Accountant Examination and Advisory Grading
34 Service, referred to in this provision, has for some years been consistently used by the Board of
35 Accountancy (or its equivalent) of every American jurisdiction. Although the grading provided
36 by that service is, as the name implies, only advisory, with each state Board retaining ultimate
37 authority to determine grades and passing requirements, it is obvious that uniformity among
38 jurisdictions in these matters is a matter of considerable importance. Uniformity respecting the
39 examination is essential to ensuring interstate mobility for the certificate holders of this state.
40 Provisions related to conditioning are set out in the Uniform Accountancy Act Rules.
41

42 **(e) The Board may charge, or provide for a third party administering the examination**
43 **to charge, each applicant a fee, in an amount prescribed by the Board by rule.**
44

1 (f) **An applicant for initial issuance of a certificate under this Section shall show that**
2 **the applicant has had one year of experience. This experience shall include**
3 **providing any type of service or advice involving the use of accounting, attest,**
4 **compilation, management advisory, financial advisory, tax or consulting skills all of**
5 **which was verified by a licensee, meeting requirements prescribed by the Board by**
6 **rule. This experience would be acceptable if it was gained through employment in**
7 **government, industry, academia or public practice.**
8

9 *COMMENT:* Before an applicant may obtain a certificate, the applicant must obtain actual
10 experience; however, that experience can be obtained in any area of employment involving the
11 use of accounting or business skills. In addition, experience should be acceptable whether it is
12 gained through employment in government, industry, academia or public practice. The
13 experience may be supervised by a non-licensee but must be verified by a licensee.

1 **SECTION 6**
2 **ISSUANCE AND RENEWAL OF CERTIFICATES, AND MAINTENANCE OF**
3 **COMPETENCY**
4

- 5 (a) **The Board shall grant or renew certificates to persons who make application and**
6 **demonstrate (1) that their qualifications, including where applicable the**
7 **qualifications prescribed by Section 5, are in accordance with the following**
8 **subsections of this Section or (2) that they are eligible under the substantial**
9 **equivalency standard set out in Section 23(a)(2) of the Act which requires licensure**
10 **for those CPAs that establish their principal place of business in another state. The**
11 **holder of a certificate issued under this Section may only provide attest services, as**
12 **defined, in a CPA firm that holds a permit issued under Section 7 of this Act.**
13

14 *COMMENT:* Section 5 sets out the requirements for initial issuance of a certificate; this section
15 provides for the process of application for the initial certificate, as well as for renewal of
16 certificates. It also outlines the process for the issuance of reciprocal certificates for applicants
17 that do not meet the substantial equivalency standard. Applicants that meet the substantial
18 equivalency standard set out in Section 23 receive reciprocity upon complying with the
19 application procedure in Section 6(c)(2). This section also makes it clear that certificate holders
20 may only provide attest services in licensed firms.
21

- 22 (b) **Certificates shall be initially issued, and renewed, for periods of not more than three**
23 **years but in any event shall expire on the [specified date] following issuance or**
24 **renewal. Applications for such certificates shall be made in such form, and in the**
25 **case of applications for renewal, between such dates, as the Board shall by rule**
26 **specify, and the Board shall grant or deny any such application no later than**
27 **_____ days after the application is filed in proper form. In any case where the**
28 **applicant seeks the opportunity to show that issuance or renewal of a certificate was**
29 **mistakenly denied, or where the Board is not able to determine whether it should be**
30 **granted or denied, the Board may issue to the applicant a provisional certificate,**
31 **which shall expire ninety days after its issuance or when the Board determines**
32 **whether or not to issue or renew the certificate for which application was made,**
33 **whichever shall first occur.**
34

35 *COMMENT:* This provision reflects the pattern of some laws now in effect in contemplating a
36 biennial or triennial rather than an annual renewal. The purpose of this is to make it possible to
37 tie the renewal period to the period for completion of the maintenance of competency
38 requirements, as provided by subsection (d) below.
39

- 40 (c)(1) **With regard to applicants that do not qualify for reciprocity under the substantial**
41 **equivalency standard set out in Section 23(a)(2) of this Act, the Board shall issue a**
42 **certificate to a holder of a certificate, license, or permit issued by another state upon**
43 **a showing that:**
44

- 45 (A) **The applicant passed the uniform CPA examination;**
46 (B) **The applicant had four years of experience of the type described in Section 5(f)**
47 **or meets comparable requirements prescribed by the Board by rule, after**

1 **passing the examination upon which the applicant’s certificate was based and**
2 **within the ten years immediately preceding the application; and**

3
4 **(C) If the applicant’s certificate, license, or permit was issued more than four years**
5 **prior to the application for issuance of an initial certificate under this Section,**
6 **that the applicant has fulfilled the requirements of continuing professional**
7 **education that would have been applicable under subsection (d) of this Section.**

8
9 **(2) As an alternative to the requirements of Section 6(c)(1) of this Act, a certificate**
10 **holder licensed by another state who establishes their principal place of business in**
11 **this state shall request the issuance of a certificate from the Board prior to**
12 **establishing such principal place of business. The Board shall issue a certificate to**
13 **such person who obtains from the NASBA National Qualification Appraisal Service**
14 **verification that such individual’s CPA qualifications are substantially equivalent to**
15 **the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act.**

16
17 **(3) An application under this Section may be made through the NASBA Qualification**
18 **Appraisal Service.**

19
20 *COMMENT:* Subsection 6(c)(1) of this section offers a means of providing for reciprocal
21 recognition of licensees of other states who are not eligible under the substantial equivalency
22 standard set out in Section 23 of this Act. Paragraph 6(c)(1)(B) requires a determination that the
23 certificate of the other state has been issued on the basis of education and examination
24 “conditioning” requirements comparable to those of this state, but makes allowance for an
25 experience requirement as a substitute for these. The reciprocity so offered would be limited to
26 CPAs-that is, it would exclude “grandfathered” PAs of other jurisdictions-since it rests upon the
27 applicant having a certificate in the other jurisdiction, and, although there are a few jurisdictions
28 where certificates have been issued to “grandfathered” public accountants, the term “certificate”
29 is defined in section 3(d) to refer only to certificates issued after successful completion of the
30 examination prescribed in section 5 of this Act.

31
32 Subsection 6(c)(1)(C) is intended to assure that, where an extended period has passed between
33 issuance of a certificate, license, or permit and the certificate holder’s first application for a
34 certificate in this state, the applicant has fulfilled at least a substantial portion of the CPE
35 requirements that were applicable to licensees practicing in this state during the same period.

36
37 Subsection 6(c)(3) makes the NASBA Qualification Appraisal Service available to individuals
38 who apply for reciprocity under Section 6(c).

39
40 Subsection 6(c)(2) deals with reciprocity under the substantial equivalency standard. Under
41 substantial equivalency, licensure is required where the CPA has their principal place of
42 business. If a CPA relocates to another state and establishes a principal place of business in that
43 state then they would be required to obtain a certificate in that state. With substantial
44 equivalency established, however, this application process for an individual would essentially be
45 routine and just a matter of filing an application and paying an appropriate fee.

46
47 **(d) For renewal of a certificate under this Section each licensee shall participate in a**

1 program of learning designed to maintain professional competency. Such program
2 of learning must comply with rules adopted by the Board. The Board may by rule
3 create an exception to this requirement for certificate holders who do not perform
4 or offer to perform for the public one or more kinds of services involving the use of
5 accounting or auditing skills, including issuance of reports on financial statements
6 or of one or more kinds of management advisory, financial advisory or consulting
7 services, or the preparation of tax returns or the furnishing of advice on tax matters.
8 Licensees granted such an exception by the Board must place the word “inactive”
9 adjacent to their CPA title or PA title on any business card, letterhead or any other
10 document or device, with the exception of their CPA certificate or PA registration,
11 on which their CPA or PA title appears.
12

13 *COMMENT:* A licensee is deemed competent to serve the public when he or she initially meets
14 the requirements for licensure. However, a dynamic professional environment requires a
15 licensee to continuously maintain and enhance his or her knowledge, skills and abilities. The
16 board of accountancy may specify any reasonable approach to meeting this requirement using as
17 a guideline the Statement on Standards for Continuing Professional Education (CPE) Programs
18 jointly approved by the National Association of State Boards of Accountancy (NASBA) and the
19 American Institute of Certified Public Accountants (AICPA).
20

21 (e) **The Board shall charge a fee for each application for initial issuance or renewal of a**
22 **certificate under this Section in an amount prescribed by the Board by rule.**
23

24 (f) **Applicants for initial issuance or renewal of certificates under this Section shall in**
25 **their applications list all states in which they have applied for or hold certificates,**
26 **licenses, or permits and list any past denial, revocation or suspension of a certificate,**
27 **license or permit, and each holder of or applicant for a certificate under this Section**
28 **shall notify the Board in writing, within 30 days after its occurrence, of any**
29 **issuance, denial, revocation, or suspension of a certificate, license or permit by**
30 **another state.**
31

32 (g) **The Board shall issue a certificate to a holder of a substantially equivalent foreign**
33 **designation, provided that:**
34

35 (1) **The foreign authority which granted the designation makes similar provision**
36 **to allow a person who holds a valid certificate issued by this State to obtain**
37 **such foreign authority’s comparable designation; and**

38 (2) **The foreign designation:**
39

40 (A) **was duly issued by a foreign authority that regulates the practice of**
41 **public accountancy and the foreign designation has not expired or been**
42 **revoked or suspended;**
43

44 (B) **entitles the holder to issue reports upon financial statements; and**
45

46 (C) **was issued upon the basis of educational, examination, and experience**

1 requirements established by the foreign authority or by law; and

2
3 **(3) The applicant:**

4
5 **(A) received the designation, based on educational and examination**
6 **standards substantially equivalent to those in effect in this State, at the**
7 **time the foreign designation was granted;**

8
9 **(B) completed an experience requirement, substantially equivalent to the**
10 **requirement set out in Section 5(f), in the jurisdiction which granted the**
11 **foreign designation or has completed four years of professional**
12 **experience in this State; or meets equivalent requirements prescribed by**
13 **the Board by rule, within the ten years immediately preceding the**
14 **application; and**

15
16 **(C) passed a uniform qualifying examination in national standards [and an**
17 **examination on the laws, regulations and code of ethical conduct in effect**
18 **in this State] acceptable to the Board.**

19
20 **(h) An applicant under subsection (g) shall in the application list all jurisdictions,**
21 **foreign and domestic, in which the applicant has applied for or holds a designation**
22 **to practice public accountancy, and each holder of a certificate issued under this**
23 **subsection shall notify the Board in writing, within thirty days after its occurrence,**
24 **of any issuance, denial, revocation or suspension of a designation or commencement**
25 **of a disciplinary or enforcement action by any jurisdiction.**

26
27 **(i) The Board has the sole authority to interpret the application of the provisions of**
28 **subsections (g) and (h).**

29
30 *COMMENT:* Sections 6(g), 6(h) and 6(i) are designed to allow granting of reciprocal certificates
31 as certified public accountants to foreign accountants who meet standards equivalent to those in
32 this state. They are based on professional competence and its objective is to provide international
33 reciprocity to qualified individuals without imposing arbitrary or unnecessary restrictions. The
34 requirement set out in subsection 6(h) parallels the requirement set out in section 6(f) for
35 applicants from other states.

36
37 **(j) The Board shall by rule require as a condition for renewal of a certificate under this**
38 **Section, by any certificate holder who issues compilation reports for the public other**
39 **than through a CPA firm, that such individual undergo, no more frequently than**
40 **once every three years, a peer review conducted in such manner as the Board shall**
41 **by rule specify, and such review shall include verification that such individual has**
42 **met the competency requirements set out in professional standards for such**
43 **services.**

1 **SECTION 7**
2 **FIRM PERMITS TO PRACTICE, ATTEST AND COMPILATION COMPETENCY**
3 **AND PEER REVIEW**
4

5 (a) The Board shall grant or renew permits to practice as a CPA firm to
6 applicants that demonstrate their qualifications therefor in accordance with this
7 Section.

8
9 (1) The following must hold a permit issued under this Section:

10
11 (A) Any firm with an office in this state performing attest services as
12 defined in Section 3(b) of this Act; or,

13
14 (B) Any firm with an office in this state that uses the title “CPA” or “CPA
15 firm;” or,

16
17 (C) Any firm that does not have an office in this state but performs attest
18 services described in Section 3(b)(1), (3) or (4) of this Act for a client
19 having its home office in this state.

20
21 (2) A firm which does not have an office in this state may perform services
22 described in subsections 3(b)(2) or 3(f) for a client having its home office in
23 this state and may use the title “CPA” or “CPA firm” without a permit
24 issued under this Section only if:

25
26 (A) it has the qualifications described in subsections 7(c) [ownership] and
27 7(h) [peer review], and

28
29 (B) it performs such services through an individual with practice
30 privileges under Section 23 of the Act.

31
32 (3) A firm which is not subject to the requirements of 7(a)(1)(C) or 7(a)(2) may
33 perform other professional services while using the title “CPA” or “CPA
34 firm” in this state without a permit issued under this Section only if:

35
36 (A) it performs such services through an individual with practice
37 privileges under Section 23 of the Act, and,

38
39 (B) it can lawfully do so in the state where said individuals with practice
40 privileges have their principal place of business.

41
42
43 *COMMENT:* This Uniform Act departs from the pattern of some accountancy laws now in
44 effect in eliminating any separate requirement for the registration of firms and of offices. The
45 information-gathering and other functions accomplished by such registration should be equally
46 easily accomplished as part of the process of issuing firm permits under this section. The
47 difference is, again, one of form more than of substance but one that should be kept in mind if

1 consideration is given to fitting the permit provisions of this Uniform Act into an existing law.

2
3 As pointed out in the comment following section 3(g), above, because a CPA firm is defined to
4 include a sole proprietorship, the permits contemplated by this section would be required of sole
5 practitioners as well as larger practice entities. To avoid unnecessary duplication of paperwork, a
6 Board could, if it deemed appropriate, offer a joint application form for certificates and sole
7 practitioner firm permits.

8
9 This provision also makes it clear that firms with an office in this state may not provide attest
10 services as defined, or call themselves CPA firms without a license in this state. Certified Public
11 Accountants are not required to offer services to the public, other than attest services, through a
12 CPA firm. CPAs may offer non-attest services through any type of entity they choose and there
13 are no requirements in terms of a certain percentage of CPA ownership for these types of entities
14 as long as they do not call themselves a “CPA firm” or use the term “CPA” in association with
15 the entity’s name. These non-CPA firms are not required to be licensed by the State Board.

16
17 Out-of-state firms without an office in this state may provide attest services other than those
18 described in Section 23(a)(4) for a client which has its home office in this state, and call
19 themselves CPA firms in this state without having a permit from this state so long as they do so
20 through a licensee or individual with practice privileges and so long as they are qualified to do so
21 under the requirements of Section 7.

22
23 Depending on the services provided, and if the firm calls itself a CPA firm, such a firm is subject
24 to the requirements described in revised subsection 7(a)(2)(A) or subsection 7(a)(3)(B),
25 whichever is applicable.

26
27
28
29 **(b) Permits shall be initially issued and renewed for periods of not more than three**
30 **years but in any event expiring on [specified date] following issuance or renewal.**
31 **Applications for permits shall be made in such form, and in the case of applications**
32 **for renewal, between such dates as the Board may by rule specify, and the Board**
33 **shall grant or deny any such application no later than ____ days after the**
34 **application is filed in proper form. In any case where the applicant seeks the**
35 **opportunity to show that issuance or renewal of a permit was mistakenly denied or**
36 **where the Board is not able to determine whether it should be granted or denied, the**
37 **Board may issue to the applicant a provisional permit, which shall expire ninety**
38 **days after its issuance or when the Board determines whether or not to issue or**
39 **renew the permit for which application was made, whichever shall first occur.**

40
41 *COMMENT:* See the comment following section 6(b) regarding the renewal period.

42 **(c) An applicant for initial issuance or renewal of a permit to practice under this**
43 **Section shall be required to show that:**

44
45 **(1) Notwithstanding any other provision of law, a simple majority of the**

1 ownership of the firm, in terms of financial interests and voting rights of all
2 partners, officers, shareholders, members or managers, belongs to holders of a
3 certificate who are licensed in some state, and such partners, officers,
4 shareholders, members or managers, whose principal place of business is in
5 this state, and who perform professional services in this state hold a valid
6 certificate issued under Section 6 of this Act or the corresponding provision of
7 prior law or are public accountants registered under Section 8 of this Act.
8 Although firms may include non-licensee owners the firm and its ownership
9 must comply with rules promulgated by the Board. For firms of public
10 accountants, at least a simple majority of the ownership of the firm, in terms of
11 financial interests and voting rights, must belong to holders of registrations
12 under Section 8 of this Act. An individual who has practice privileges under
13 Section 23 who performs services for which a firm permit is required under
14 Section 23(a)(4) shall not be required to obtain a certificate from this state
15 pursuant to Section 6 of this Act.
16
17

18 *COMMENT:* The limitation of the requirement of certificates to partners, officers, shareholders,
19 members and managers who have their principal place of business in the state is intended to
20 allow some latitude for occasional visits and limited assignments within the state of firm
21 personnel who are based elsewhere. If those out-of-state individuals qualify for practice
22 privileges under Section 23 and do not have their principal places of business in this state, they
23 do not have to be licensed in this state. In addition, the requirement allows for non-licensee
24 ownership of licensed firms.
25

26 (2) Any CPA or PA firm as defined in this Act may include non-licensee owners
27 provided that:

28 (A) The firm designates a licensee of this state, or in the case of a firm which
29 must have a permit pursuant to Section 23(a)(4) a licensee of another
30 state who meets the requirements set out in Section 23(a)(1) or in Section
31 23(a)(2), who is responsible for the proper registration of the firm and
32 identifies that individual to the Board.
33

34 (B) All non-licensee owners are active individual participants in the CPA or
35 PA firm or affiliated entities.
36

37 (C) The firm complies with such other requirements as the board may impose
38 by rule.
39

40 (3) Any individual licensee and any individual granted practice privileges under
41 this Act who is responsible for supervising attest or compilation services and
42 signs or authorizes someone to sign the accountant's report on the financial
43 statements on behalf of the firm, shall meet the competency requirements set
44 out in the professional standards for such services.
45

46 (4) Any individual licensee and any individual granted practice privileges under
47

1 **this Act who signs or authorizes someone to sign the accountants' report on the**
2 **financial statements on behalf of the firm shall meet the competency**
3 **requirement of the prior subsection.**
4

5 *COMMENT:* Because of the greater sensitivity of attest and compilation services, professional
6 standards should set out an appropriate competency requirement for those who supervise them
7 and sign attest or compilation reports. However, the accountant's report in such engagements
8 may be supervised, or signed, or the signature authorized for the CPA firm by a practice
9 privileged individual.
10

11
12 **(d) An applicant for initial issuance or renewal of a permit to practice under this**
13 **Section shall be required to register each office of the firm within this State with the**
14 **Board and to show that all attest and compilation services as defined herein**
15 **rendered in this state are under the charge of a person holding a valid certificate**
16 **issued under Section 6 of this Act or the corresponding provision of prior law or**
17 **some other state.**
18

19 **(e) The Board shall charge a fee for each application for initial issuance or renewal of a**
20 **permit under this Section in an amount prescribed by the Board by rule.**
21

22 **(f) An applicant for initial issuance or renewal of permits under this Section shall in**
23 **their application list all states in which they have applied for or hold permits as**
24 **CPA firms and list any past denial, revocation or suspension of a permit by any**
25 **other state, and each holder of or applicant for a permit under this Section shall**
26 **notify the Board in writing, within 30 days after its occurrence, of any change in the**
27 **identities of partners, officers, shareholders, members or managers whose principal**
28 **place of business is in this State, any change in the number or location of offices**
29 **within this State, any change in the identity of the persons in charge of such offices,**
30 **and any issuance, denial, revocation, or suspension of a permit by any other state.**
31

32 **(g) Firms which fall out of compliance with the provisions of the section due to changes**
33 **in firm ownership or personnel, after receiving or renewing a permit, shall take**
34 **corrective action to bring the firm back into compliance as quickly as possible. The**
35 **State Board may grant a reasonable period of time for a firm to take such corrective**
36 **action. Failure to bring the firm back into compliance within a reasonable period as**
37 **defined by the Board will result in the suspension or revocation of the firm permit.**
38

39 **(h) The Board shall by rule require as a condition to renewal of permits under this**
40 **Section, that applicants undergo, no more frequently than once every three years,**
41 **peer reviews conducted in such manner as the Board shall specify, and such review**
42 **shall include a verification that individuals in the firm who are responsible for**
43 **supervising attest and compilation services and sign or authorize someone to sign**
44 **the accountant's report on the financial statements on behalf of the firm meet the**
45 **competency requirements set out in the professional standards for such services,**
46 **provided that any such rule --**
47

- 1 (1) shall be promulgated reasonably in advance of the time when it first becomes
2 effective;
3
4 (2) shall include reasonable provision for compliance by an applicant showing that
5 it has, within the preceding three years, undergone a peer review that is a
6 satisfactory equivalent to peer review generally required pursuant to this
7 subsection (h);
8
9 (3) shall require, with respect to any organization administering peer review
10 programs contemplated by paragraph (2), that it be subject to evaluations by
11 the Board or its designee, to periodically assess the effectiveness of the peer
12 review program under its charge, and
13
14 (4) *may require that organizations administering peer review programs provide
15 to the Board information as the Board designates by rule; and
16
17 (5) *shall require with respect to peer reviews contemplated by paragraph (2) that
18 licensees timely remit such peer review documents as specified by Board Rule
19 or upon Board request and that such documents be maintained by the Board
20 in a manner consistent with Section 4(j) of this Act.

21
22 * Due to its 1988 commitment to its members, the AICPA cannot support this
23 provision at this time.
24

25 *COMMENT:* The AICPA and NASBA both agree that periodic peer reviews are an important
26 means of maintaining the general quality of professional practice.
27

28 In the interests of providing flexibility where appropriate or desirable, this provision would give
29 the Board latitude when to require reviews. Paragraph (2) is intended to recognize that there are
30 other valid reasons besides state regulation for which firms may undergo peer reviews (for
31 example, as a condition to membership in the AICPA). It is also intended to avoid unnecessary
32 duplication of such reviews, by providing for the acceptance of peer reviews performed by other
33 groups or organizations whose work could be relied on by the Board. If a peer review
34 requirement is established by the Board, paragraph (3) requires that the Board assure that there is
35 an evaluation of the administration of the peer review program(s) which is accepted by the
36 Board, which is performed either by the Board or its designee. Paragraph (4) would require the
37 administering entities of peer review programs to provide the Board information, as required by
38 rule. Paragraph (5) requires that licensees remit peer review documents to the Board, as
39 specified by rule, and that these documents would be maintained subject to the confidentiality
40 provision in Section 4(j) of the Act.
41

42 Paragraphs (4) and (5) primarily address the ability of the Board to have direct access to peer
43 review results. Previous editions of the UAA contained language that could have been
44 interpreted to either not permit or to limit state boards' access to results of the peer review
45 process. Language that restricted the Board's ability to access the results of peer review was
46 consistent with the AICPA's commitment to its membership to maintain the confidentiality of
47 peer review materials that were generated through the AICPA peer review program. However,

1 in response to regulatory concerns it was determined that new language was needed to provide
2 for greater transparency. At its spring 2004 meeting, AICPA's governing Council approved a
3 resolution in support of increased transparency in the peer review process. However, as a result
4 of the AICPA's 1988 commitment to its membership to maintain the confidentiality of peer
5 review results, the AICPA's Council will not act on its resolution without a vote of the AICPA's
6 membership. The AICPA will not pursue a vote of its membership until the membership has
7 fully considered the issues surrounding this matter. Until that time, a solution for the UAA was
8 crafted that recognized the authority of state boards of accountancy to take action and at the same
9 time allowed the Institute to keep its commitment to the AICPA membership on confidentiality
10 of peer review materials. For that reason, paragraphs (4) and (5) are marked with an asterisk (*)
11 that states "Due to its 1988 commitment to its members, the AICPA cannot support this
12 provision at this time."
13

14 The term "peer review" is defined in section 3(n).

1 **SECTION 8**

2 **PUBLIC ACCOUNTANTS AND FIRMS OF PUBLIC ACCOUNTANTS**

3
4 **Persons who on the effective date of this Act hold registrations as public accountants issued**
5 **under prior law of this State shall be entitled to have their registrations renewed upon**
6 **fulfillment of the continuing professional education requirements for renewal of certificates**
7 **set out in Section 6 of this Act, and on the renewal cycle and payment of fees there**
8 **prescribed for renewal of certificates. Any registration not so renewed shall expire three**
9 **years after the effective date of this Act. Firms of public accountants holding permits to**
10 **practice as such issued under prior law of this State shall be entitled to have their permits**
11 **to practice renewed pursuant to the procedures, and subject to the requirements for**
12 **renewal of permits to practice for firms of certified public accountants, set out in Section 7**
13 **of this Act. So long as such public accountant licensees hold valid registrations and permits**
14 **to practice, they shall be entitled to perform attest and compilation services to the same**
15 **extent as holders of certificates, and other holders of permits, and in addition they shall be**
16 **entitled to use the title “public accountants” and “PA,” but no other title. The holder of a**
17 **registration issued under this Section may only perform attest services in a firm that holds**
18 **a permit issued under Section 7 of this Act.**

19
20 *COMMENT:* This provision would be of use in jurisdictions where under the previous law a
21 class of “grandfathered” public accountants was licensed to perform the audit function. Many
22 accountancy laws now in effect have substantially more elaborate provisions to deal with public
23 accountants, but a comparatively simple provision such as this one should be sufficient. Those
24 coming within this provision would, like holders of certificates, be required to have a currently
25 valid registration in order to provide attest and compilation services, and they would be subject
26 to the same continuing professional education requirements as apply for renewal of certificates
27 and the same rules, as holders of certificates. They would in fact be treated the same as holders
28 of certificates for virtually all purposes, the principal differences being in the titles they and their
29 firms would be permitted to use, and in a lack of reciprocity to comparable licensees of other
30 states (see comments following Sections 6(c) and 7(c)). This section also makes it clear that
31 public accountants may only perform attest services in licensed firms.

1 **SECTION 9**
2 **APPOINTMENT OF SECRETARY OF STATE AS AGENT**

3
4 **Application by a person or a firm not a resident of this State for a certificate under Section**
5 **6 of this Act or a permit to practice under Section 7 shall constitute appointment of the**
6 **Secretary of State as the applicant's agent upon whom process may be served in any action**
7 **or proceeding against the applicant arising out of any transaction or operation connected**
8 **with or incidental to services performed by the applicant while a licensee within this State.**
9

10 *COMMENT:* In many laws now in effect, a provision of this kind appears in each of the
11 Sections dealing with the issuance of a certificate or any form of permit. Since there are several
12 such provisions in this Uniform Act (as there are in many existing laws), repetition is here
13 avoided by having this single comprehensive provision. This Section pertains to applicants for
14 licensure. Since persons using practice privileges are not required to apply or provide notice,
15 Section 23(a)(3)(D) requires that individuals and firms using practice privileges consent to the
16 appointment of the State Board which issued their license as their agent upon whom process may
17 be served in any action or proceeding by this Board against them.

1 **SECTION 10**
2 **ENFORCEMENT- GROUNDS FOR DISCIPLINE**

3
4 **(a) After notice and hearing pursuant to the Administrative Procedures Act, the Board**
5 **may revoke any license issued under Sections 6, 7 or 8 of this Act or corresponding**
6 **provisions of prior law or revoke or limit privileges under Section 23 of this Act;**
7 **suspend any such license or refuse to renew any such license for a period of not**
8 **more than ___ years; reprimand, censure, or limit the scope of practice of any**
9 **licensee; impose an administrative fine not exceeding ____, or place any licensee on**
10 **probation, all with or without terms, conditions, and limitations, for any one or**
11 **more of the following reasons:**

- 12
13 **(1) Dishonesty, fraud or deceit in obtaining a license;**
- 14
15 **(2) Cancellation, revocation, suspension or refusal to renew a license or privileges**
16 **under Section 23 for disciplinary reasons in any other state for any cause;**
- 17
18 **(3) Failure, on the part of a licensee under Sections 6 or 7 or registration under**
19 **Section 8, to maintain compliance with the requirements for issuance or**
20 **renewal of such certificate, permit or registration or to report changes to the**
21 **Board under Sections 6(f) or 7(f);**
- 22
23 **(4) Revocation or suspension of the right to practice by any state or federal**
24 **regulatory authority or by the PCAOB;**
- 25
26 **(5) Dishonesty, fraud, deceit or gross negligence in the performance of services as**
27 **a licensee or individual granted privileges under Section 23 or in the filing or**
28 **failure to file one's own income tax returns;**
- 29
30 **(6) Violation of any provision of this Act or rule promulgated by the Board under**
31 **this Act or violation of professional standards;**
- 32
33 **(7) Violation of any rule of professional conduct promulgated by the Board under**
34 **Section 4(h)(4) of this Act;**
- 35
36 **(8) Conviction of a felony, or of any other crime an element of which is dishonesty,**
37 **fraud or deceit, under the laws of the United States, of this State, or of any**
38 **other state if the acts involved would have constituted a crime under the laws**
39 **of this State;**
- 40
41 **(9) Performance of any fraudulent act while holding a license or privilege issued**
42 **under this Act or prior law;**
- 43
44 **(10) Any conduct reflecting adversely upon the licensee's fitness to perform services**
45 **while a licensee, or individual granted privileges under Section 23; or**
- 46 **(11) Making any false or misleading statement or verification, in support of an**

1 **application for a license filed by another.**

2
3 *COMMENT:* This provision departs from the typical corresponding provision of some
4 accountancy laws now in effect in two respects. One of these is the provision for an
5 administrative fine, in addition to other possible penalties. There is such a provision in some
6 accountancy laws; whether such a provision is permissible in the laws of other states is a matter
7 for individual determination in each jurisdiction.

8
9 The other departure from the prior common pattern is in paragraph (10), a catch-all provision
10 which is phrased in terms of conduct reflecting adversely on the licensee’s fitness to perform
11 services rather than the broader and vaguer conventional phrase, “conduct discreditable to the
12 accounting profession.” This narrower provision is intended to avoid problems of vagueness and
13 overbreadth. A similar change is involved in the requirement of “good moral character” in
14 section 5(b).

15
16 **(b) In lieu of or in addition to any remedy specifically provided in subsection (a) of this**
17 **Section, the Board may require of a licensee--**

18
19 **(1) A peer review conducted in such fashion as the Board may specify; and/or**

20
21 **(2) Satisfactory completion of such continuing professional education programs as**
22 **the Board may specify.**

23
24 *COMMENT:* This subsection is intended to provide rehabilitative remedies for enforcement
25 proceedings against licensees, in addition to (or in place of) the more traditional punitive
26 remedies provided in subsection (a). The term “peer review” is defined in section 3(n).

27
28 **(c) In any proceeding in which a remedy provided by subsections (a) or (b) of this**
29 **Section is imposed, the Board may also require the respondent licensee to pay the**
30 **costs of the proceeding.**

31
32 *COMMENT:* This provision appears appropriate in terms of both equity and the economics of
33 Board operations.

1 **SECTION 11**
2 **ENFORCEMENT--INVESTIGATIONS**

- 3
4 (a) **The Board may, upon receipt of a complaint or other information suggesting**
5 **violations of this Act or of the rules of the Board, conduct investigations to**
6 **determine whether there is probable cause to institute proceedings under Sections**
7 **12, 15, or 16 of this Act against any person or firm for such violation, but an**
8 **investigation under this Section shall not be a prerequisite to such proceedings in**
9 **the event that a determination of probable cause can be made without investigation.**
10 **In aid of such investigations, the Board or the chairperson thereof may issue**
11 **subpoenas to compel witnesses to testify and/or to produce evidence.**
12
13 (b) **The Board may designate a member, or any other person of appropriate**
14 **competence, to serve as investigating officer to conduct an investigation. Upon**
15 **completion of an investigation, the investigating officer shall file a report with the**
16 **Board. The Board shall find probable cause or lack of probable cause upon the basis**
17 **of the report or shall return the report to the investigating officer for further**
18 **investigation. Unless there has been a determination of probable cause, the report of**
19 **the investigating officer, the complaint, if any, the testimony and documents**
20 **submitted in support of the complaint or gathered in the investigation, and the fact**
21 **of pendency of the investigation shall be treated as confidential information and**
22 **shall not be disclosed to any person except law enforcement authorities and, to the**
23 **extent deemed necessary in order to conduct the investigation, the subject of the**
24 **investigation, persons whose complaints are being investigated, and witnesses**
25 **questioned in the course of the investigation.**
26
27 (c) **Upon a finding of probable cause, if the subject of the investigation is a licensee or**
28 **an individual with privileges under Section 23 of this Act, the Board shall direct that**
29 **a complaint be issued under Section 12 of this Act, and if the subject of the**
30 **investigation is not a licensee or an individual with privileges under Section 23, the**
31 **Board shall take appropriate action under Sections 15 or 16 of this Act. Upon a**
32 **finding of no probable cause, the Board shall close the matter and shall thereafter**
33 **release information relating thereto only with the consent of the person or firm**
34 **under investigation.**
35
36 (d) **The Board may review the publicly available professional work of licensees or an**
37 **individual with privileges under Section 23 of this Act on a general and random**
38 **basis, without any requirement of a formal complaint or suspicion of impropriety.**
39 **In the event that as a result of such review the Board discovers reasonable grounds**
40 **for a more specific investigation, the Board may proceed under subsections (a)**
41 **through (c) of this Section.**

42
43 *COMMENT:* This provision contemplates “positive enforcement,” which is to say review of the
44 professional work of licensees without any triggering requirement of receipt of complaints.

1 **SECTION 12**

2 **ENFORCEMENT PROCEDURES--HEARINGS BY THE BOARD**

3
4 (a) **In any case where probable cause with respect to a violation by a licensee or an**
5 **individual with privileges granted under Section 23 of this Act has been determined**
6 **by the Board, whether following an investigation under Section 11 of this Act, or**
7 **upon receipt of a written complaint furnishing grounds for a determination of such**
8 **probable cause, or upon receipt of notice of a decision by the Board of Accountancy**
9 **of another state furnishing such grounds, the Board shall issue a complaint setting**
10 **forth appropriate charges and set a date for hearing before the Board on such**
11 **charges. The Board shall, not less than 30 days prior to the date of the hearing,**
12 **serve a copy of the complaint and notice of the time and place of the hearing upon**
13 **the licensee or an individual with privileges granted under Section 23 of this Act,**
14 **together with a copy of the Board's rules governing proceedings under this Section,**
15 **either by personal delivery or by mailing a copy thereof by registered mail to the**
16 **licensee at the licensee's address last known to the Board. In the case of an**
17 **individual exercising privileges under Section 23, service shall be by registered mail**
18 **to the address last known to the Board, or pursuant to Section 23(a)(3)(c).**

19
20 (b) **A licensee or an individual with privileges under Section 23, against whom a**
21 **complaint has been issued under this Section shall have the right, reasonably in**
22 **advance of the hearing, to examine and copy the report of investigation, if any, and**
23 **any documentary or testimonial evidence and summaries of anticipated evidence in**
24 **the Board's possession relating to the subject matter of the complaint. The Board's**
25 **rules governing proceedings under this Section shall specify the manner in which**
26 **such right may be exercised.**

27
28 *COMMENT:* Although the procedures followed by many Boards of accountancy now include,
29 on either a formal or an informal basis, prehearing disclosure to the respondent of the evidence
30 that will be offered in support of a complaint, it seems desirable to embody so fundamental a
31 procedural right in the governing statute.

32
33 (c) **In a hearing under this Section the respondent licensee or an individual with**
34 **privileges granted under Section 23 may appear in person (or, in the case of a firm,**
35 **through a partner, officer, director, shareholder, member or manager) and/or by**
36 **counsel, examine witnesses and evidence presented in support of the complaint, and**
37 **present evidence and witnesses on the licensee's or an individual's own behalf. The**
38 **licensee or an individual granted privileges under Section 23 shall be entitled, on**
39 **application to the Board, to the issuance of subpoenas to compel the attendance of**
40 **witnesses and the production of documentary evidence.**

41
42 (d) **The evidence supporting the complaint shall be presented by the investigating**
43 **officer, by a Board member designated for that purpose, or by counsel. A Board**
44 **member who presents the evidence, or who has conducted the investigation of the**
45 **matter under Section 11 of this Act, shall not participate in the Board's decision of**
46 **the matter.**

1 *COMMENT:* The provision disqualifying a Board member who presents the evidence or who
2 has investigated the case from participating in the Board's decision of the case again reflects
3 common practice, but like subsection (b) it appears to involve a sufficiently fundamental point to
4 merit explicit mention in the statute. The purpose is, of course, to separate the prosecutorial and
5 adjudicative functions of the Board.
6

7 Some or all of the procedural matters of this kind included in this Uniform Act may be dealt with
8 by statutes of general applicability, such as Administrative Procedure Acts, and so be
9 unnecessary for inclusion in an accountancy law.
10

11 **(e) In a hearing under this Section the Board shall be advised by counsel, who shall not**
12 **be the same counsel who presents or assists in presenting the evidence supporting**
13 **the complaint under subsection (d) of this Section.**
14

15 *COMMENT:* The comments under subsection (d) are applicable here also. It should be noted
16 that this provision would not require two lawyers in all cases: It simply requires that if there is
17 counsel involved in presenting the complaint, in addition to counsel advising the Board, it must
18 not be the same counsel. If there were two counsel, they might both be provided by the state
19 attorney general's office, so long as they were firmly insulated from each other.
20

21 **(f) In a hearing under this Section the Board shall not be bound by technical rules of**
22 **evidence.**
23

24 **(g) In a hearing under this Section a stenographic or electronic record shall be made**
25 **and filed with the Board. A transcript need not be prepared unless review is sought**
26 **under subsection (j) of this Section or the Board determines that there is other good**
27 **cause for its preparation.**
28

29 **(h) In a hearing under this Section a recorded vote of a majority of all members of the**
30 **Board then in office (excluding members disqualified by reason of subsection (d) of**
31 **this Section) shall be required to sustain any charge and to impose any penalty with**
32 **respect thereto.**
33

34 **(i) If, after service of a complaint and notice of hearing as provided in subsection (a) of**
35 **this Section, the respondent licensee fails to appear at the hearing, the Board may**
36 **proceed to hear evidence against the licensee or an individual granted privileges**
37 **under Section 23 and may enter such order as it deems warranted by the evidence,**
38 **which order shall be final unless the licensee or an individual granted privileges**
39 **under Section 23 petitions for review thereof under subsection (j) of this Section,**
40 **provided, however, that within thirty days from the date of any such order, upon a**
41 **showing of good cause for the licensee's or an individual's failure to appear and**
42 **defend, the Board may set aside the order and schedule a new hearing on the**
43 **complaint, to be conducted in accordance with applicable subsections of this**
44 **Section.**
45

46 **(j) Any person or firm adversely affected by any order of the Board entered after a**
47 **hearing under this Section may obtain review thereof by filing a written petition for**

1 review with the _____ Court within thirty days after the entry of said order. The
2 procedures for review and the scope of the review shall be as specified in [State
3 Administrative Procedure Act, or other statute providing for judicial review of
4 actions of administrative agencies].
5

6 *COMMENT:* This provision would depart from the pattern of some accountancy laws now in
7 effect in providing that, where a decision of the Board is appealed to a court, the court will not
8 conduct a trial de novo but rather will review the Board's decision on the same basis as
9 ordinarily applies in cases of judicial review of decisions by administrative agencies: That is,
10 reversal will be based on errors of law or procedure, or on a lack of substantial evidence to
11 support factual determinations. If in a given state there is no Administrative Procedure Act or
12 analogous statute, it will be necessary to spell out the standards and procedures in this provision.
13

14 The right of appeal is not limited to persons or firms against whom disciplinary proceedings are
15 specifically directed but includes anyone who is "adversely affected." Thus, for example, a
16 partner in a firm that was subjected to discipline in a given case, or a firm of which a partner was
17 disciplined, might be adversely affected by the Board's order so as to be entitled to appeal it.
18

19 **(k) In any case where the Board renders an order imposing discipline against a licensee
20 or an individual granted privileges under Section 23 of this Act, the Board shall
21 examine its records to determine whether the individual or firm holds a license or
22 practice privilege in any other state or is subject to the PCAOB's authority; and if
23 so, the Board shall notify the State Boards of Accountancy and any other regulatory
24 authorities, including the PCAOB if applicable, of its decision immediately in the
25 case of a consent order and in all other cases when the time for giving notice of an
26 appeal from the Board's order has expired. Such notice shall indicate whether or
27 not the subject order has been appealed and whether or not the subject order has
28 been stayed. In the alternative, the Board may report such disciplinary actions to a
29 multistate enforcement information network. Subject to Section 4(j) [Board
30 Records Confidential] of this Act, the Board may also furnish investigative
31 information and the hearing record relating to proceedings resulting in disciplinary
32 action in such cases to such other regulatory authorities upon request.**

1 **SECTION 13**
2 **REINSTATEMENT**

- 3
- 4 (a) **In any case where the Board has suspended or revoked a certificate or a permit or**
5 **registration or revoked or limited privileges under Section 23 or refused to renew a**
6 **certificate, permit, or registration, the Board may, upon application in writing by**
7 **the person or firm affected and for good cause shown, modify the suspension, or**
8 **reissue the certificate, permit, or registration or remove the limitation or revocation**
9 **of privileges under Section 23.**
- 10
- 11 (b) **The Board shall by rule specify the manner in which such applications shall be**
12 **made, the times within which they shall be made, and the circumstances in which**
13 **hearings will be held thereon.**
- 14
- 15 (c) **Before reissuing, or terminating the suspension of, a certificate, permit or**
16 **registration under this Section or of privileges under Section 23, and as a condition**
17 **thereto, the Board may require the applicant therefor to show successful completion**
18 **of specified continuing professional education; and the Board may make the**
19 **reinstatement of a certificate, permit or registration or of privileges under Section**
20 **23 conditional and subject to satisfactory completion of a peer review conducted in**
21 **such fashion as the Board may specify.**

22
23 *COMMENT:* The term “peer review” is defined in section 3(o).

1 **SECTION 14**
2 **UNLAWFUL ACTS**

3
4 **(a) Only licensees and individuals who have practice privileges under Section 23 of this**
5 **Act may issue a report on financial statements of any person, firm, organization, or**
6 **governmental unit or offer to render or render any attest or compilation service, as**
7 **defined herein. This restriction does not prohibit any act of a public official or**
8 **public employee in the performance of that person’s duties as such; or prohibit the**
9 **performance by any non-licensee of other services involving the use of accounting**
10 **skills, including the preparation of tax returns, management advisory services, and**
11 **the preparation of financial statements without the issuance of reports thereon.**
12 **Non-licensees may prepare financial statements and issue non-attest transmittals or**
13 **information thereon which do not purport to be in compliance with the Statements**
14 **on Standards for Accounting and Review Services (SSARS).**

15
16 *COMMENT:* This provision, giving application to the definition of report in section 3(s) above,
17 is the cornerstone prohibition of the Uniform Act, reserving the performance of those
18 professional services calling upon the highest degree of professional skill and having greatest
19 consequence for persons using financial statements--namely, the audit function and other attest
20 and compilation services as defined herein -- to licensees. It is so drafted as to make as clear and
21 emphatic as possible the limited nature of this exclusively reserved function and the rights of
22 unlicensed persons to perform all other functions. This wording addresses concerns that this
23 exemption could otherwise, by negative implication, allow non-licensees to prepare any report
24 on a financial statement other than a SSARS - i.e., other attestation standards. Consistent with
25 Section 23, individuals with practice privileges may render these reserved professional services
26 to the same extent as licensees.

27
28
29 This provision is also intended to extend the reservation of the audit function to other services
30 that also call for special skills and carry particular consequence for users of financial statements,
31 albeit in each respect to a lesser degree than the audit function: namely, the performance of
32 compilations and reviews of financial statements, in accordance with the AICPA’s Statements on
33 Standards for Accounting and Review Services, which set out the standards to be met in a
34 compilation or review and specify the form of communication to management or report to be
35 issued. The subsection is intended to prevent issuance by non-licensees of reports or
36 communication to management using that standard language or language deceptively similar to
37 it. Safe harbor language which may be used by non-licensees is set out in Rule 14-3.

38
39 **(b) Licensees and individuals who have practice privileges under Section 23 of this Act**
40 **performing attest or compilation services must provide those services in accordance**
41 **with applicable professional standards.**

42
43 **(c) No person not holding a valid certificate or a practice privilege pursuant to Section**
44 **23 of this Act shall use or assume the title “certified public accountant,” or the**
45 **abbreviation “CPA” or any other title, designation, words, letters, abbreviation,**
46 **sign, card, or device tending to indicate that such person is a certified public**
47 **accountant.**

1
2 *COMMENT:* This subsection prohibits the use by persons not holding certificates, or practice
3 privileges, of the two titles, “certified public accountant” and “CPA,” that are specifically and
4 inextricably tied to the granting of a certificate as certified public accountant under section 6.

5 **(d) No firm shall provide attest services or assume or use the title “certified public**
6 **accountants,” or the abbreviation “CPAs,” or any other title, designation, words,**
7 **letters, abbreviation, sign, card, or device tending to indicate that such firm is a**
8 **CPA firm unless (1) the firm holds a valid permit issued under Section 7 of this Act,**
9 **and (2) ownership of the firm is in accord with this Act and rules promulgated by**
10 **the Board.**

11
12 *COMMENT:* Like the preceding subsection, this one restricts use of the two titles “certified
13 public accountants” and “CPAs,” but in this instance by firms, requiring the holding of a firm
14 permit to practice. It also restricts unlicensed firms from providing attest services.

15
16 **(e) No person shall assume or use the title “public accountant,” or the abbreviation**
17 **“PA,” or any other title, designation, words, letters, abbreviation, sign, card, or**
18 **device tending to indicate that such person is a public accountant unless that person**
19 **holds a valid registration issued under Section 8 of this Act.**

20
21 *COMMENT:* This subsection, and the one that follows, reserve the title “public accountant” and
22 its abbreviation in the same fashion as subsections (c) and (d) do for the title “certified public
23 accountant” and its abbreviation. The two provisions would of course only be required in a
24 jurisdiction where there were grandfathered public accountants as contemplated by section 8.

25
26 **(f) No firm not holding a valid permit issued under Section 7 of this Act shall provide**
27 **attest services or assume or use the title “public accountant,” the abbreviation**
28 **“PA,” or any other title, designation, words, letters, abbreviation, sign, card, or**
29 **device tending to indicate that such firm is composed of public accountants.**

30
31 *COMMENT:* See the comments following subsections (d) and (e).

32
33 **(g) No person or firm not holding a valid certificate, permit or registration issued under**
34 **Sections 6, 7, or 8 of this Act shall assume or use the title “certified accountant,”**
35 **“chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered**
36 **accountant,” “accredited accountant,” or any other title or designation likely to be**
37 **confused with the titles “certified public accountant” or “public accountant,” or use**
38 **any of the abbreviations “CA,” “LA,” “RA,” “AA,” or similar abbreviation likely to**
39 **be confused with the abbreviations “CPA” or “PA.” The title “Enrolled Agent” or**
40 **“EA” may only be used by individuals so designated by the Internal Revenue**
41 **Service.**

42
43 *COMMENT:* This provision is intended to supplement the prohibitions of subsections (c)
44 through (f) on use of titles by prohibiting other titles that may be misleadingly similar to the titles
45 specifically reserved to licensees or that otherwise suggest that their holders are licensed.

1
2 **(h)(1) Non-licensees may not use language in any statement relating to the financial affairs**
3 **of a person or entity which is conventionally used by licensees in reports on financial**
4 **statements. In this regard, the Board shall issue safe harbor language non-licensees**
5 **may use in connection with such financial information.**
6

7 **(2) No person or firm not holding a valid certificate, permit or registration issued under**
8 **Sections 6, 7, or 8 of this Act shall assume or use any title or designation that**
9 **includes the words “accountant,” “auditor,” or “accounting,” in connection with**
10 **any other language (including the language of a report) that implies that such**
11 **person or firm holds such a certificate, permit, or registration or has special**
12 **competence as an accountant or auditor, provided, however, that this subsection**
13 **does not prohibit any officer, partner, member, manager or employee of any firm or**
14 **organization from affixing that person’s own signature to any statement in**
15 **reference to the financial affairs of such firm or organization with any wording**
16 **designating the position, title, or office that the person holds therein nor prohibit**
17 **any act of a public official or employee in the performance of the person’s duties as**
18 **such.**
19

20 *COMMENT:* This provision clarifies the language and titles that are prohibited for non-
21 licensees. Like the preceding subsection, subsection (h)(2) of this provision is intended to
22 supplement the prohibitions of subsections (c) through (f), by prohibiting other titles which may
23 be misleadingly similar to the specifically reserved titles or that otherwise suggest licensure. In
24 the interest of making the prohibition against the issuance by unlicensed persons of reports on
25 audits, reviews, and compilations as tight and difficult to evade as possible, there is also some
26 overlap between this provision and the prohibitions in subsection (a). Safe harbor language is set
27 out in Rule 14-3.
28

29 **(i) No person holding a certificate or registration or firm holding a permit under this**
30 **Act shall use a professional or firm name or designation that is misleading about the**
31 **legal form of the firm, or about the persons who are partners, officers, members,**
32 **managers or shareholders of the firm, or about any other matter, provided,**
33 **however, that names of one or more former partners, members, managers or**
34 **shareholders may be included in the name of a firm or its successor.**
35

36 *COMMENT:* This prohibition with regard to misleading firm names reflects a provision
37 commonly found in ethical codes.
38

39 **(j) None of the foregoing provisions of this Section shall have any application to a**
40 **person or firm holding a certification, designation, degree, or license granted in a**
41 **foreign country entitling the holder thereof to engage in the practice of public**
42 **accountancy or its equivalent in such country, whose activities in this State are**
43 **limited to the provision of professional services to persons or firms who are**
44 **residents of, governments of, or business entities of the country in which the person**
45 **holds such entitlement, who performs no attest or compilation services as defined**
46 **and who issues no reports with respect to the financial statements of any other**
47 **persons, firms, or governmental units in this State, and who does not use in this**

1 **State any title or designation other than the one under which the person practices in**
2 **such country, followed by a translation of such title or designation into the English**
3 **language, if it is in a different language, and by the name of such country.**
4

5 *COMMENT:* The right spelled out in this provision, of foreign licensees to provide services in
6 the state to foreign-based clients, looking to the issuance of reports only in foreign countries, is
7 essentially what foreign licensees have a right to do under most laws now in effect, simply
8 because no provision in those laws restricts such a right. The foreign titles used by foreign
9 licensees might otherwise run afoul of standard prohibitions with respect to titles (such as one on
10 titles misleadingly similar to “CPA”) but this provision would grant a dispensation not found in
11 most laws now in force.
12

13 **(k) No holder of a certificate issued under Section 6 of this Act or a registration issued**
14 **under Section 8 of this Act shall perform attest services through any business form**
15 **that does not hold a valid permit issued under Section 7 of this Act.**
16

17 *COMMENT:* See the comments following Sections 6(a), 7(a) and 8.
18

19 **(l) No individual licensee shall issue a report in standard form upon a compilation of**
20 **financial information through any form of business that does not hold a valid permit**
21 **issued under Section 7 of this Act unless the report discloses the name of the**
22 **business through which the individual is issuing the report, and the individual:**
23

24 **(1) signs the compilation report identifying the individual as a CPA or PA,**

25 **(2) meets the competency requirement provided in applicable standards, and**
26

27 **(3) undergoes no less frequently than once every three years, a peer review**
28 **conducted in such manner as the Board shall by rule specify, and such review**
29 **shall include verification that such individual has met the competency**
30 **requirements set out in professional standards for such services.**
31

32
33 **(m) Nothing herein shall prohibit a practicing attorney or firm of attorneys from**
34 **preparing or presenting records or documents customarily prepared by an attorney**
35 **or firm of attorneys in connection with the attorney’s professional work in the**
36 **practice of law.**
37

38 **(n)(1) A licensee shall not for a commission recommend or refer to a client any product or**
39 **service, or for a commission recommend or refer any product or service to be**
40 **supplied by a client, or receive a commission, when the licensee also performs for**
41 **that client,**
42

43 **(A) an audit or review of a financial statement; or**
44

45 **(B) a compilation of a financial statement when the licensee expects, or reasonably**
46 **might expect, that a third party will use the financial statement and the**
47 **licensee’s compilation report does not disclose a lack of independence; or**

1
2 (C) an examination of prospective financial information.
3

4 **This prohibition applies during the period in which the licensee is engaged to perform**
5 **any of the services listed above and the period covered by any historical financial**
6 **statements involved in such listed services.**

7 (2) **A licensee who is not prohibited by this section from performing services for or**
8 **receiving a commission and who is paid or expects to be paid a commission shall**
9 **disclose that fact to any person or entity to whom the licensee recommends or refers**
10 **a product or service to which the commission relates.**

11
12 (3) **Any licensee who accepts a referral fee for recommending or referring any service**
13 **of a licensee to any person or entity or who pays a referral fee to obtain a client shall**
14 **disclose such acceptance or payment to the client.**

15
16 (o)(1) **A licensee shall not:**

17
18 (A) **perform for a contingent fee any professional services for, or receive such a fee**
19 **from a client for whom the licensee or the licensee's firm performs,**

20
21 (i) **an audit or review of a financial statement; or**

22
23 (ii) **a compilation of a financial statement when the licensee expects, or**
24 **reasonably might expect, that a third party will use the financial**
25 **statement and the licensee's compilation report does not disclose a lack of**
26 **independence; or**

27
28 (iii) **an examination of prospective financial information; or**

29
30 (B) **Prepare an original or amended tax return or claim for a tax refund for a**
31 **contingent fee for any client.**

32
33 (2) **The prohibition in (1) above applies during the period in which the licensee is**
34 **engaged to perform any of the services listed above and the period covered by any**
35 **historical financial statements involved in any such listed services.**

36
37 (3) **Except as stated in the next sentence, a contingent fee is a fee established for the**
38 **performance of any service pursuant to an arrangement in which no fee will be**
39 **charged unless a specified finding or result is attained, or in which the amount of**
40 **the fee is otherwise dependent upon the finding or result of such service. Solely for**
41 **purposes of this section, fees are not regarded as being contingent if fixed by courts**
42 **or other public authorities, or, in tax matters, if determined based on the results of**
43 **judicial proceedings or the findings of governmental agencies. A licensee's fees may**
44 **vary depending, for example, on the complexity of services rendered.**

45
46 *COMMENT:* Section 14(n) on commissions is based on Rule 503 of the AICPA Code of

1 Professional Conduct. Section 14(o) on contingent fees is based on Rule 302 of the AICPA
2 Code of Professional Conduct.

3
4

5 **(p) Notwithstanding anything to the contrary in this Section, it shall not be a violation**
6 **of this Section for a firm which does not hold a valid permit under Section 7 of this**
7 **Act and which does not have an office in this state to provide its professional**
8 **services in this state so long as it complies with the requirements of Section 7(a)(2)**
9 **or 7(a)(3), whichever is applicable.**

10
11

12 COMMENT: Section 14(p) has been added along with revisions to Sections 23 and 7, to provide
13 that as long as an out-of-state firm complies with the requirements of new Section 7(a)(2) or
14 7(a)(3), whichever is applicable, it can do so through practice privileged individuals without a
15 CPA firm permit from this state.

1 **SECTION 15**
2 **INJUNCTIONS AGAINST UNLAWFUL ACTS**

3
4 **Whenever, as a result of an investigation under Section 11 of this Act or otherwise, the**
5 **Board believes that any person or firm has engaged, or is about to engage, in any acts or**
6 **practices which constitute or will constitute a violation of Section 14 of this Act, the Board**
7 **may make application to the appropriate court for an order enjoining such acts or**
8 **practices, and upon a showing by the Board that such person or firm has engaged, or is**
9 **about to engage, in any such acts or practices, an injunction, restraining order, or other**
10 **order as may be appropriate shall be granted by such court.**

1 **SECTION 16**
2 **CRIMINAL PENALTIES**

3
4 (a) **Whenever, by reason of an investigation under Section 11 of this Act or otherwise,**
5 **the Board has reason to believe that any person or firm has knowingly engaged in**
6 **acts or practices that constitute a violation of Section 14 of this Act, the Board may**
7 **bring its information to the attention of the Attorney General of any State (or other**
8 **appropriate law enforcement officer) who may, in the officer’s discretion, cause**
9 **appropriate criminal proceedings to be brought thereon.**

10
11 (b) **Any person or firm who knowingly violates any provision of Section 14 of this Act**
12 **shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a**
13 **fine of not more than \$_____ or to imprisonment for not more than one year,**
14 **or to both such fine and imprisonment.**

15
16 *COMMENT:* The word “knowingly” is included in this provision to assure that criminal
17 penalties will not be applied in the absence of conscious wrongdoing.

1 **SECTION 17**
2 **SINGLE ACT EVIDENCE OF PRACTICE**

3
4 **In any action brought under Sections 12, 15, or 16 of this Act, evidence of the commission**
5 **of a single act prohibited by this Act shall be sufficient to justify a penalty, injunction,**
6 **restraining order, or conviction, respectively, without evidence of a general course of**
7 **conduct.**

1 **SECTION 18**
2 **CONFIDENTIAL COMMUNICATIONS**

3
4 **Except by permission of the client for whom a licensee performs services or the heirs,**
5 **successors, or personal representatives of such client, a licensee under this Act, shall not**
6 **voluntarily disclose information communicated to the licensee by the client relating to and**
7 **in connection with services rendered to the client by the licensee. Such information shall be**
8 **deemed confidential, provided, however, that nothing herein shall be construed as**
9 **prohibiting the disclosure of information required to be disclosed by the standards of the**
10 **public accounting profession in reporting on the examination of financial statements or as**
11 **prohibiting compliance with applicable laws, government regulations or PCAOB**
12 **requirements, disclosures in court proceedings, in investigations or proceedings under**
13 **Sections 11 or 12 of this Act, in ethical investigations conducted by private professional**
14 **organizations, or in the course of peer reviews, or to other persons active in the**
15 **organization performing services for that client on a need to know basis or to persons in the**
16 **entity who need this information for the sole purpose of assuring quality control.**

17
18 *COMMENT:* This provision is similar to those found in a number of accountancy laws as well
19 as ethical codes recognizing the confidentiality of client communications to accountants without,
20 however, extending it to the point of being an evidentiary privilege (which would prevent its
21 disclosure in court in certain circumstances--essentially, those in which the licensee is not a
22 party, such as divorce proceedings where one of the parties is a client of the licensee). The term
23 "peer review" is defined in section 3(o). The term "licensee" as used in this Section also
24 includes those using practice privileges inasmuch as Section 23 grants "all the privileges of
25 licensees of this state" and requires that anyone using practice privileges automatically consents
26 "to comply with this Act and the Board's rules."

1 **SECTION 19**

2 **LICENSEES' WORKING PAPERS; CLIENTS' RECORDS**

3
4 **(a) Subject to the provisions of Section 18, all statements, records, schedules, working**
5 **papers, and memoranda made by a licensee or a partner, shareholder, officer,**
6 **director, member, manager or employee of a licensee, incident to, or in the course**
7 **of, rendering services to a client while a licensee except the reports submitted by the**
8 **licensee to the client and except for records that are part of the client's records, shall**
9 **be and remain the property of the licensee in the absence of an express agreement**
10 **between the licensee and the client to the contrary. No such statement, record,**
11 **schedule, working paper, or memorandum shall be sold, transferred, or bequeathed,**
12 **without the consent of the client or the client's personal representative or assignee,**
13 **to anyone other than one or more surviving partners, stockholders, members or new**
14 **partners, new stockholders, or new members of the licensee, or any combined or**
15 **merged firm or successor in interest to the licensee. Nothing in this Section should**
16 **be construed as prohibiting any temporary transfer of workpapers or other**
17 **material necessary in the course of carrying out peer reviews or as otherwise**
18 **interfering with the disclosure of information pursuant to Section 18.**

19
20 *COMMENT:* It should be noted that this provision, which is a fairly standard one in
21 accountancy laws, prohibits the transfer of working papers relating to a particular client without
22 that client's consent in connection with the sale of a practice. The language regarding peer
23 review is intended to harmonize this section with Section 18 and make it clear that no licensee,
24 partner, shareholder, officer, director, member, manager or employee of a licensee may withhold
25 any material that might be needed to perform a peer review nor interfere with any other
26 disclosure not prohibited by section 18.

27
28 **(b) A licensee shall furnish to a client or former client, upon request and reasonable**
29 **notice-**

30
31 **(1) A copy of the licensee's working papers, to the extent that such working papers**
32 **include records that would ordinarily constitute part of the client's records**
33 **and are not otherwise available to the client; and**

34
35 **(2) Any accounting or other records belonging to, or obtained from or on behalf**
36 **of, the client that the licensee removed from the client's premises or received**
37 **for the client's account; the licensee may make and retain copies of such**
38 **documents of the client when they form the basis for work done by the**
39 **licensee.**

40
41 *COMMENT:* This subsection reflects a commonly recognized ethical obligation. It seems of
42 sufficient importance to deserve incorporation in the statute.

43
44 **(c) Nothing herein shall require a licensee to keep any workpaper beyond the period**
45 **prescribed in any other applicable statute.**

1 *COMMENT:* This subsection is designed to make clear that section 19 does not impose any
2 new record retention requirement. The retention period may be based on the licensee's
3 professional judgment and any existing law. The term "licensee" as used throughout this Section
4 also includes those using practice privileges inasmuch as Section 23 grants "all the privileges of
5 licensees of this state" and requires that anyone using practice privileges automatically consents
6 "to comply with this Act and the Board's rules."

1 **SECTION 20**
2 **PRIVITY OF CONTRACT**

- 3
4 (a) **This Section applies to all causes of action of the type specified herein filed on or**
5 **after the effective date.**
6
7 (b) **This Section governs any action based on negligence brought against any accountant**
8 **or firm of accountants practicing in this State by any person or entity claiming to**
9 **have been injured as a result of financial statements or other information examined,**
10 **compiled, reviewed, certified, audited or otherwise reported or opined on by the**
11 **defendant accountant or in the course of an engagement to provide other services.**
12
13 (c) **No action covered by this Section may be brought unless:**
14
15 (1) **The plaintiff (1) is issuer (or successor of the issuer) of the financial statements**
16 **or other information examined, compiled, reviewed, certified, audited or**
17 **otherwise reported or opined on by the defendant and (2) engaged the**
18 **defendant licensee to examine, compile, review, certify, audit or otherwise**
19 **report or render an opinion on such financial statements or to provide other**
20 **services; or**
21
22 (2) **The defendant licensee or firm: (1) was aware at the time the engagement was**
23 **undertaken that the financial statements or other information were to be made**
24 **available for use in connection with a specified transaction by the plaintiff who**
25 **was specifically identified to the defendant accountant, (2) was aware that the**
26 **plaintiff intended to rely upon such financial statements or other information**
27 **in connection with the specified transaction, and (3) had direct contact and**
28 **communication with the plaintiff and expressed by words or conduct the**
29 **defendant accountant's understanding of the reliance on such financial**
30 **statements or other information.**

31
32 *COMMENT:* This section embodies the common law rule that only persons in a relationship of
33 privity of contract (i.e., a direct contractual relationship), or a relationship so close as to approach
34 that of privity, may sue an accountant for negligence. This rule is derived from the seminal
35 decision of Chief Justice Cardozo of the N.Y. Court of Appeals in *Ultramares Corporation v.*
36 *Touche*, 255 N.Y. 170 (1931), which was reaffirmed by that court in *Credit Alliance v. Arthur*
37 *Andersen & Co.*, 65 N.Y. 2D 536 (1985). The provision above is specific to licensees and for
38 that reason it has been included in this Uniform Accountancy Act, which is intended to be
39 comprehensive. In some states, it may be more appropriate to include the above provision in
40 some other chapter of state law rather than in the accountancy statute.

1 **SECTION 21**
2 **UNIFORM STATUTE OF LIMITATIONS**

3
4 **(a) This Section applies to all causes of action of the type specified herein filed on or**
5 **after the effective date.**

6
7 **(b) This Section governs any action based on negligence or breach of contract brought**
8 **against any licensee, or any CPA or PA firm practicing in this State by any person**
9 **or entity claiming to have been injured as a result of financial statements or other**
10 **information examined, compiled, reviewed, certified, audited or otherwise reported**
11 **or opined on by the defendant licensee as a result of an engagement to provide**
12 **services.**

13
14 **(c) No action covered by this Section may be brought unless the suit is commenced on**
15 **or before the earlier of:**

16
17 **(1) one year from the date the alleged act, omission or neglect is discovered or**
18 **should have been discovered by the exercise of reasonable diligence;**

19
20 **(2) three years after completion of the service for which the suit is brought has**
21 **been performed; or**

22
23 **(3) three years after the date of the initial issuance of the accountant's report on**
24 **the financial statements or other information.**

25
26 *COMMENT:* This section establishes a uniform statute of limitations for accountants'
27 negligence and breach of contracts actions of one year from the date of discovery of the claim,
28 but in no event more than three years from the date of the completion of the accounting services
29 that are the subject of complaint or date of the initial issuance of the accountant's report,
30 whichever is earliest. It is intended to reduce the uncertainty attending potential liability
31 exposure under differing state limitations periods. The provision above is specific to licensees
32 and for that reason it has been included in this Uniform Accountancy Act, which is intended to
33 be comprehensive. In some states, it may be more appropriate to include the above provision in
34 some other chapter of state law rather than in the accountancy statute.

1 **SECTION 22**
2 **PROPORTIONATE LIABILITY**

- 3
- 4 (a) **This Section applies to all causes of action of the type specified herein filed on or**
5 **after the effective date.**
- 6
- 7 (b) **This Section governs any claim for money damages brought against any licensee; or**
8 **any CPA or PA firm registered, licensed, or practicing in this State; or any**
9 **employee or principal of such firm by any person or entity claiming to have been**
10 **injured by the defendant licensee or other person or entity.**
- 11
- 12 (c) **No judgment for money damages may be entered against any licensee, firm,**
13 **employee, or principal described in subsection (b) in an action covered by this**
14 **Section except in accordance with the provisions of this subsection.**
- 15
- 16 (1) **If the party seeking a judgment for damages against the licensee proves that**
17 **the licensee acted with the deliberate intent to deceive, manipulate or defraud**
18 **for the licensee's own direct pecuniary benefit, the liability of the licensee shall**
19 **be determined according to the principles that generally apply to such an**
20 **action.**
- 21
- 22 (2) **If the licensee is not proven to have acted with the deliberate intent to deceive,**
23 **manipulate or defraud for the accountant's own direct pecuniary benefit, the**
24 **amount of the accountant's liability in damages shall be determined as follows:**
- 25
- 26 (A) **The trier of fact shall determine the percentage of responsibility of the**
27 **plaintiff, of each of the defendants, and of each of the other persons or**
28 **entities alleged by the parties to have caused or contributed to the harm**
29 **alleged by the plaintiff. In determining the percentages of responsibility,**
30 **the trier of fact shall consider both the nature of the conduct of each**
31 **person and the nature and extent of the causal relationship between that**
32 **conduct and the damage claimed by the plaintiff.**
- 33
- 34 (B) **The trier of fact shall next determine the total amount of damage suffered**
35 **by the plaintiff caused in whole or in part by the plaintiff, the defendants,**
36 **and other persons alleged to have caused or contributed to the damage.**
- 37
- 38 (C) **The trier of fact shall then multiply the percentage of responsibility of the**
39 **licensee (determined under (A)) by the total amount of damages**
40 **(determined under (B)) and shall enter a judgment or verdict against the**
41 **licensee in an amount no greater than the product of those two factors.**
- 42
- 43 (D) **In no event shall the damages awarded against or paid by a licensee**
44 **exceed the amount determined under (C). The licensee shall not be**
45 **jointly liable on any judgment entered against any other party to the**
46 **action.**

1 **(E) Except where a contractual relationship permits, no defendant shall have**
2 **a right to recover from a licensee any portion of the percentage of**
3 **damages assessed against such other defendant.**
4

5 *COMMENT:* This section establishes a general principle of proportionate liability in all actions
6 for money damages (both common law and statutory) against accountants except fraud actions.
7 (Fraud actions would continue to be governed by generally applicable rules.) A licensee would
8 be liable for the portion of the plaintiff's injury caused by the licensee's conduct; the accountant
9 would not be required to compensate the plaintiff for harm caused by others. Accountants'
10 liability cases frequently involve situations in which a licensee issues a report on the financial
11 statements of a company that subsequently becomes insolvent or has serious financial
12 difficulties. Investors or creditors who allegedly relied on the audit report sue the accountant and
13 the company. Because the company is often either bankrupt or has no available assets, the
14 licensee is--in a disproportionately large number of cases--the only solvent defendant left to
15 answer the damages claim. Under a rule of joint and several liability, the accountant would be
16 required to bear the burden of the entire damages award, even if the harm was caused principally
17 by others such as the company's management. This provision is intended to prevent that unfair
18 result. The provision above is specific to licensees and, for that reason, it has been included in
19 this Uniform Accountancy Act which is intended to be comprehensive. In some states, it may be
20 more appropriate to include the above provision in some other chapter of state law rather than in
21 the accountancy statute.

1 **SECTION 23**
2 **SUBSTANTIAL EQUIVALENCY**

3
4 **(a)(1) An individual whose principal place of business is not in this state and who holds a**
5 **valid license as a Certified Public Accountant from any state which the NASBA**
6 **National Qualification Appraisal Service has verified to be in substantial**
7 **equivalence with the CPA licensure requirements of the AICPA/NASBA Uniform**
8 **Accountancy Act shall be presumed to have qualifications substantially equivalent**
9 **to this state's requirements and shall have all the privileges of licensees of this state**
10 **without the need to obtain a license under Sections 6 or 7. Notwithstanding any**
11 **other provision of law, an individual who offers or renders professional services,**
12 **whether in person, by mail, telephone or electronic means, under this section shall**
13 **be granted practice privileges in this state and no notice or other submission shall be**
14 **provided by any such individual. Such an individual shall be subject to the**
15 **requirements in 23(a) (3).**

16
17
18 **(2) An individual whose principal place of business is not in this state and who holds a**
19 **valid license as a Certified Public Accountant from any state which the NASBA**
20 **National Qualification Appraisal Service has not verified to be in substantial**
21 **equivalence with the CPA licensure requirements of the AICPA/NASBA Uniform**
22 **Accountancy Act shall be presumed to have qualifications substantially equivalent**
23 **to this state's requirements and shall have all the privileges of licensees of this state**
24 **without the need to obtain a license under Sections 6 or 7 if such individual obtains**
25 **from the NASBA National Qualification Appraisal Service verification that such**
26 **individual's CPA qualifications are substantially equivalent to the CPA licensure**
27 **requirements of the AICPA/NASBA Uniform Accountancy Act. Any individual**
28 **who passed the Uniform CPA Examination and holds a valid license issued by any**
29 **other state prior to January 1, 2012 may be exempt from the education requirement**
30 **in Section 5(c)(2) for purposes of this Section 23 (a)(2). Notwithstanding any other**
31 **provision of law, an individual who offers or renders professional services, whether**
32 **in person, by mail, telephone or electronic means, under this section shall be granted**
33 **practice privileges in this state and no notice or other submission shall be provided**
34 **by any such individual. Such an individual shall be subject to the requirements in**
35 **23(a) (3).**

36
37
38 **(3) An individual licensee of another state exercising the privilege afforded under this**
39 **section and the firm which employs that licensee hereby simultaneously consents, as**
40 **a condition of the grant of this privilege:**

41
42 **(A) to the personal and subject matter jurisdiction and disciplinary authority of**
43 **the Board,**

44
45 **(B) to comply with this Act and the Board's rules;**

46
47 **(C) that in the event the license from the state of the individual's principal place of**

1 **business is no longer valid, the individual will cease offering or rendering**
2 **professional services in this state individually and on behalf of a firm; and**
3
4

5 **(D) to the appointment of the State Board which issued their license as their agent**
6 **upon whom process may be served in any action or proceeding by this Board**
7 **against the licensee.**
8

9 **(4) An individual who has been granted practice privileges under this section who,**
10 **for any entity with its home office in this state, performs any of the following**
11 **services;**
12

13 **(A) any financial statement audit or other engagement to be performed in**
14 **accordance with Statements on Auditing Standards;**
15

16 **(B) any examination of prospective financial information to be performed in**
17 **accordance with Statements on Standards for Attestation Engagements; or**
18

19 **(C) any engagement to be performed in accordance with PCAOB auditing**
20 **standards;**
21

22 **May only do so through a firm which has obtained a permit issued under Section 7 of this**
23 **Act.**
24
25

26 *COMMENT:* Subsection 23(a)(3) is intended to allow state boards to discipline licensees from
27 other states that practice in their state. If an individual licensee is using these practice privileges
28 to offer or render professional services in this state on behalf of a firm, Section 23(a)(3) also
29 facilitates state board jurisdiction over the firm as well as the individual licensee even if the firm
30 is not required to obtain a permit in this state. Under Section 23(a), State Boards could utilize the
31 NASBA National Qualification Appraisal Service for determining whether another state's
32 certification criteria are "substantially equivalent" to the national standard outlined in the
33 AICPA/NASBA Uniform Accountancy Act. If a state is determined to be "substantially
34 equivalent," then individuals from that state would have ease of practice rights in other states.
35 Individuals who personally meet the substantial equivalency standard may also apply to the
36 National Qualification Appraisal Service if the state in which they are licensed is not
37 substantially equivalent to the UAA.
38

39 Individual CPAs who practice across state lines or who service clients in another state via
40 electronic technology, would not be required to obtain a reciprocal certificate or license if their
41 state of original certification is deemed substantially equivalent, or if they are individually
42 deemed substantially equivalent. However, licensure is required in the state where the CPA has
43 their principal place of business. If a CPA relocates to another state and establishes their
44 principal place of business in that state or if a firm performs any of the services described in
45 Section 23(a)(4), then they would be required to obtain a certificate in that state. As a result of
46 the elimination of any notification requirement combined with the automatic jurisdiction over
47 any firm that has employees utilizing practice privileges in the state, former subsections 7(i) and

1 7(j) have been deleted.

2
3 Unlike prior versions of this Section, the revised provision provides that practice privileges shall
4 be granted and that there shall be no notification. With the addition of a stronger Consent
5 requirement (subsection 23(a)(3)), (i) there appears to be no need for individual notification
6 since the nature of an enforcement complaint would in any event require the identification of the
7 CPA, (ii) online licensee databases have greatly improved, and (iii) both the individual CPA
8 practicing on the basis of substantial equivalency as well as the individual's employer will be
9 subject to enforcement action in any state under Section 23 (a)(3) regardless of a notification
10 requirement.

11
12 Implementation of the "substantial equivalency" standard and creation of the National
13 Qualification Appraisal Service have made a significant improvement in the current regulatory
14 system and assist in accomplishing the goal of portability of the CPA title and mobility of CPAs
15 across state lines.

16
17 Section 23(a)(4) clarifies situations in which the individual could be required to provide services
18 through a CPA firm holding a permit issued by the state in which the individual is using practice
19 privileges.

20
21 Section 23(a)(4) in conjunction with companion revisions to Sections 7 and 14, still provide that
22 an individual with practice privileges cannot do the following as an employee of a firm unless
23 the firm holds a CPA firm permit from this state:

- 24 • perform an examination of prospective financial information in accordance with SSAE
25 for any entity with its home office in this state
- 26 • perform an engagement in accordance with PCAOB standards for any entity with its
27 home office in this state
- 28 • perform an audit or other engagement in accordance with SAS for any entity with its
29 home office in this state

30
31 In order to be deemed substantially equivalent under Section 23(a)(1), a state must adopt the
32 150-hour education requirement established in Section 5(c)(2). A few states have not yet
33 implemented the education provision. In order to allow a reasonable transition period, Section
34 23(a)(2) provides that an individual who has passed the Uniform CPA examination and holds an
35 active license from a state that is not yet substantially equivalent may be individually exempt
36 from the 150-hour education requirement and may be allowed to use practice privileges in this
37 state if the individual was licensed prior to January 1, 2012.

38
39 Section 23(a)(3)(D) simplifies state board enforcement against out-of-state persons using
40 practice privileges by requiring consent to appointment of the state board of the person's
41 principal place of business service of process. This important provision facilitates the
42 prerogative of the state board to administratively discipline or revoke the practice privilege. This
43 provision supplements Section 9 which provides for the appointment of the Secretary of State as
44 the agent upon whom process may be served in any action or proceeding against the applicant
45 arising out of any transaction or operation connected with or incidental to services performed by
46 the applicant while a licensee within this State.

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18

(b) A licensee of this state offering or rendering services or using their CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding Section 11(a), the Board shall be required to investigate any complaint made by the board of accountancy of another state.

COMMENT: This section ensures that the Board of the state of the licensee’s principal place of business, which has power to revoke a license, will have the authority to discipline its licensees if they violate the law when performing services in other states and to ensure that the state board of accountancy will be required to give consideration to complaints made by the boards of accountancy of other jurisdictions. This Subsection combined with Subsection 23(a)(3)(C) (which enables the state board of the practice privilege state to protect its citizens through administrative proceedings) assures that the state board has comprehensive disciplinary powers to protect its state’s citizens regarding anyone rendering professional services into or from its state.

1 **SECTION 24**
2 **CONSTRUCTION; SEVERABILITY**

3
4 **If any provision of this Act or the application thereof to any person or entity or in any**
5 **circumstances is held invalid, the remainder of the Act and the application of such**
6 **provision to others or in other circumstances shall not be affected thereby.**

1 **SECTION 25**
2 **REPEAL OF PRIOR LAW**

3
4 _____ (existing legislation) and all other acts or parts of acts in conflict herewith are
5 hereby repealed, provided, however, that nothing contained in this Act shall invalidate or
6 affect any action taken or any proceeding instituted under any law in effect prior to the
7 effective date hereof.

1 **SECTION 26**
2 **EFFECTIVE DATE**

3
4 **This Act shall take effect on _____.**

5
6
7

APPENDIXES

APPENDIX A

LEGISLATIVE POLICY (ANNOTATED) AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

1. The public interest warrants the licensing and regulation of persons professing expertise in accounting who perform professional accounting services, including the expression of opinions on financial statements and other information upon which the public necessarily relies.

Protection of the public interest is a basic tenet of society. Good governments, since the beginning of civilization, have enacted laws protecting the health and welfare of the public. These basic human rights are protected, and indeed may only be secure, when the financial resources and economic well-being of society are guarded. Today, financial decisions are made, and resources are allocated, by reference to financial reports and other accounting data. These reports and data must be fair and must be believable. Both qualities are enhanced by the professional certified public accountant's work, and that function needs to be regulated for the public's sake.

The state, under its police power, may pass laws to protect the public against fraud, deception or the consequences of ignorance and incapacity, and may exact the requisite degree of skill and learning of persons in professions and pursuits which affect the public health or welfare, such as accountancy. (Davis v. Allen, 307 S.W.2d 800, Tenn. Ct. App., 1957.)

2. There is no such compelling need for licensing and regulation of persons offering record-keeping and elementary accounting services performed at the instance of, and for the benefit of, employers and clients. Nor is licensing required in connection with the preparation of tax returns because of regulatory and disciplinary authority presently possessed by the Internal Revenue Service and other taxing authorities.

Freedom of enterprise is a basic concept of American philosophy that must be evaluated against the public's right to protection when determining activities that need to be regulated. There does not appear to be a compelling public interest in restricting the services noted above to licensed persons only. At the same time, courts have held that the expression of opinions on financial statements and data on which credit grantors, government officials, investors, and other third parties may rely, clearly involves the public interest in such a way as to require regulation. Professional accounting services deemed to merit regulation are perhaps well summarized in a 1964 decision of the Tennessee Court of Appeals. The Court said,

The Courts have generally recognized that the practice of public accountancy is a highly skilled and technical ... profession and, as such, may be regulated by the legislature within proper limits.... However, the Courts consistently have held that legislation which prohibits noncertified accountants from practicing the profession of accountancy is invalid as it infringes upon rights of contract in matters of purely private concern bearing

no perceptible relation to the general or public welfare. And, in so doing, the Courts have indicated that bookkeeping and similar technical services--as contrasted with auditing and expressing opinions on financial statements--do not involve a sufficient public interest to permit legislative interference with the normal right of an individual to deal with anyone he chooses.... (State of Tennessee ex rel. State Board of Accountancy v. Bookkeepers Business Service Co., 382 S.W.2d 559, Tenn. Ct. App., 1964.)

Licensure of tax return preparers would be difficult to administer and ineffective. A major disadvantage is that tax authorities would not automatically obtain information about the returns prepared by a licensee. Without such information, it would be difficult to check on the competence or honesty of the return preparer. Moreover, licensure would not prevent improprieties associated with advertising by commercial tax return preparers and tax return preparers who are unethical. Further, the federal government should be given a fair chance to succeed in its current program of testing methods of regulating tax return preparers.

3. The practice of professional accountancy should ultimately be restricted to certified public accountants who have demonstrated competency by passing the Uniform CPA Examination, by fulfilling educational and other requirements, and by continuing to meet professional standards.

The licensure and regulation of professionals should be conducted as a professional function. State Boards of Accountancy have as their responsibility the maintenance of adherence to high technical and ethical standards. In this policing activity, Board members should be qualified to judge whether the licensee's professional activities conform with standards established to protect the public interest.

4. The enactment of a regulatory accountancy law is not intended to deprive persons who are practicing public accounting as principals at the time of passage of the law of their means of livelihood, and they should be permitted to register as public accountants and become subject to regulation. All further registration or licensing to practice public accountancy should be limited to persons demonstrating their competence as certified public accountants.

Registration of public accountants is appropriate to protect the interests of those who at the time of the enactment of a law had been entitled to assume the designation "public accountant." However, provision should not be made for additions to the ranks of public accountants. The intention is to protect the constitutional rights of those already engaged in public accounting--not to create a permanent second class of professional accountants. Those who would enter public practice in the future should do so only by satisfying educational and other requirements and by passing the Uniform CPA Examination.

5. The accounting profession serves a broad public interest as evidenced by the similarity of accounting needs in all political jurisdictions. In order that it may serve this interest, uniform licensing and regulatory requirements should be established, and unnecessary restrictions of a local character should be avoided.

Diversity in requirements for the CPA certificate tends to create confusion over the meaning of the certificate. Further, doubt is raised regarding the comparability of the competence of CPAs. Accounting principles and auditing standards used in the practice of public accounting are national in scope; they are not subject to limitations imposed by geographical boundaries. The preponderance of interstate commerce in our economy makes it necessary for qualified accountants to practice across state borders in response to the needs of the public.

APPENDIX B

**STATEMENT ON STANDARDS
FOR
CONTINUING PROFESSIONAL EDUCATION
(CPE) PROGRAMS**



American Institute of Certified Public Accountants



National Association of
State Boards of Accountancy

STATEMENT ON STANDARDS FOR CONTINUING PROFESSIONAL EDUCATION (CPE) PROGRAMS

The following standards are issued jointly by the AICPA and NASBA.

Section 100

Preamble

- 01.** The right to use the title "Certified Public Accountant" (CPA) is regulated in the public interest and imposes a duty to maintain public confidence and current knowledge, skills, and abilities in all areas in which they provide services. CPAs must accept and fulfill their ethical responsibilities to the public and the profession regardless of their fields of employment.²
- 02.** The profession of accountancy is characterized by an explosion of relevant knowledge, ongoing changes and expansion, and increasing complexity. Advancing technology, globalization of commerce, increasing specialization, proliferating regulations, and the complex nature of business transactions have created a dynamic environment that requires CPAs to continuously maintain and enhance their knowledge, skills, and abilities.
- 03.** The continuing development of professional competence involves a program of lifelong educational activities. Continuing Professional Education (CPE) is the term used in these standards to describe the educational activities that assist CPAs in achieving and maintaining quality in professional services.
- 04.** The following standards have been broadly stated in recognition of the diversity of practice and experience among CPAs. They establish a framework for the development, presentation, measurement, and reporting of CPE programs and thereby help to ensure that CPAs receive the quality CPE necessary to satisfy their obligations to serve the public interest.

Section 200

Standards for CPAs

General Standards

- 01. Standard No. 1.** All CPAs should participate in learning activities that maintain and/or improve their professional competence.³

² The term "CPAs" is used in these standards to identify all persons who are licensed and/or regulated by boards of accountancy.

³ The terms "should" and "must" are intended to convey specific meanings within the context of this *Joint AICPA/NASBA Statement on Standards for Continuing Professional Education Programs*. The term "must" is used only in the standards applying to CPE program sponsors to convey that CPE program sponsors are not permitted any departure from those specific standards. The term "should" is used in the standards applying to both CPAs and CPE program sponsors and is intended to convey that CPAs and CPE program sponsors are expected to follow such standards as written and are required to justify any departures from such standards when unusual circumstances warrant such departures.

02. Commentary. Selection of learning activities should be a thoughtful, reflective process addressing the individual CPA's current and future professional plans, current knowledge and skills level, and desired or needed additional competence to meet future opportunities and/or professional responsibilities.

03. CPAs fields of employment do not limit the need for CPE. CPAs performing professional services need to have a broad range of knowledge, skills, and abilities. Thus, the concept of professional competence should be interpreted broadly. Accordingly, acceptable continuing education encompasses programs contributing to the development and maintenance of both technical and non-technical professional skills.

04. Acceptable subjects include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including personal development, may also be acceptable if they maintain and/or improve the CPA's professional competence.

05. To help guide their professional development, CPAs may find it useful to develop a learning plan (see definition in Glossary.) The learning plan can be used to evaluate learning and professional competence development. It should be reviewed periodically and modified as professional competence needs change.

06. Standard No 2. CPAs should comply with all applicable CPE requirements and should claim CPE credit only for CPE programs when the CPE program sponsors have complied with the Standards for CPE Program Presentation (Nos. 8 - 11) and Standard for CPE Program Reporting No. 17.

07. Commentary. CPAs are responsible for compliance with all applicable CPE requirements, rules, and regulations of state licensing bodies, other governmental entities, membership associations, and other professional organizations or bodies. CPAs should contact each appropriate entity to which they report to determine its specific requirements or any exceptions it may have to the standards presented herein.

08. Periodically, CPAs participate in learning activities which do not comply with all applicable CPE requirements, for example specialized industry programs offered through industry sponsors. If CPAs propose to claim credit for such learning activities, they should retain all relevant information regarding the program to provide documentation to state licensing bodies and/or all other professional organizations or bodies that the learning activity is equivalent to one which meets all these Standards.

09. Standard No. 3. CPAs are responsible for accurate reporting of the appropriate number of CPE credits earned and should retain appropriate documentation of their participation in learning activities, including: (1) name and contact information of CPE program sponsor, (2) title and description of content, (3) date(s) of program, (4) location (if applicable), and (5) number of CPE credits, all of which should be included in documentation provided by the CPE program sponsor.

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10. Commentary. To protect the public interest, regulators require CPAs to document maintenance and enhancement of professional competence through periodic reporting of CPE. For convenience, measurement is expressed in CPE credits. However, the objective of CPE must always be maintenance/enhancement of professional competence, not attainment of credits. Compliance with regulatory and other requirements mandates that CPAs keep documentation of their participation in activities designed to maintain and/or improve professional competence. In the absence of legal or other requirements, a reasonable policy is to retain documentation for a minimum of five years from the end of the year in which the learning activities were completed.

11. Participants must document their claims of CPE credit. Examples of acceptable evidence of completion include:

- For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor.
- For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.
- For instruction credit, a certificate or other verification supplied by the CPE program sponsor
- For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.
- For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.
- For published articles, books, or CPE programs, (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer(s) or publisher.

12. Standard No. 4. CPAs who complete sponsored learning activities that maintain or improve their professional competence should claim the CPE credits recommended by CPE program sponsors.

13. Commentary. CPAs may participate in a variety of sponsored learning activities, such as workshops, seminars and conferences, self-study courses, Internet-based programs, and independent study. While CPE program sponsors determine credits, CPAs should claim credit only for activities through which they maintained or improved their professional competence. CPAs who participate in only part of a program should claim CPE credit only for the portion they attended or completed.

14. Standard No. 5. CPAs may engage in independent study under the direction of a CPE program sponsor who has met the applicable standards for CPE program sponsors when the subject matter and level of study maintain or improve their professional competence.

15. Commentary. Independent study is an educational process designed to permit a participant to learn a given subject under the guidance of a CPE program sponsor one-on-one. Participants in an independent study program should:

- Enter into a written learning contract with a CPE program sponsor who must comply with the

applicable standards for CPE program sponsors.

- Accept the written recommendation of the CPE program sponsor as to the number of credits to be earned upon successful completion of the proposed learning activities. CPE credits will be awarded only if:
 1. All the requirements of the independent study as outlined in the learning contract are met,
 2. The CPE program sponsor reviews and signs the participant's report,
 3. The CPE program sponsor reports to the participant the actual credits earned, and
 4. The CPE program sponsor provides the participant with contact information.The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.
- Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.
- Complete the program of independent study in 15 weeks or less.

Section 300

Standards for CPE Program Sponsors

General Standards

01. Standard No. 1. CPE program sponsors are responsible for compliance with all applicable standards and other CPE requirements.

02. Commentary. CPE program sponsors may have to meet specific CPE requirements of state licensing bodies, other governmental entities, membership associations, and/or other professional organizations or bodies. Professional guidance for CPE program sponsors is available from the AICPA and NASBA; state-specific guidance is available from the state boards of accountancy. CPE program sponsors should contact the appropriate entity to determine requirements.

Standards for CPE Program Development

03. Standard No. 2. Sponsored learning activities must be based on relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants in the learning activities.

04. Commentary. Learning activities provided by CPE program sponsors for the benefit of CPAs should specify the level, content, and learning objectives so that potential participants can determine if the learning activities are appropriate to their professional competence development needs. Levels include, for example, basic, intermediate, advanced, update, and overview (see definitions in Glossary.)

05. Standard No. 3. CPE program sponsors should develop and execute learning activities

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in a manner consistent with the prerequisite education, experience, and/or advance preparation of participants.

06. Commentary. To the extent it is possible to do so, CPE program sponsors should make every attempt to equate program content and level with the backgrounds of intended participants. All programs must clearly identify prerequisite education, experience, and/or advance preparation, if any, in precise language so that potential participants can readily ascertain whether they qualify for the program.

07. Standard No. 4. CPE program sponsors must use activities, materials, and delivery systems that are current, technically accurate, and effectively designed. CPE program sponsors must be qualified in the subject matter.

08. Commentary. To best facilitate the learning process, sponsored programs and materials must be prepared, presented and updated timely. Learning activities must be developed by individuals or teams having expertise in the subject matter. Expertise may be demonstrated through practical experience or education.

09. CPE program sponsors must review the course materials periodically to assure that they are accurate and consistent with currently accepted standards relating to the program's subject matter.

10. Standard No. 5. CPE program sponsors of group and self-study programs must ensure learning activities are reviewed by qualified persons other than those who developed them to assure that the program is technically accurate and current and addresses the stated learning objectives. These reviews must occur before the first presentation of these materials and again after each significant revision of the CPE programs.

11. Commentary. Individuals or teams qualified in the subject matter must review programs. When it is impractical to review certain programs in advance, such as lectures given only once, greater reliance should be placed on the recognized professional competence of the instructors or presenters. Using independent reviewing organizations familiar with these standards may enhance quality assurance.

12. Standard No. 6. CPE program sponsors of independent study learning activities must be qualified in the subject matter.

13. Commentary. A CPE program sponsor of independent study learning activities must have expertise in the specific subject area related to the independent study. The CPE program sponsor must also:

- Review, evaluate, approve and sign the proposed independent study learning contract, including agreeing in advance on the number of credits to be recommended upon successful completion.
- Review and sign the written report developed by the participant in independent study.

- Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.

14. Standard No. 7. Self-study programs must employ learning methodologies that clearly define learning objectives, guide the participant through the learning process, and provide evidence of a participant's satisfactory completion of the program.

15. Commentary. To guide participants through a learning process, CPE program sponsors of self-study programs must elicit participant responses to test for understanding of the material, offer evaluative feedback to incorrect responses, and provide reinforcement feedback to correct responses. To provide evidence of satisfactory completion of the course, CPE program sponsors of self-study programs must require participants to successfully complete a final examination with a minimum-passing grade of at least 70 percent before issuing CPE credit for the course. Examinations may contain questions of varying format, (for example, multiple-choice, essay and simulations.) If objective type questions are used, at least five questions per CPE credit must be included on the final examination. For example, the final examination for a five-credit course must include at least 25 questions.

16. Self-study programs must be based on materials specifically developed for instructional use. Self-study programs requiring only the reading of general professional literature, IRS publications, or reference manuals followed by a test will not be acceptable. However, the use of the publications and reference materials in self-study programs as supplements to the instructional materials could qualify if the self-study program complies with each of the CPE standards.

Standards for CPE Program Presentation

17. Standard No. 8. CPE program sponsors must provide descriptive materials that enable CPAs to assess the appropriateness of learning activities. To accomplish this, CPE program sponsors must inform participants in advance of:

- Learning objectives.
- Prerequisites.
- Program level.
- Program content.
- Advance preparation.
- Instructional delivery methods.
- Recommended CPE credit.
- Course registration requirements.

18. Commentary. For potential participants to effectively plan their CPE, the program sponsor should disclose the significant features of the program in advance (e.g., through the use of brochures, Internet notices, invitations, direct mail, or other announcements). When CPE programs are offered in conjunction with noneducational activities, or when several CPE programs are offered concurrently, participants should receive an appropriate schedule of events

indicating those components that are recommended for CPE credit. The CPE program sponsor's registration policies and procedures should be formalized, published, and made available to participants.

19. CPE program sponsors should distribute program materials timely and encourage participants to complete any advance preparation requirements. All programs should clearly identify prerequisite education, experience, and/or advance preparation requirements, if any, in the descriptive materials. Prerequisites should be written in precise language so that potential participants can readily ascertain whether they qualify for the program.

20. Standard No. 9. CPE program sponsors must ensure instructors are qualified with respect to both program content and instructional methods used.

21. Commentary. Instructors are key ingredients in the learning process for any group program. Therefore, it is imperative that CPE program sponsors exercise great care in selecting qualified instructors for all group programs. Qualified instructors are those who are capable, through training, education, or experience of communicating effectively and providing an environment conducive to learning. They should be competent and current in the subject matter, skilled in the use of the appropriate instructional methods and technology, and prepared in advance.

22. CPE program sponsors should evaluate the instructor's performance at the conclusion of each program to determine the instructor's suitability to serve in the future.

23. Standard No. 10. CPE program sponsors must employ an effective means for evaluating learning activity quality with respect to content and presentation, as well as provide a mechanism for participants to assess whether learning objectives were met.

24. Commentary. The objectives of evaluation are to assess participant satisfaction with specific programs and to increase subsequent program effectiveness. Evaluations, whether written or electronic, should be solicited from participants and instructors for each program session, including self-study, to determine, among other things, whether:

- Stated learning objectives were met.
- If applicable, prerequisite requirements were appropriate.
- Program materials were accurate.
- Program materials were relevant and contributed to the achievement of the learning objectives.
- Time allotted to the learning activity was appropriate.
- If applicable, individual instructors were effective.
- Facilities and/or technological equipment was appropriate.
- Handout or advance preparation materials were satisfactory.
- Audio and video materials were effective.

25. CPE program sponsors should periodically review evaluation results to assess program

effectiveness and should inform developers and instructors of evaluation results.

26. Standard No. 11. CPE program sponsors must ensure instructional methods employed are appropriate for the learning activities. Learning activities should be presented in a manner consistent with the descriptive and technical materials provided.

27. Commentary. CPE program sponsors should evaluate the instructional methods employed for the learning activities to determine if the delivery is appropriate and effective. Integral aspects in the learning environment that should be carefully monitored include the number of participants and the facilities and technologies employed in the delivery of the learning activity.

28. CPE program sponsors are expected to present learning activities that comply with course descriptions and objectives. Appropriate supplemental materials may also be used.

Standards for CPE Program Measurement

29. Standard No. 12. Sponsored learning activities are measured by program length, with one 50-minute period equal to one CPE credit. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity.

30. Commentary. For learning activities in which individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three CPE credits. When the total minutes of a sponsored learning activity are greater than 50, but not equally divisible by 50, the CPE credits granted should be rounded down to the nearest one-half credit. Thus, learning activities with segments totaling 140 minutes should be granted two and one-half CPE credits.

31. While it is the participant's responsibility to report the appropriate number of credits earned, CPE program sponsors must monitor group learning activities to assign the correct number of CPE credits.

32. For university or college credit courses that meet these CPE Standards, each unit of college credit shall equal the following CPE credits:

- Semester System 15 credits
- Quarter System 10 credits

33. For university or college non-credit courses that meet these CPE standards, CPE credits shall be awarded only for the actual classroom time spent in the non-credit course.

34. Credit is not granted to participants for preparation time.

35. Only the portions of committee or staff meetings that are designed as programs of learning and comply with these standards qualify for CPE credit.

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36. Standard No. 13. CPE credit for self-study learning activities must be based on a pilot test of the average completion time.

37. Commentary. A sample of intended professional participants should be selected to test program materials in an environment and manner similar to that in which the program is to be presented. The sample group of at least three individuals must be independent of the program development group and possess the appropriate level of knowledge before taking the program. The sample does not have to ensure statistical validity. CPE credits should be recommended based on the average completion time for the sample. If substantive changes are subsequently made to program materials further pilot tests of the revised program materials should be conducted to affirm or amend, as appropriate, the average completion time.

38. Standard No. 14. Instructors or discussion leaders of learning activities should receive CPE credit for both their preparation and presentation time to the extent the activities maintain or improve their professional competence and meet the requirements of these CPE standards.

39. Commentary. Instructors, discussion leaders, or speakers who present a learning activity for the first time should receive CPE credit for actual preparation time up to two times the number of CPE credits to which participants would be entitled, in addition to the time for presentation. For example, for learning activities in which participants could receive 8 CPE credits, instructors may receive up to 24 CPE credits (16 for preparation plus 8 for presentation). For repeat presentations, CPE credit can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required significant additional study or research.

40. Standard No. 15. Writers of published articles, books, or CPE programs should receive CPE credit for their research and writing time to the extent it maintains or improves their professional competence.

41. Commentary. Writing articles, books, or CPE programs for publication is a structured activity that involves a process of learning. For the writer to receive CPE credit, the article, book, or CPE program must be formally reviewed by an independent party. CPE credits should be claimed only upon publication.

42. Standard No. 16. CPE credits recommended by a CPE program sponsor of independent study must not exceed the time the participant devoted to complete the learning activities specified in the learning contract.

43. Commentary. The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.

Standards for CPE Program Reporting

44. Standard No. 17. CPE program sponsors must provide program participants with documentation of their participation, which includes the following:

- CPE program sponsor name and contact information.
- Participant's name.
- Course title.
- Course field of study.
- Date offered or completed.
- If applicable, location.
- Type of instructional/delivery method used.
- Amount of CPE credit recommended.
- Verification by CPE program sponsor representative.

45. Commentary. CPE program sponsors should provide participants with documentation to support their claims of CPE credit. Acceptable evidence of completion includes:

- For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor.
- For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.
- For instruction credit, a certificate or other verification supplied by the CPE program sponsor
- For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.
- For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.
- For published articles, books, or CPE programs, (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer(s) or publisher.

46. Standard No. 18. CPE program sponsors must retain adequate documentation for five years to support their compliance with these standards and the reports that may be required of participants.

47. Commentary. Evidence of compliance with responsibilities set forth under these Standards which is to be retained by CPE program sponsors includes, but is not limited to:

- Records of participation.
- Dates and locations.
- Instructor names and credentials.
- Number of CPE credits earned by participants.
- Results of program evaluations.

Information to be retained by developers includes copies of program materials, evidence that the program materials were developed and reviewed by qualified parties, and a record of how CPE

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credits were determined.

48. For CPE program sponsors offering self-study programs, appropriate pilot test records must be retained regarding the following:

- When the pilot test was conducted.
- The intended participant population.
- How the sample was determined.
- Names and profiles of sample participants.
- A summary of participants' actual completion time.

Section 400

Glossary

01. Advanced. Learning activity level most useful for individuals with mastery of the particular topic. This level focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. Advanced level programs are often appropriate for seasoned professionals within organizations; however, they may also be beneficial for other professionals with specialized knowledge in a subject area

02. Basic. Learning activity level most beneficial to CPAs new to a skill or an attribute. These individuals are often at the staff or entry level in organizations, although such programs may also benefit a seasoned professional with limited exposure to the area.

03. Continuing Professional Education (CPE). An integral part of the lifelong learning required to provide competent service to the public. The set of activities that enables CPAs to maintain and improve their professional competence.

04. CPE credit. Fifty minutes of participation in a group, independent study or self-study program. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity.

05. CPE program sponsor. The individual or organization responsible for setting learning objectives, developing the program materials to achieve such objectives, offering a program to participants, and maintaining the documentation required by these standards. The term CPE program sponsor may include associations of CPAs, whether formal or informal, as well as employers who offer in-house programs.

06. Evaluative feedback. Specific response to incorrect answers to questions in self-study programs. Unique feedback must be provided for each incorrect response, as each one is likely to be wrong for differing reasons.

07. Group program. An educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom or conference setting or by using the Internet.

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08. Independent study. An educational process designed to permit a participant to learn a given subject under a learning contract with a CPE program sponsor.

09. Instructional methods. Delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs.

10. Intermediate. Learning activity level that builds on a basic program, most appropriate for CPAs with detailed knowledge in an area. Such persons are often at a mid-level within the organization, with operational and/or supervisory responsibilities.

11. Internet-based programs. A learning activity, through a group program (Paragraph .07 above) or a self-study program (Paragraph .22 following), that is designed to permit a participant to learn the given subject matter via the Internet. To qualify as either a group or self-study program, the Internet learning activity must meet the respective standards.

12. Learning activity. An educational endeavor that maintains or improves professional competence.

13. Learning contract. A written contract signed by an independent study participant and a qualified CPE program sponsor prior to the commencement of the independent study that:

1. Specifies the nature of the independent study program and the time frame over which it is to be completed, not to exceed 15 weeks.
2. Specifies that the output must be in the form of a written report that will be reviewed by the CPE program sponsor or a qualified person selected by the CPE program sponsor.
3. Outlines the maximum CPE credit that will be awarded for the independent study program, but limits credit to actual time spent.

14. Learning objectives. Specifications on what participants should accomplish in a learning activity. Learning objectives are useful to program developers in deciding appropriate instructional methods and allocating time to various subjects.

15. Learning plans. Structured processes that help CPAs guide their professional development. They are dynamic instruments used to evaluate and document learning and professional competence development. This may be reviewed regularly and modified, as CPAs' professional competence needs change. Plans include:

- A self-assessment of the gap between current and needed knowledge, skills, and abilities;
- A set of learning objectives arising from this assessment; and
- Learning activities to be undertaken to fulfill the learning plan.

16. Overview. Learning activity level that provides a general review of a subject area from a broad perspective. These programs may be appropriate for professionals at all organizational levels.

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- 17. Personal development.** A field of study that covers such skills as communications, managing the group process, dealing effectively with others, interviewing, counseling, and career planning.
- 18. Pilot test.** Sampling of at least three independent individuals representative of the intended participants to measure the average completion time to determine the recommended CPE credit for self-study programs.
- 19. Professional competence.** Having requisite knowledge, skills, and abilities to provide quality services as defined by the technical and ethical standards of the profession. The expertise needed to undertake professional responsibilities and to serve the public interest.
- 20. Program of learning.** A collection of learning activities that are designed and intended as continuing education and that comply with these standards.
- 21. Reinforcement feedback.** Specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct.
- 22. Self-study program.** An educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs use a pilot test to measure the average completion time from which the recommended CPE credit is determined.
- 23. Update.** Learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current.

Effective Dates:

Unless otherwise established by state licensing bodies and/or other professional organizations, these Standards are to be effective as follows:

- 1.** For CPAs, group programs and independent study -- January 1, 2002.
- 2.** For self-study courses being published for the first time after December 31, 2002 -- upon publication.
- 3.** For self-study courses already in existence as of December 31, 2002 -- January 1, 2004.

APPENDIX C

SUBSTANTIAL EQUIVALENCY

Introduction

This appendix sets out guidelines with regard to the substantial equivalency standard that will be administered by the NASBA Qualification Appraisal Service. In determining whether there is substantial equivalency, the keynote is flexibility. The criteria is whether the broad outlines and concepts in this Act have been satisfied rather than a “checkmark” approach that examines whether the state’s law includes all of the detailed provisions in the UAA. Any other approach would not carry out the intention of the historic agreement reached by the AICPA and NASBA with regard to the substantial equivalency standard. The goal is to promote mobility for qualified CPAs. Because the substantial equivalency standard is based on the standards set out in the UAA, the standard also protects the public. The Sections below provide additional detail with regard to the substantial equivalency standard.

A. Substantially Equivalent States

The criteria for determining whether a state’s CPA qualification requirements are substantially equivalent to the UAA include: good character, completion of the 150 hour education requirement, passage of the Uniform CPA examination and compliance with a one year general experience requirement. A state will be considered substantially equivalent as long as the effective implementation date for the 150 hour education requirement is to occur within six years after the date on which the requirement is enacted.

B. Individuals

Individual CPAs who personally meet the substantial equivalency standard can personally apply for and utilize the standard even if the CPA qualification requirements in their state are not substantially equivalent. This will maximize mobility for qualified professionals. In reviewing individual applicants, the Qualification Appraisal Service should utilize the same flexible approach that is used with regard to determining whether a state is substantially equivalent to the UAA. For those who cannot use the substantial equivalency standard, if they have four years of experience of the type outlined in Section 5(f) of the UAA they would be eligible for reciprocity under Section 6(c)(1) of the UAA.

C. Grandfathering

All CPAs licensed as of the date that the state receives its notice of substantial equivalency from the NASBA Qualification Appraisal Service will be eligible to use the substantial equivalency provision with regard to interstate practice. This will promote the substantial equivalency standard, promote mobility for CPAs and enhance adoption of UAA provisions by the states.

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Because the CPAs are already considered competent by their state of licensure, the public is adequately protected under this system of grandfathering CPAs. Those CPAs who wish to obtain reciprocity under the substantial equivalency standard must personally have qualifications substantially equivalent to the UAA.

With regard to individual applicants to the NASBA Qualification Appraisal Service from nonsubstantially equivalent states, anyone who passed the CPA examination before January 1, 2012 will be eligible personally to obtain substantial equivalency for the purpose of interstate practice even if they have not completed 150 hours of education. Individuals who pass the Uniform CPA examination after January 1, 2012 must complete the 150 hour education requirement in order to be eligible for substantial equivalency.

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