



Jim Pillen
Governor

STATE OF NEBRASKA
BOARD OF PUBLIC ACCOUNTANCY
P.O. Box 94725, Lincoln NE 68509
(402) 471-3595 or (800) 564-6111
Fax (402) 471-4484
Home Page: nbpa.nebraska.gov

September 13, 2023

Honorable Robert B. Evnen
Office of the Secretary of State
P.O. Box 94601
State Capitol
Lincoln, NE 68509

Re: Proposed Amendments to NAC Title 288/Revised and Substituted Rules

Dear Secretary Evnen:

Please find attached information relative to proposed amendments to the State Board of Public Accountancy (Board) rules and regulations within NAC Title 288. The Board proposes changes to three chapters as approved at their September 8th, 2023 meeting.

Proposed changes within Chapter 4 include removing reference to the Board's Quality Enhancement Program that ended several years ago with the decision to require CPA firms to participate in the national peer review program. The significant change to Chapter 6 is related to the number of months to complete the four sections of the Uniform CPA Examination from 18 to 30 months to assist Candidates in the passage of the exam. This would also align Nebraska with the majority of State Boards of Accountancy as recommended by the National Association of State Boards of Accountancy (NASBA) Uniform Accountancy Act (UAA) Committee. Proposed changes to Chapter 13 include clarifying when the Board would require a Peer Review Oversight Committee (PROC) and updating Peer Review Standards.

The Board has collaborated on the proposed changes with their Education Advisory Committee, the Nebraska Society of CPAs, and the National Association of State Boards of Accountancy (NASBA). An Exam Task Force developed by the Board recommended the changes within Chapter 6. Notice of the proposed changes will be placed in the Lincoln Journal Star and the Board's website.

The Board has scheduled a public hearing to receive additional comment on the proposed regulations set for Friday, October 20, 2023 at 1:30pm via virtual conference in accordance with the Nebraska Open Meetings Act/ Neb. Rev. Stat. § 84-1411(2).

Page 2

Please find attached information to assist in the understanding and intent of the proposed amendments. Do not hesitate to contact me with any questions and/or concerns regarding these proposed regulations at (402) 471-3595 or at Dan.Sweetwood@Nebraska.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dan Sweetwood', written over a horizontal line.

Dan Sweetwood
Executive Director

Fiscal Impact Statement

Agency: Nebraska Board of Public Accountancy
Prepared By: Dan Sweetwood, Executive Director
Date Prepared: September 12, 2023
Telephone Number: (402) 471-3595

Title: 288 Chapter 4
Subject: Board Meetings and Proceedings

Type of Fiscal Impact:

	<u>NBPA</u>	<u>Political Sub.</u>	<u>Regulated Public</u>
Fiscal Impact	X	X	X
Increased Costs	X	X	X
Decreased Costs	X	X	X
Increased Revenue	X	X	X
Decreased Revenue	X	X	X
Indeterminable			

~ - Fiscal Impact
X- None
* Estimated/ possible

Provide an Estimated Cost & Description of Impact:

NBPA/State Agency:

There is no fiscal impact with the removal of the dated reference to the QEP program within NAC Title 288/ Chapter 4.007. The fiscal impact with the creation of Chapter 13 in 2015 is attached for informational purposes.

Fiscal Impact Statement

Agency: Nebraska Board of Public Accountancy
Prepared By: Dan Sweetwood, Executive Director
Date Prepared: September 12, 2023
Telephone Number: (402) 471-3595

Title: 288 Chapter 13
Subject: Peer Review
Type of Fiscal Impact:

	<u>NBPA</u>	<u>Political Sub.</u>	<u>Regulated Public</u>
Fiscal Impact	X	X	X
Increased Costs	X	X	X
Decreased Costs	X	X	X
Increased Revenue	X	X	X
Decreased Revenue	X	X	X
Indeterminable			

~ - Fiscal Impact
X- None
* estimated/ possible

Provide an Estimated Cost & Description of Impact:

NBPA/State Agency:

There is no fiscal impact with the recommended changes to NAC Title 288/ Chapter 13.

Agency: Nebraska Board of Public Accountancy
Prepared By: Dan Sweetwood, Executive Director

CHAPTER 4 - BOARD MEETINGS AND PROCEEDINGS

Table of Contents:

001 - Organization of the Board

002 - Duties of the Board

003 - Duties of Officers

004 - Meetings

005 - Contested Case

006 - Investigation of Complaint

~~007 - Quality Enhancement Program~~

0087 - Adoption of Rules

0098 - Conflicts of Interest; Board members; participation; disclosure.

001 Organization of the Board

001.01 The Board shall hold an organizational meeting each year. At such meeting, the Board shall elect from its own members a chair, a vice-chair and a secretary.

001.02 At the organizational meeting, the Board may establish the dates on which the regular meetings of the Board will be held.

002 Duties of the Board

002.01 The Board shall exercise administrative control over the practice of public accountancy in the State of Nebraska, subject to the applicable provisions of the Act.

002.02 The Board shall provide for the preparation and adoption of the annual budget to provide the funds necessary to finance the operation of the Board.

002.03 At least annually, the Board shall establish the fees applicable to candidates for the examinations conducted by the Board and for permits issued by the Board.

002.04 The Board shall employ an executive director, additional personnel, and any other assistance as it may require for the performance of its duties. Unless otherwise directed by the board, the executive director shall keep a record of all proceedings, transactions, and official acts of the board, be custodian of all the records of the board, and perform such other duties as the board may require.

003 Duties of Officers

The chair of the Board, or in the event of the chair's absence or inability to act, the vice-chair, shall preside at Board meetings and shall perform all duties imposed by the Act and

such other duties as may be prescribed by action of the Board. The chair shall appoint such committees or hearing panels as are provided by the Act and these Regulations or established by the Board. The Board shall determine other duties of the officers.

004 Meetings

004.01 Emergency Meetings. Emergency meetings of the Board may be held in accordance with the provisions of Section 84-1411(3), as follows:

004.01A The Secretary or other designee of the Board shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at the meeting.

004.01B When it is necessary to hold an emergency meeting of the Board without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency.

004.01C Such emergency meetings may be held by means of electronic or telecommunication equipment.

004.02 Closed Meetings. Closed meetings of the Board may be held in accordance with investigations conducted under Section 1-137 of the Act or under the provisions of Section 84-1410, R.R.S., as follows:

004.02A A closed meeting may be called by an affirmative vote of at least five (5) members of the Board; provided, that such session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting.

004.02B The vote to hold a closed session shall be taken in open session.

004.02C The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes of the Board meeting.

004.02D The meeting shall be reconvened in open session before any formal action may be taken by the Board.

004.02E Any member of the Board shall have the right to challenge the continuation of a closed session if the member believes that the session has exceeded the reason stated in the original motion to hold a closed session. Such challenge shall be overruled only by a majority of the members present. Such challenge and its disposition shall be recorded in the Board minutes.

004.03 Open Meetings. Except as provided under 004.01 and 004.02 as given above, meetings of the Board of Public Accountancy shall be held in open session.

004.03A Notice. Not less than seven (7) days prior to any regular or special meeting of the Board notice shall be given to each Board member of the time and place of the meetings and of the agenda of subjects to be discussed or acted upon, as known at the time such notice is given. Such notice shall be deemed served when provided to each Board member as shown on the records of the Board. Publicized notice of all regular or special meetings of the Board shall be given by the publication of notice of the time and place of the meeting accompanied by a declaration that the agenda of all meetings is kept continuously current and available for public inspection at the offices of the Board in Lincoln, Nebraska. All notices shall be published in a paper with general circulation within this State at least five (5) days prior to the meeting. In addition, the Board shall provide notice to all other news media requesting such notification.

004.03B Agenda. The Secretary or his or her designee shall maintain an agenda of all business to be considered or conducted by the Board. Any member may place an item on the agenda for consideration at the next meeting of the Board by notifying the Secretary or his or her designee not less than three (3) days prior to the giving of notice for such meeting. Items not placed on the agenda and included in the notice of meeting can only be considered if of an emergency nature.

004.03C Form of Meeting. The parliamentary procedures of meetings of the Board shall be determined by Robert's Rules of Order Revised, unless these Regulations or the Act or other statutes of the State of Nebraska require other procedures. Five (5) members shall constitute a quorum for the transaction of business at any meeting of the Board.

004.03D Opportunity for Public Expression. The Board, as a representative governmental body, recognizes the importance of the public's viewpoint relative to its actions. Members of the public and holders of a CPA certificate, a permit to practice, or an inactive registration who desire to express ideas, grievances, or other matters to the Board should notify the Secretary at the commencement of the meeting, if possible, so that the Chairman can recognize such person as the

appropriate agenda item is reached. The Chairman is authorized to rule any speaker out of order if the remarks being made are irrelevant and not germane to any subject matter currently before the Board, or if the speaker's remarks relate to a subject matter over which the Board lacks jurisdiction.

004.03E Voting. All votes on motions and resolutions shall be by roll call vote by the Board in open session. The record shall show how each member voted, or whether the member was absent or not voting. The votes to elect the officers of the Board may be taken by secret ballot; but the total number of votes for each candidate shall be recorded in the minutes.

004.03F Minutes. The Secretary or his or her designee shall keep minutes of all the Board's meetings showing the time, place, members present and absent, and the substances of all matters discussed. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to the public inspection during normal business hours. Duplicated copies of the minutes shall be prepared following each meeting by the Secretary of the Board. Such minutes shall be written and available for public inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier.

005 Contested Case

005.01 Definitions. The following definitions shall apply as used throughout Chapter 4 of these rules and regulations.

005.01A. Contested case shall mean a proceeding before the Board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a Board hearing.

005.01B. Ex parte communication shall mean an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Ex parte communication shall not include:

005.01B1. Communications which do not pertain to the merits of a contested case;

005.01B2. Communications required for the disposition of ex parte matters as authorized by law;

005.01B3. Communications in a ratemaking or rulemaking proceeding; and

005.01B4. Communications to which all parties have given consent.

005.01B5. Prohibitions against ex parte communications. The prohibitions found in this section shall apply beginning at the time notice for hearing is given.

005.01B5(a). Prohibitions; to whom applicable.

005.01B5(a)1. Parties and public. No party in a contested case or other person outside the Board having an interest in the contested case shall make or knowingly cause to be made an ex parte communication to the hearing officer or to the Board member or employee who is or may reasonably be expected to be involved in the decision-making process of the contested case.

005.01B5(a)2. Persons in decision-making roles. No hearing officer or the Board member or employee who is or may reasonably be expected to be involved in the decision-making process of the contested case shall make or knowingly cause to be made an ex parte communication to any party in a contested case or other person outside the Board having an interest in the contested case.

005.01B5(a)3. Investigators. No Board member or employee engaged in the investigation or enforcement of a contested case shall make or knowingly cause to be made an ex parte communication to a hearing officer or Board member or employee who is or may reasonably be expected to be involved in the decision-making process of the contested case.

005.01B5(b). Disclosure of contacts. The hearing officer or Board member or employee who is or may reasonably be expected to be involved in the decision-making process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication set forth in subsections 005.01B5(a)1 through 005.01B5(a)3 shall file in the record of the contested case:

005.01B5(b) 1. All such written communications;

005.01B5(b) 2. Memoranda stating the substance of all such oral communications;

005.01B5(b) 3. All written responses and memoranda stating the substance of all oral responses to all the ex parte communications.

005.01B5(b) 4. The filing shall be made within two working days of the receipt or making of the ex parte

communication. Notice of the filing, with an opportunity to respond, shall be given to all parties of record.

005.01B5(b) 5. Filing and notice of filing provided under subsection 005.01B5(b)4 shall not be considered on the record and reasonable notice for purposes of the definition of ex parte communication.

005.01C. Hearing officer shall mean the person or persons conducting a hearing, contested case, or other proceeding pursuant to the Administrative Procedure Act, whether designated as the presiding officer, administrative law judge, or some other title designation.

005.01D. Party means the person by or against whom a contested case is brought or a person allowed to intervene in a contested case.

005.01E. Petition means the initial document filed by or with the Board that sets forth a claim and request for the Board action.

005.02 Commencement of a Contested Case. The contested case begins with the filing of a petition and request for hearing, if applicable, with the Board.

005.02A. The petition is the initial document filed by or with the Board that sets forth a claim and request for Board action.

005.02B. The parties to a contested case shall be the petitioner or person by whom a contested case is brought and the respondent or person against whom a contested case is brought.

005.02C. A party may appear on his or her own behalf in a contested case proceeding or may be represented by an attorney or other representative as permitted by law.

005.02D. The pleadings in a contested case may include a petition, answer, reply, notice, motion, stipulation, objection or order or other formal written document filed in a proceeding before the Board. Any pleading filed in a contested case shall meet the following requirements:

005.02D1. The pleading shall contain a heading specifying the name of the Board and the title or nature of the pleading, shall state material factual allegations and state concisely the action the Board is being requested to take, shall contain the name and address of the petitioner, and shall be signed by the party filing the pleading, or when represented by an attorney, the signature of that attorney.

005.02D1a. Attorneys shall also include their address, telephone number and bar number.

005.02D1b. The initial petition shall also contain the name and address of the respondent.

005.02D2. All pleadings shall be made on white, letter sized (8½ x 11) paper and shall be legibly typewritten, photo statically reproduced, printed or handwritten. If handwritten, a pleading must be written in ink.

005.02E. All pleadings shall be filed with the Board at its official office. Filing may be accomplished by personal delivery or mail and will be received during regular office hours of the Board.

005.02F. The Board shall serve a copy of the petition on each respondent listed in the petition personally or by first-class or certified mail. Written proof of such service shall be filed with the Board. Each respondent who chooses to file a responsive pleading must do so within 20 days from the date of personal service or the date of Board mailing of the petition.

005.02G. All pleadings subsequent to the initial petition shall be served by the party filing such pleading upon all attorneys of record or other representatives of record and upon all unrepresented parties. Service shall be made personally or by first-class or certified mail. Written proof of such service shall be filed with the Board.

005.02H. Unless state law provides that a hearing is not required, a hearing date shall be set by the Board in accordance with statutory requirements. A written notice of the time and place of hearing and the name of the hearing officer, if known, shall be served by the Board upon all attorneys of record or other representatives of record and upon all unrepresented parties. The notice must include a proof of such service and will be filed with the Board.

005.02I. In computing time prescribed or allowed by these rules and regulations or by any applicable statute in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or state holiday, the period shall include the next working day.

005.03 Intervention in a Contested Case.

005.03A. Intervention in a contested case shall be allowed when the following requirements are met:

005.03A1. A petition for intervention must be submitted in writing to the hearing officer or designee at least five working days before the hearing. Copies must be mailed by the petitioner for intervention to all parties named in the hearing officer's notice of the hearing;

005.03A2. The petition must state facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

005.03A3. The hearing officer or designee must determine that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

005.03B. The hearing officer or designee may grant a petition for intervention at any time upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

005.03C. If a petitioner qualifies for intervention, the hearing officer or designee may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Those conditions may include:

005.03C1. Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

005.03C2. Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

005.03C3. Requiring two or more intervenor's to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

005.03D. The hearing officer or designee, at least 24 hours before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions and briefly stating the reasons for the order.

005.03D1. The hearing officer or designee may modify the order at any time, stating the reasons for the modification.

005.03D2. The hearing officer or designee shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

005.04 Hearing Officer; criteria.

005.04A. The Board or its chair may delegate to a hearing officer, including a Board member, the functions of conducting a prehearing conference and/or a hearing and submitting a recommended decision to the Board.

005.04B. A person who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or assist or advise a hearing officer in the same proceeding except as provided in subsection 005.04D.

005.04C. A person who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or advise a hearing officer in the same proceeding except as provided in subsection 005.04D.

005.04D. If all parties consent, a person who has served as, or who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may assist a hearing officer in the preparation of orders.

005.04E. A person who has participated in a determination of probable cause or other equivalent preliminary determination in a contested case may serve as hearing officer or assist or advise a hearing officer in the same proceeding.

005.04F. A person may serve as hearing officer at successive stages of the same contested case.

005.05 Prehearing Procedures

005.05A. Prehearing conferences and orders. A hearing officer designated to conduct a hearing may determine, subject to the Board's rules and regulations, whether a prehearing conference will be conducted. If a prehearing conference is not held, a hearing officer for the hearing may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

005.05A1. If a prehearing conference is conducted:

005.05A2. The hearing officer shall promptly notify the Board of the determination that a prehearing conference will be conducted. The Board may assign another hearing officer for the prehearing conference; and

005.05A3. The hearing officer for the prehearing conference shall set the time and place of the conference and give reasonable written notice to all parties and to all persons who have filed written petitions to intervene in the matter. The Board shall give notice to other persons entitled to notice.

005.05A4. The notice referred to in subsection 005.05A3 shall include the following:

005.05A4 (a). The names and mailing addresses of all parties and other persons to whom notice is being given by the hearing officer;

005.05A4 (b). The name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the Board;

005.05A4 (c). The official file or other reference number, the name of the proceeding, and a general description of the subject matter;

005.05A4 (d). A statement of the time, place, and nature of the prehearing conference;

005.05A4 (e). A statement of the legal authority and jurisdiction under which the prehearing conference and the hearing are to be held;

005.05A4 (f). The name, official title, mailing address, and telephone number of the hearing officer for the prehearing conference;

005.05A4 (g). A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a contested case or who fails to make a good faith effort to comply with a prehearing order may be held in default under the Administrative Procedure Act; and

005.05A4 (h). Any other matters that the hearing officer considers desirable to expedite the proceedings.

005.05B. The hearing officer shall conduct a prehearing conference, as may be appropriate, to deal with such matters as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, television, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding issuance of subpoenas, discovery orders, and protective orders, and such other matters as will promote the orderly and prompt conduct of the hearing. The hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.

005.05C. The hearing officer may conduct all or part of the prehearing conference by telephone, television, or other electronic means if each participant

in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

005.06. Discovery in contested cases.

005.06A. The hearing officer or a designee, at the request of any party or upon the hearing officer's own motion, may issue subpoenas, discovery orders, and protective orders in accordance with the applicable statutes except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

005.06B. Any prehearing motion to compel discovery, motion to quash, motion for protective order or other discovery-related motion shall:

005.06B1. Quote the interrogatory, request, question, or subpoena at issue, or be accompanied by a copy of the interrogatory, request, subpoena or excerpt of a deposition;

005.06B2. State the reasons supporting the motion;

005.06B3. Be accompanied by a statement setting forth the steps or efforts made by the moving party or his or her counsel to resolve by agreement the issues raised and that agreement has not been achieved; and

005.06B4. Be filed with the Board. The moving party must serve copies of all such motions to all parties to the contested case.

005.06C. Other than is provided in subsection 005.06 B4 above, discovery materials need not be filed with the Board.

005.07. Continuances. The hearing officer may, in his or her discretion, grant extensions of time or continuances of hearings upon the hearing officer's own motion or at the timely request of any party for good cause shown. A party must file a written motion for continuance which states in detail the reasons why a continuance is necessary and serve a copy of the motion on all other parties.

005.07A. Good cause. Good cause for an extension of time or continuance may include, but is not limited to, the following:

005.07A1. Illness of the party, legal counsel or witness;

005.07A2. A change in legal representation; or

005.07A3. Settlement negotiations are underway.

005.08. Amendments.

005.08A. A petition may be amended at any time before an answer is filed or is due if notice is given to the respondent or his or her attorney. In all other cases, a petitioner must request permission to amend from the hearing officer.

005.08B. A hearing officer may also allow, in his or her discretion, the filing of supplemental pleadings alleging facts material to the case occurring after the original pleadings were filed. A hearing officer may also permit amendment of pleadings where a mistake appears or where amendment does not materially change a claim or defense.

005.09. Informal Disposition. Unless otherwise precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

005.10 Conducting a contested case hearing.

005.10A. Order. At the discretion of the hearing officer, the hearing may be conducted in the following order:

005.10A1 The hearing is called to order by the hearing officer. Any preliminary motions, stipulations or agreed orders are entertained.

005.10A2. Each party may be permitted to make an opening statement. Opening statements take place in the same order as the presentation of evidence.

005.10A3. Presentation of evidence.

005.10A3(a). Evidence will be received in the following order:

005.10A3(a) 1. Evidence is presented by the petitioner;

005.10A3(a) 2. Evidence is presented by the respondent;

005.10A3(a) 3. Rebuttal evidence is presented by the petitioner; and

005.10A3 (a) 4. Surrebuttal evidence is presented by the respondent.

005.10A3(b). With regard to each witness who testifies, the following examination may be conducted:

005.10A3 (b)1. Direct examination conducted by the party who calls the witness;

005.10A3 (b) 2. Cross-examination by the opposing party;

005.10A3 (b) 3. Redirect examination by the party who called the witness; and

005.10A3 (b) 4. Recross-examination by the opposing party.

005.10A4. After the evidence is presented, each party may have opportunity to make a closing argument. Closing arguments shall be made in the same order as the presentation of evidence. The hearing officer may request that the parties submit briefs in lieu of closing arguments.

005.10B. Evidence.

005.10B1. In contested cases, the Board or hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

005.10B2. Any party to a formal hearing before the Board, from which a decision may be appealed to the courts of this state, may request that the Board be bound by the rules of evidence applicable in district court by delivering to the Board at least three days prior to the holding of the hearing a written request therefore. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing.

005.10B3. Documentary evidence may be received in the form of copies or excerpts or incorporated by reference.

005.10B4. All evidence including records and documents in the possession of the Board of which it desires to avail itself shall be offered and made a part of the record in the case. No factual information or evidence other than the record shall be considered in the determination of the case.

005.10B5. A hearing officer or designee may administer oaths and issue subpoenas in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

005.10B6. The Board shall give effect to the rules of privilege recognized by law.

005.10B7. The Board may take official notice of cognizable facts and in addition may take official notice of general, technical, or scientific facts within its specialized knowledge and the rules and regulations adopted and promulgated by such Board.

005.10B7 (a). Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of materials so noticed.

005.10B7 (b). Parties shall be afforded an opportunity to contest facts so noticed.

005.10B7 (c). The record shall contain a written record of everything officially noticed.

005.10B8. The Board may utilize its experience, technical competence and specialized knowledge in the evaluation of the evidence presented to it.

005.11. Conducting the hearing by electronic means. The hearing officer may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

005.12. Official record.

005.12A. The Board shall prepare an official record, which shall include testimony and exhibits, in each contested case, but it shall not be necessary to transcribe the record of the proceedings unless requested for purpose of rehearing or appeal, in which event the transcript and record shall be furnished by the Board upon request and tender of the cost of preparation.

005.12B. The Board shall maintain an official record of each contested case under the Administrative Procedure Act for at least four years following the date of the final order.

005.12C. The Board record shall consist only of the following:

005.12C1. Notices of all proceedings;

005.12C2. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board pertaining to the contested case;

005.12C3. The record of the hearing before the Board, including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the Board during the proceeding, and all proffers of proof and objections and rulings thereon; and

005.12C4. The final order.

005.12D. As provided in 005.04, the hearing officer or Board member, or employee who is or may reasonably be expected to be involved in the decision making process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication as set forth in that subsection shall make the appropriate filings which shall be included in the official record of the contested case.

005.12E. Except to the extent that the Administrative Procedure Act or another statute provides otherwise, the Board record shall constitute the exclusive basis for Board action in contested cases under the act and for judicial review thereof.

005.13. Costs. All costs of a contested case may be assessed to the party or parties against whom a final decision is rendered.

005.14 Decision and Order in a contested case.

005.14A. Every decision and order adverse to a party to the proceeding, rendered by an Board in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.

005.14A. The decision and order should include:

005.14A 1. The name of the Board and name of the proceeding;

005.14A 2. The time and place of the hearing;

005.14A 3. The names of all parties or their attorneys who entered an appearance at the hearing;

005.14A 4. The findings of fact consisting of a concise statement of the conclusions upon each contested issue of fact;

005.14A 5. The conclusions of law consisting of the applications of the controlling law to the facts found and the legal results arising there from; and

005.14A 6. The order consisting of the action taken by the Board as a result of the facts found and the legal conclusions arising there from.

005.14B. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or his or her attorney of record.

005.15 Appeals.

005.15A. Any person aggrieved by a final decision in a contested case is entitled to judicial review under the Administrative Procedure Act or to resort to such other means of review as may be provided by law.

005.15B. Parties desiring to appeal a Board decision must file a petition for review in the district court of the county where the Board action is taken within thirty days after the service of the final decision by the Board. The thirty day period for appeal commences to run from the date of mailing of the notice of order and decision to the parties or their attorneys of record. Service of the petition and summons must be made in accordance with Nebraska law.

005.15C. Unless otherwise provided by statute, the procedures of Neb. Rev. Stat. § 84-917 govern the procedure for taking an appeal.

006 Investigation of complaints and finding of probable cause. Investigations of complaints, including matters brought to the Board's attention without a complaint from the public, shall be

for the purpose of determining whether there is probable cause to institute proceedings under 005, "Contested Case," for violations of the Act, or the Board's Rules and Regulations.

006.01. The Board may designate one of its members, or any other person of appropriate competence, to serve as its investigating officer to obtain information relative to the complaint.

006.02 Upon completion of his investigation, the investigating officer shall file and report as to his findings with the Board. The investigating officer will recommend that the Board either find probable cause and schedule a contested case or else lack of probable cause and dismiss the complaint. The Board's determination shall be on the basis of the investigating officer's report. The report may be returned for further investigation.

006.03 The report of the investigating officer, the testimony, and the documents gathered during the investigation shall be treated as confidential information and as records which may be withheld from the public pursuant to Neb. Rev. Stat. § 84-712.05.

006.04 Upon the findings of probable cause, if the subject of the investigation is the holder of a CPA certificate or a permit to practice, or an inactive registration, the Board shall issue a petition and hold a public hearing on the petition in accordance with Chapter 4 005. If the subject of the investigation is not a holder of a CPA certificate or a permit to practice or an inactive registration, the Board may take appropriate action pursuant to either Section 1-165 or Section 1-166 of the Act; or the Board may, under its own motion, issue a cease and desist order to such offender.

006.05 Disposition may be made of any complaint by stipulation, agreed settlement, or consent order without a finding of probable cause prior to the beginning of a contested case. Such disposition shall be binding on all parties to the complaint.

~~**007—Quality Enhancement Program.** The Board may review the professional work of permit holders which is public information on a general and random basis, without any requirement of a complaint or suspicion of impropriety on the part of any particular permit holder.~~

~~**007.01** There is hereby established a Quality Enhancement Program ("Program"). The purpose of the Program is to improve the quality of financial reporting and to assure that the public can rely on the financial information on which licensees issue reports. The program emphasizes education and rehabilitation rather than disciplinary action. Appropriate educational programs or procedures will ordinarily be recommended or required where reporting does not comply with appropriate professional standards. However, when a licensee is unwilling or unable to comply with such standards, or a~~

licensee's professional work is so egregious as to warrant disciplinary action, such action may be reported as the appropriate means of protecting the public interest.

~~007.02~~ The Board will annually appoint a Quality Review Committee (hereinafter the "Committee") to assist in the implementation and administration of the Program. The Committee will consist of no fewer than seven members which will include a member of the State Board who will serve as liaison between the State Board and the Committee and one accounting educator selected by the State Board from the faculty of an accredited Nebraska College or University and who possesses a valid Nebraska CPA certificate. The remaining members of the Committee shall be filled by appointment of the State Board and must be holders of certificates and currently valid Nebraska permits to practice public accountancy issued under Section 1-136.02 of the Act and shall, to the extent practical, represent a cross-section of the different sized firms in the state. The Committee's responsibilities will include:

- ~~007.02A~~ — Developing procedures for the internal operation of the Committee;
- ~~007.02B~~ — Developing criteria for assignment of reviewers to specific tasks taking into account such factors as geographic location, size of firm, technical skill requirements, and such other criteria as the Board determines appropriate;
- ~~007.02C~~ — Assisting the Board in the selection and training of reviewers;
- ~~007.02D~~ — Developing and recommending to the Board a system for selection of reports to be reviewed and for the review of supporting work papers following a substandard report review;
- ~~007.02E~~ — Evaluating the findings of the reviewers and making reports and recommendations to the Board;
- ~~007.02F~~ — Compiling and reporting to the Board statistics on the impact and effect of the Program;
- ~~007.02G~~ — Considering such other matters and performing such other duties regarding the Program as may be assigned to it by the Board from time to time.

~~007.03~~ Each practice unit seeking renewal of a permit to practice under Section 1-136.01 of the Act shall furnish in connection with its application, with respect to each office maintained by the applicant and practicing public accountancy in this State, one copy of each of the following kinds of reports issued by the office during the twelve month period next preceding the date of application, if any report of such kind was issued during such period:

~~————— 007.03A ————— A compilation report;~~

~~————— 007.03B ————— A review report; and~~

~~————— 007.03C ————— An audit report.~~

~~————— 007.04 The Board may exempt from the requirements of the Program any office which within the three years immediately preceding the application has been subjected to a quality review at least consistent with the requirements of this rule; provided, that a copy of the report of such quality review, including, at the Board's request, any letters of comment and responses from the practice unit or firm to such letters of comment, is submitted with the permit renewal application.~~

~~007.04A Any documents submitted in accordance with the Program may have the name of the client, the client's address, and other identifying factors omitted, provided that the omission does not render the type or nature of the enterprise undeterminable. For example, the client name, address, or federal identification number may be omitted but reference to the type of organization, such as, financial institutions, school districts, hospital, etc., may not be omitted.~~

~~007.04B The Committee may also solicit for review financial statements and related reports of licensees from public agencies, banks, and other users of financial statements.~~

~~007.04C The identities of the sources of financial statements and reports received by the Board or the Committee from other than the licensees who issued the reports shall be preserved in confidence. Reports submitted to the Committee pursuant to the Program and comments of reviewers, the Committee and the Board on such reports or work papers relating thereto, shall also be preserved in confidence except to the extent that they are communicated by the Board to the licensees who issued the reports.~~

~~————— 007.04D The Committee shall annually review approximately one-third of the reports submitted in accordance with subsection 007.03, and in addition such reports as it receives pursuant to subsection 007.04B and such reports as may be referred to it by the Board.~~

~~————— 007.04E The Committee shall determine, with respect to each report that it reviews,~~

~~007.04E1~~ Whether the report is or is not in general conformity with applicable professional standards;

~~007.04E2~~ If not, in what respects the report is deemed substandard or seriously questionable; and

~~007.04E3~~ Any recommendations it may have concerning possible improvement of the quality of the report;

~~007.04E4~~ and it shall report its determinations and recommendations to the Board of Public Accountancy.

~~007.04F~~ If the Committee reports to the Board that a report is substandard or seriously questionable pursuant to subsection 007.04E2, the Board may direct that a review of the workpapers be conducted by a reviewer. The review of the workpapers under this section shall be conducted by a person other than the person who performed the original review of the report. The findings of any such review of the workpapers shall be transmitted directly to the Board. The cost of any workpaper review shall be borne by such licensee.

~~007.04G~~ The Board shall review the determinations and recommendations regarding reviews of reports by the Committee pursuant to 007.03; and in any case where the Committee has determined, and the Board concurs, that a report is in general conformity with applicable professional standards, the Board shall forward the Committee's determination and recommendations, if any, to the person in charge of the office which submitted the report.

~~007.04H~~ If the Board determines that a report referred to the Board by the Committee is substandard or seriously questionable with respect to applicable professional standards, the Board may take any one or more of the following actions:

~~007.04H1~~ The Board may submit to the licensee firm a letter of comment detailing the perceived deficiencies noted in connection with the review and requiring the licensee to develop a set of planned control procedures to insure that similar occurrences will not be present in the future. A written response from the licensee firm will be required within 30 days of the mailing of the Board's letter and will be subject to follow-up review by the Board.

~~007.04H2~~ The Board may require any individual licensee who had responsibility for issuance of the report or who substantially participated in preparation of the report and/or the related workpapers to complete successfully specific courses or types of continuing education as specified by the Board. The cost of any course or courses shall be borne by such licensee.

~~007.04H3~~ The Board may require that the office responsible for the substandard report submit all or specified categories of its reports to a preissuance review in a manner and for a duration prescribed by the Board.

~~007.04H4~~ The Board may require the office or the licensee firm responsible for the substandard report to submit to a quality review pursuant to this Rule.

~~007.04H5~~ If it appears that the professional conduct reflected in the substandard report is so serious as to warrant consideration of possible disciplinary action, the Board may initiate an investigation pursuant to the laws of the State of Nebraska.

0087 Adoption of Rules

0087.01 Any interested person may petition the Board requesting the promulgation, amendment, or repeal of any rule. Such petition shall be submitted in written form and shall give the specific language of the petitioner's proposal.

0087.02 No rule shall be adopted, amended, or repealed by the Board except at a public hearing held during a regularly scheduled meeting of the Board.

0087.03 Notice of such public hearing shall be given at least thirty days prior to the hearing and in accordance with the notice for the open meeting of the Board at which the adoption, amendment, or repeal of such rule is to be considered.

0087.04 Draft copies or working copies of all rules to be considered for adoption, amendment, or repeal by the Board shall be available to the public at the offices of the Board and at the offices of the Revisor of Regulations at the time notice is given and until two (2) weeks following the public hearing.

0087.05 All hearings for the adoption, amendment, or repeal of a rule shall be open to the public.

0098 Conflicts of Interest; Board members; participation; disclosure.

0098.01 Pursuant to Nebraska Revised Statutes, Section 1-108.01, the Board shall follow the definitions and procedures set forth in the Nebraska Political Accountability and Disclosure Act and any rules and regulations promulgated pursuant to such Act and as amended from time to time with respect to conflicts of interest of Board members.

Statutory Authority: Section 1-108, Section 1-112, Sections 84-904 to 84-917, Section 84-712.05 and Sections 84-1408 to 84-1414, R.R.S. 1943

CHAPTER 6 – CERTIFIED PUBLIC ACCOUNTANT EXAMINATION

001 Time and Place for Filing Applications

001.01 Applications to take the Certified Public Accountant Examination must be made on a form provided by the Board or its designee and filed with the Board or its designee.

001.02 An application will not be considered filed until the application fee and examination fee required by these Rules and all required supporting documents have been received. Supporting documents shall include proof of identity as determined by the Board and specified on the application form, official transcripts, proof the Candidate has satisfied the education requirement, and disclosure of any conduct as outlined in 002.02.

001.03 The Board or its designee will forward notification of eligibility for the computer-based examination to NASBA's National Candidate Database.

002 Character and Fitness Standards

002.01 Purpose. The primary purpose of character and fitness screening for taking the Uniform CPA exam and licensure is to assure the protection of the public. The CPA licensing process is incomplete if only testing for competence is undertaken. The public is adequately protected only by a system that evaluates character and fitness as those elements relate to the character of the applicant and to the practice of public accountancy.

002.02 Causes for denial to sit for CPA examination or licensure. The revelation or discovery of any of the following facts from any jurisdiction shall be grounds for denial to sit for the CPA exam or issuance of a Board certificate or an initial permit to practice public accountancy:

1. A civil judgment, criminal conviction or civil penalty an element of which judgment, conviction, or penalty involves dishonesty, fraud, deceit, or misrepresentation;
2. violation of a court order;
3. denial of professional licensure or disciplinary action by a professional regulatory agency or professional organization;
4. conviction of a felony.

002.03 Denial to sit for the Uniform CPA Examination and licensure. The Board may refuse to allow a person to sit for the Uniform CPA Examination or to issue a Board certificate or an initial permit on the grounds of failure to meet the standards as outlined in Subsection 002. If a person is found to be ineligible to sit for the Uniform CPA Examination or to be issued a Board certificate or an initial permit the person shall have the right to a hearing before the Board.

002.04 USE OF INFORMATION. Upon appeal by applicant of a denial under Subsection 002.02, the Board will determine whether the present character and fitness of an applicant qualify the applicant to practice public accountancy, despite the existence of a cause under Subsection 002.02. In making this determination, the following factors should be considered in assigning weight and significance to prior conduct:

1. the applicant's age at the time of the conduct;
2. the recency of the conduct;
3. the reliability of the information concerning the conduct;
4. the seriousness of the conduct;
5. the factors underlying the conduct;
6. the cumulative effect of the conduct or information;
7. the evidence of rehabilitation;
8. the applicant's positive social contributions since the conduct;
9. the applicant's candor in the application process;
10. the materiality of any omissions or misrepresentations.

003 Time and Place of Examinations

003.01 Eligible Candidates shall independently contact the Board or a test center operator identified by the Board to schedule the time and place for the examination at an approved test site.

004 Conduct of Examinations

004.01 The Board may make use of the uniform certified public accountants examination prepared by the American Institute of Certified Public Accountants (AICPA) or another nationally recognized organization. The Board may also make use of the advisory grading service provided by the AICPA or another nationally recognized organization.

004.02 The candidate may be photographed or other biometric identification taken by the test administrator at each appearance for the examination. The candidate will be required to provide proof of identification.

004.03 Cheating by a Candidate in applying for, taking or subsequent to the examination will be deemed to invalidate any grade otherwise earned by a Candidate on any Test Section of the examination, and may warrant summary expulsion from the test site and disqualification from taking the examination for a specified period of time.

004.03A For purposes of this Rule, the following actions or attempted activities, among others, may be considered cheating:

- (1) Falsifying or misrepresenting educational credentials or other information required for admission to the examination;

- (2) Communication between Candidates inside or outside the test site or copying another Candidate's answers while the examination is in progress;
- (3) Communication with others inside or outside the test site while the examination is in progress;
- (4) Substitution of another person to sit in the test site in the stead of a Candidate;
- (5) Reference to crib sheets, textbooks or other material or electronic media (other than that provided to the Candidate as part of the examination) inside or outside the test site while the examination is in progress.
- (6) Violating the nondisclosure prohibitions of the examination or aiding or abetting another in doing so, or otherwise participating in the collection of Test Items for use, redistribution or sale.
- (7) Retaking or attempting to retake a Test Section by an individual holding a valid Certificate or by a Candidate who has unexpired credit for having already passed the same Test Section, unless the individual has been directed to retake a Test Section pursuant to Board order or unless the individual has been expressly authorized by the Board to participate in a "secret shopper" program.

04.03B In any case where it appears cheating has occurred or is occurring, the Board or its representatives may either summarily expel the Candidate involved from the examination or move the Candidate to a position in the Test Center away from other examinees where the Candidate can be watched more closely.

004.03C In any case where the Board or its representative believes it has evidence a Candidate has cheated on the examination, including those cases where the Candidate has been expelled from the examination, the Board shall conduct an investigation and may conduct a hearing following the examination session for the purpose of determining whether or not there was cheating, and if so, what remedy should be applied. In such proceedings, the Board shall decide:

- (1) Whether the Candidate shall be given credit for any portion of the examination completed in that session; and
- (2) Whether the Candidate shall be barred from taking the examination and if so, for what period of time.

004.03D In any case where the Board or its representative permits a Candidate to continue taking the examination, it may, depending on the circumstances:

- (1) Admonish the Candidate;
- (2) Seat the Candidate in a segregated location;
- (3) Keep a record of the Candidate's seat location and identifying information, and the names and identifying information of the candidates in close proximity of the Candidate; and/or
- (4) Notify the National Candidate Database and the AICPA and/or the Test Center of the circumstances, so the Candidate may be more closely monitored in future examination sessions.

004.03E In any case where a candidate is refused credit for a Test Section taken, or is disqualified from taking other sections, the Board or its designee shall give the candidate a statement containing its findings, the evidence upon which the findings are based, and a notice of the right of the candidate to a formal hearing by the Board, with rights of appeal, pursuant to the Administrative Procedure Act.

004.03F In any case in which the Candidate is refused credit for any Test Section of an examination taken, disqualified from taking any Test Section, or barred from taking the examination in the future, the Board will provide to the Board of Accountancy of any other state to which the Candidate may apply for the examination information as to the Board's findings and actions taken.

004.03G Notwithstanding any other provisions under these rules, the Board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of examination security, unauthorized acquisition or disclosure of the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or for any other reasonable cause or unforeseen circumstance.

004.04 All supplies necessary for the examination will be furnished by the Board or its designee. All supplies furnished by the Board or the test administrator shall remain the administrator's property and must be returned whether used or not.

004.05 The Board or its designee will communicate to each candidate the decisions reached by the Board in his or her case, and shall state the grade received by the candidate on each Test Section.

In no event will any information concerning a candidate's answers be given to anyone other than the candidate himself nor will any of the candidate's examination be accessible for inspection except as otherwise provided for in these regulations.

004.06 Candidates may request a score review to ensure that their exam was scored consistent with the scoring guides, and/or they may request a score appeal to review their incorrect responses under the auspices of the Board of Accountancy.

005 Examination Subjects and Requirements

005.01 The examination shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall include the subject areas of accounting and auditing and related knowledge and skills as the Board may require.

005.02 A Candidate shall be required to pass all Test Sections of the examination in order to qualify for certification. Upon receipt of the advisory grades to the examination provider, the

~~provider shall report the results to the Candidate and the Board. The Board may review any examination grades at their discretion. Upon receipt of advisory grades from the examination provider, the Board will review and may adopt the examination grades and will report the official results to the Candidate.~~ The Candidate must on each test section, attain the uniform passing grade established through a psychometrically acceptable standard-setting procedure.

005.03 A Candidate shall be required to pass all sections of the examination in order to qualify for certification.

005.03A A Candidate may take the required Test Sections individually and in any order. Credit for passing any Test Section(s) ~~shall be valid for that Test Section for thirty (30) months from the actual date the passing score for such Test Section is released by NASBA to the Candidate or the Board, as the case may be, regardless of the number of Test Sections taken or having to attain a minimum score on any failed section(s). Candidate took that Test Section (regardless of the date on which the testing candidate receives actual notice of the passing grade), without having to attain a minimum score on any failed Test Section(s) and without regard to whether the Candidate has taken other Test Sections.~~

1) ~~A Candidate shall pass all required Test Sections within a rolling thirty (30) month period. The rolling period begins on the date the first passing score(s) are released by NASBA to the Candidate or the Board, as the case may be. The rolling period concludes on the date the Candidate sits for the final Test Section passed, regardless of when the score is released by NASBA for the final Test Section. Candidates must pass all four Test Sections of the Uniform CPA Examination within a rolling eighteen-month period, which begins on the date the first Test Section(s) passed is taken.~~

2) ~~A Candidate who earns initial credit on one or more Test Section(s) of the CPA examination must sit for and complete the remaining required Test Section(s) of the examination by midnight on the last day of the rolling period. (a) Subject to subsection 2(b), Candidates cannot retake a failed Test Section(s) in the same examination window. An examination window refers to a three-month period in which Candidates have an opportunity to take the CPA examination (comprised of two months and 10 additional days as approved by the Board in which the examination is available to be taken and 21 days or less in which the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus, Candidates will be able to test no less than two out of three months within an examination window.~~

~~2)(b) If the Board determines that the examination system changes necessary to eliminate the test window limitations have been implemented, subsection (a) will no longer be effective, and a Candidate can retake a Test Section once their grade for the previous attempt of the same Test Section has been released.~~

3) ~~If all required Test Sections are not passed within this initial thirty (30) month period, credit for the first Test Section(s) passed shall expire and a new rolling period shall begin on the date the second passing score(s) were released by NASBA to the Candidate or the Board, as the case may be, and continue for thirty (30) months from that~~

~~date. If all required Test Section(s) are not passed within this next rolling period, credit for the second Test Section(s) passed shall expire and a new rolling thirty (30) month period will begin on the date the next Test Section passing score, if any, was released by NASBA to the Candidate or the Board, as the case may be, and this cycle of thirty (30) month rolling periods and Test Section credit expirations will continue until all Test Sections are passed within one thirty (30) month period. Notwithstanding the foregoing, if a Candidate stops testing for a thirty (30) month period, then all credit for previously passed Test Sections shall expire. In the event all four Test Sections of the Uniform CPA Examination are not passed within the rolling eighteen-month period, credit for any Test Section(s) passed outside the eighteen-month period will expire and that Test Section(s) must be retaken.~~

~~**005.03B** A Candidate shall not retake a failed Test Section until the Candidate has been notified of the score for the most recent attempt of that failed Test Section. A Candidate shall be deemed to have passed the examination if the Candidate obtains credit for passing all required Test Sections in one rolling thirty (30) month period. retain credit for any and all Test Sections of an examination passed in another state provided the Candidate meets the requirements of Nebraska for granting credit.~~

~~**005.03C** Notwithstanding the requirements of subsections 005.03A, 005.03B, the period of time in which to pass all required Test Section(s) of the examination may be extended by the Board upon a showing that the credit was lost by reason or circumstances beyond the Candidate's control, upon showing that the credit was lost by reason of circumstances beyond the Candidate's control, the Board may, and when applicable, on a case-by-case basis, extend the transition period.~~

~~**005.03D** A Candidate shall retain credit for any and all required Test Sections of the examination passed as a Candidate of another state if such credit would have been given under then applicable requirements in this or that other State. shall be deemed to have passed the Uniform CPA Examination once the Candidate holds at the same time valid credit for passing each of the four Test Sections of the examination. For purposes of this section, credit for passing a Test Section of the examination is valid from the actual date of the Testing Event for that Test Section, regardless of the date the Candidate actually receives notice of the passing grade.~~

~~**005.03E** An application for a certificate shall require the examination scores and date of such Test Sections to be provided to the Board by NASBA, examination provider, or the State Board in which the candidate took the examination.~~

006 Ethics Examination. All successful candidates for the CPA examination seeking certification shall pass an examination in professional ethics as approved by the Board.

TITLE 288- REVISED & SUBSTITUTED RULES OF THE BOARD

007 Examination Fee. The Candidate shall, for each Test Section scheduled by the Candidate to the Board or its designee, pay a Candidate Testing Fee that includes the actual fees charged by the AICPA, National Association of State Boards of Accountancy (NASBA), and the Test Delivery Service Provider, as well as reasonable application fees established by the Board.

A candidate who fails to appear for the examination shall forfeit all fees charged for both the application and the examination unless the Candidate notifies the Board or its designee in writing within 30 days after the examination with an acceptable reason for failing to sit for the examination as scheduled. Acceptable reasons for not sitting shall include a documented illness verified by a medical doctor, death in the immediate family, call to active military service, or any other reason that the Board determines to be unavoidable. Each refunded examination application fee shall be subject to a 25 percent processing fee.

008 Reciprocal Fee. Applications for a Nebraska CPA certificate by reciprocity shall be accompanied by the fee established by the Board.

CHAPTER 13 – PEER REVIEW

Table of Contents:

- 001 – Purpose
- 002 – Definitions
- 003 – Committees/Duties/Responsibility
- 004 – Practice Unit/Permit Holder Responsibility
- 005 – Standards/Sponsoring Organizations
- 006 - Other

001 Purpose.

001.01 The purpose of peer review is to improve the quality of financial reporting and to assure that the public can rely on the financial information on which licensees issue reports. The program emphasizes education and rehabilitation rather than disciplinary action. Appropriate educational programs or procedures will ordinarily be recommended or required where financial reporting does not comply with applicable professional standards.

002 Definitions. The following definitions shall apply as used throughout Chapter 13 of these rules and regulations.

002.01 Peer Review Committee (PRC). Board established committee of individuals to assist the Board with the administration of peer review in order to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with the applicable standards for performing and reporting on peer reviews.

002.02 Peer Review Oversight Committee (PROC). Committee appointed by the Board to assist in the direct oversight of approved sponsoring organizations.

002.03 Peer Review Program. Includes the sponsoring organization's entire peer review process, including but not limited to, the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.

002.04 Peer Review Reports. Reports issued by the peer reviewer in accordance with the Board-approved peer review standards.

002.05 Peer Review Standards. Board-approved professional standards to be used in administering, performing and reporting on peer reviews.

002.06 Professional Work. Professional Work for purposes of peer review means the professional services of a firm/practice unit which is subject to peer review.

002.07 Sponsoring Organization. A Board-approved professional association, or other organization responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.

003 Committees.

003.01 Peer Review Committee. The Board will annually appoint a Peer Review Committee (hereinafter the PRC) to assist the Board with the administration of peer review. The PRC will consist of no fewer than five members who will include at least one member of the Board who will serve as liaison between the Board and the PRC. The remaining members of the PRC shall be appointed by the Board and must be holders of current valid Nebraska permits to practice public accountancy and shall, to the extent practical, represent a cross-section of the different sized firms in Nebraska.

003.02 Responsibilities of the PRC.

003.02A Recommending to the Board appointments to the Peer Review Oversight Committee (hereinafter PROC) which will assist in the direct oversight of approved sponsoring organizations;

003.02B Recommending to the Board the approval of sponsoring organizations and their peer review programs and peer review standards;

003.02C Monitoring and assessing the effectiveness of the sponsoring organizations, peer review programs and peer review standards;

003.02D Reporting to the Board on the performance of the sponsoring organizations; and

003.02E Assisting the Board with the review of the documents set forth in 004.09.

003.03 Peer Review Oversight Committee (PROC).

003.03A The PROC shall include one to three members appointed when the Board determines the need for a PROC based on the recommendations of the PRC. annually by the Board;

003.03B The PROC members shall not be members of the Board or perform any enforcement related work for regulatory or governmental bodies, professional organizations (including, but not limited to, an AICPA ethics committee, AICPA Joint Trial Board or any state professional

ethics committee) or similar groups or subgroups, including consultants and other similar arrangements for the Board;

003.03C Each PROC member shall have received a peer review report with a rating of "Pass" on their own practice unit's most recently accepted peer review;

003.03D The PROC members may be compensated as independent contractors for their duties as established by the Board;

003.03E Each PROC member shall sign a letter of confidentiality agreeing not to divulge any information that would identify any firm, licensee, or peer reviewer firm to any non-PROC member, including, but not limited to members of the Board and the PRC. The letter of confidentiality shall not include fraud or misrepresentation by a firm or licensee in obtaining peer review; and

003.03F Responsibilities of the PROC include, but are not limited to: (i) reviewing the sponsoring organizations' administration of their programs; (ii) the direct oversight of the approved sponsoring organizations; and (iii) if deemed necessary by the Board, visiting the sponsoring organization of an approved peer review program for the purposes of review and oversight.

003.04 Authority of the PRC and PROC. The PRC and the PROC are advisory committees to assist the Board. The PRC and the PROC do not have enforcement or disciplinary powers or any quasi-judicial authority.

004 Practice Unit Responsibilities.

004.01 A practice unit which performs attest engagements and/or performs compilations shall enroll in a program that meets Board-approved peer review program standards and shall satisfactorily complete the same.

004.02 A practice unit shall cooperate with the Board-approved peer review program sponsoring organization with which it is enrolled to arrange, schedule, and complete a peer review. A practice unit shall take all educational/remedial actions prescribed by the sponsoring organization. In addition, the practice unit shall cooperate with the Board in all matters related to its peer review and take all actions necessary to timely comply with the peer review requirements.

004.03 Each practice unit is required to provide the following information with each application for a permit:

004.03A Certify whether the practice unit is or is not required to participate in a peer review program; and

004.03B If the practice unit is required to participate in a peer review program, furnish in connection with its renewal application satisfactory evidence of participation in peer review, provide the name of the approved sponsoring organization's peer review program in which the firm is enrolled, and the period covered by the practice unit's most recently accepted peer review.

~~004.04 Peer review scheduling for practice units already enrolled in a peer review program as of the effective date of Chapter 13 will remain unchanged. Practice units that have participated in the Board's Quality Enhancement Program (QEP) but have not enrolled in a peer review program as of the effective date of Chapter 13 will be required to enroll in a Board-approved peer review program as follows:~~

Scheduled QEP Due Date	Peer Review Enrollment Date
June 30, 2017	January 1, 2016
June 30, 2018	January 1, 2017
June 30, 2019	January 1, 2018

~~Practice units that obtain initial licensure after the effective date of Chapter 13 will be required to enroll in a Board-approved peer review program within 30 days of the issuance of a report which is subject to peer review.~~

004.05 04 Practice units enrolled in a Board-approved peer review program shall schedule, undergo and complete its subsequent peer reviews in compliance with the sponsoring organizations' peer review standards and related guidance. Ordinarily, subsequent peer reviews shall be performed such that the peer review has taken place and all peer review materials are submitted to the sponsoring organization within three years and six months from the peer review year end of the previous peer review.

004.06 05 The practice unit shall not be required to become a member of any organization administering a board-approved peer review program.

004.07 06 Practice Units Registered with the Public Company Accounting Oversight Board.

004.067A Practice units receiving inspections under the PCAOB are required to undergo a peer review under a Board-approved peer review program that covers the portion of the practice unit's professional work not subject to the Public Company Accounting Oversight Board (PCAOB) inspection process; and

004.067B However, for practice units required to be registered with and inspected by the PCAOB, the PRC may exempt the practice unit from the Board's peer review program only if all of the practice unit's professional work is subject to the PCAOB inspection process.

004.08 07 Practice Units Performing Preparation Engagement. A practice unit that only performs preparation engagements as defined under AICPA Statements on Standards for Accounting and Review Services (SSARS), as of ~~July 14, 2017~~ September 8, 2023, is not subject to peer review.

004.09 08 Submission of Documents by Practice Units.

004.09 8A Practice units required to participate in peer review shall submit to the Board the following documents, as applicable:

1. Peer review report which has been accepted by the sponsoring organization;
2. The practice unit's letter of response which has been accepted by the sponsoring organization;
3. The acceptance letter from the sponsoring organization.
4. Letter(s) accepting the documents signed by the practice unit with the understanding that the practice unit agrees to take any actions required by the sponsoring organization.
5. Letter signed by the sponsoring organization notifying the practice unit that required actions have been appropriately completed, if applicable.

004.09 8B Peer review documents required in section 004.09A(1-5) shall be submitted by the practice unit within 30 days of the issuance of the same, or with submission of the practice unit's renewal application, whichever occurs first. The practice unit shall provide copies of such documents via a website, or regular mail as permitted by the Board.

004.09_8C Practice units may also satisfy the above document submission requirements by having the sponsoring organization make the documents in section 004.09A accessible to the Board via the AICPA Facilitated State Board Access (FSBA) secure website process.

005 Peer Review Standards/Sponsoring Organizations.

005.01 The Board approves the AICPA *Standards for Performing and Reporting on Peer Reviews* and adopts the same as the professional standards to be used in administering, performing and reporting on peer reviews.

005.02 The PRC in assisting the Board with respect to approval of sponsoring organizations and their programs shall utilize the standards adopted by the Board in 005.01.

005.03 The Board may terminate its approval of a sponsoring organization for cause following notice and opportunity for hearing. For purposes of this paragraph, “cause” includes, but is not limited to, failure to maintain ongoing compliance with the requirements of the Board.

006 Other.

006.01 Extensions.

006.01A The Board may accept extensions for completing peer reviews granted by sponsoring organizations provided that notification by the practice unit is within 14 days from the date of the letter from the sponsoring organization granting the extension. Extensions may be approved for the following reasons:

- (i) health;
- (ii) military service; or
- (iii) other good cause outside of the control of the practice unit.

006.01B Requests for extensions of time to undergo a peer review shall be submitted to the Board in writing by the practice unit no later than the earlier of a practice unit’s renewal date or peer review due date (which is determined by the sponsoring organization) and must include any extensions approved by the sponsoring organization.

006.01C An extension may be renewed upon application received by the Board prior to the expiration of the current extension, if the Board finds that the reasons justifying the extension continue to exist.

006.02 Change in Firm Structure. In the event a practice unit is sold, dissolved, or merged with the practice of one more other practice units, determination of successor or predecessor practice unit(s) peer review year-end(s) and the peer review due date(s), if any, will be made in accordance with the sponsoring organization's guidance.

Statutory Authority: LB 159, 2016.