

CHAPTER 2
GUAM BOARD OF PUBLIC ACCOUNTANCY REGULATIONS

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NOTE: As to the amendments made by P.L. 27-26, Section 6 of that Public Law states:

Sections 4 and 5 of this Act are considered part of the Guam Administrative Rules and may be amended through the Administrative Adjudication process.

§2101. Introduction. The purpose of the Guam Territorial Board of Accountancy (the “Board”) is to administer and enforce the provisions of the Public Accountancy Laws is 22 GCA Chapter 35 with regard to the practice of accountancy in the Territory of Guam including the examination of candidates; issuance of certificates and permits to practice public accountancy; investigation of violations and infractions to the accountancy law; and revocation or suspension of the certificate or refusal to renew permits to practice. To this end, the Board has promulgated these regulations to clarify the Accountancy Law's intent and the Board's procedures, as provided. Masculine pronouns when used herein also include the feminine and the neuter.

§2102. Definitions. In addition to the statutory definitions provided in 22 GCA §35103, the following terms have the meaning indicated.

(a) *Act* means the Public Accountancy Act of 1990, pursuant to 22 GCA §35101.

(b) *Financial statements* means statements and footnotes related thereto that purport to show actual or anticipated financial position which relates to a point in time, or results of operations, cash flow, or changes in financial position which relate to a period of time, on the basis of generally accepted accounting principles or another comprehensive basis of accounting. The term includes specific elements, accounts or items of such statements, but does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting schedules.

(c) The statutory term *report* as defined in 22 GCA §35103(i) and used in §35114(a), (b), and (c), and in these Rules, includes forms of language contained in a report which refers to financial statements, including disclaimers of opinion, when such forms of language are conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to and/or special competence on the part of the person or firm issuing such language. Among the possible sources of such a conventional understanding of articular forms of language are pronouncements by authoritative bodies describing the work that should be performed and/or the responsibilities that should be assumed, for specified kinds of professional engagements, and in addition prescribing the form of report which should be issued upon completion of such engagements. A form of report prescribed by such a pronouncement will ordinarily constitute a form of language which is conventionally understood as implying assurance and expertise. For this reason, as provided in 22 GCA 35113(b) and (c), the term *report* includes the issuance of reports using the forms of language set out in the AICPA's Statement on Standards for Accounting and Review Services No. 1 (SSARS 1), for reports with respect to both "reviews" of financial statements

and also "compilations" of financial statements, as well as the forms of language for "special reports" set out in the AICPA's Statement on Auditing Standards No. 14 (SAS 14).

(d) The phrase *holds out to the public as a licensee*, as used in defining "practice of, or practicing public accountancy" in 22 GCA §35103(g) and in these rules, means any representation that a person holds a permit to practice, if that representation is made in connection with an offer to perform or the performance of accountancy services for the public, regardless of whether that representation is made by the person, someone associated with him, or someone serving as his agent. Any such representation is presumed to invite the public to rely upon the professional skill implied by the certificate in connection with the professional services offered to be performed by the person.

For purposes of this Rule, a representation shall be deemed to include any oral or written communication indicating that the person holds a permit, including without limitation the use of titles or legends on letterheads, reports, business cards, brochures, resumes, office signs, telephone directories or any other advertisements, news articles, publications, listings, tax return signatures, signatures on experience or character affidavits for exam or certificate applicants, displayed membership in CPA associations, displayed CPA licenses from this or any other state, and displayed certificates or licenses from other organizations which have the designation "CPA" or "Certified Public Accountant" by the licensee's name.

(e) The phrase *services involving the use of accounting or auditing skills*, as used in the definition of "practice of (or practicing) public accountancy" in 22 GCA §35103(g) and in these Rules, includes the provision of advice or recommendations in connection with the sale or offer for sale of products, when the advice or recommendations require or imply the possession of

accounting or auditing skills or expert knowledge in auditing or accounting.

§2103. Guam Board of Accounts. (a) Board meetings. An annual meeting of the Board shall be held in January of each year, and at least three other meetings shall be held each year to certify exam applicants and certify exam results. The chairman or a quorum of the board shall have the authority to call other meetings of the Board.

(b) Election and tenure of officers. At the annual meeting, the Board shall elect from among its members a chairman, a vice-chairman and a secretary. The officers shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected. They shall serve a term of one year, but shall be eligible for reelection for additional terms.

(c) Duties of officers. The chairman or, in the event of his absence or inability to act, the vice chairman shall preside at all meetings of the Board. Other duties of the officers shall be such as the Board may from time to time determine.

(1) Examination Application (initial) Student of a college or university and resident of Guam	\$ 50.00
(B) Non-Student and resident of Guam	125.00
(C) Others	175.00
(2) Administration of Re-examination, per part	50.00
(3) Proctoring fee	150.00
(4) Certification	
(A) Initial certification	200.00
(B) Reciprocal certification	200.00
(5) Permits to practice in lieu of business license:	
(A) Initial permits (individual)	100.00

(B) Initial permits (firm)	250.00
(C) Renewal of permit (individual)	75.00
(D) Renewal of permit (firm)	200.00
(6) Delinquency fee for permit renewal application received after December 31	\$1.00 per day (minimum \$25.00)
(7) Copies of records, per page	.50
(8) Applications for reinstatement	250.00
(9) Annual reports of the Board, per copy	10.00

The amended fees shall be in effect on July 1, 1998.

(e) **Reconsideration of Board actions on applications for certificates and permits.** Any applicant for a certificate or permit to practice who is aggrieved by an action taken by the Board with respect to his application may request the board to reconsider such action. Any such request shall be filed within sixty days of the mailing of the Board's letter advising the applicant of the action complained of, and shall contain the following information:

- (1) the name and address of the applicant;
- (2) The date of the Board's letter advising the applicant of the action of the board complained of; and
- (3) A statement of any facts or consideration to which the applicant believes the Board failed to give due weight.

(f) **Obligation of licensees to notify the Board of changes of address and other information.** Each licensee shall notify the Board in writing within thirty (30) days of any change of address or, in the case of individual licensees, change of employment.

(g) **Communications.** A licensee shall respond in writing to any communication from the Board requesting a response, within thirty (30) days of mailing of such communication by registered or certified mail, to the last address furnished to the Board by the licensee.

SOURCE: Subsection (d) amended by P.L. 24-293:2. Subsection (b) amended by P.L. 27-26:4.

§2104. Certified Public Accountants. (a) Accredited colleges and universities; credit for courses.

(1) As used in these Rules, a *semester hour* means the conventional college semester hour. Quarter hours may be converted to semester hours by dividing them by two-thirds.

(2) For purposes of 22 GCA §35106, the Board will recognize colleges and universities which are accredited in accordance with subsections (c) through (f) of this Rule.

(3) An accredited college or university is a four year degree-granting college or university accredited at the time applicant's degree was received by virtue of membership in one of the following regional accrediting agencies:

- (A) Middle States Association of Colleges and Secondary Schools;
- (B) New England Association of Schools and Colleges;
- (C) North Central Association of Colleges and Secondary Schools;
- (D) Northwest Association of Schools and Colleges;
- (E) Southern Association of Colleges and Schools; and
- (F) Western Association of Schools and Colleges.

(4) A listing of accredited colleges and universities as recognized by the Board is contained in "Accredited Institutions of Post-secondary Education" published in the latest edition by the American Council on Education for the Council on Post-secondary Accreditation.

(5) If an institution was not accredited at the time an applicant's degree was received but is so accredited at the time his application is filed with the Board, the institution will be deemed to be accredited for the purpose of subsection (c), provided that it –

- (A) Certifies that the applicant's total educational program would qualify him for graduation with a baccalaureate degree during the time the institution has been accredited; and
- (B) Furnishes the Board satisfactory proof, including college catalogue course numbers and descrip-

tions, that the pre-accrediting courses used to qualify the applicant as an accounting major are substantially equivalent to post-accrediting courses.

(6) If an applicant's degree was received at an accredited college or university as defined in subsection (c) or (e), but the educational program which was used to qualify him as an accounting major included courses taken at non-accredited institutions, either before or after graduation, such courses will be deemed to have been taken at the accredited institution from which applicant's degree was received, provided the accredited institution either:

(A) Has accepted such courses by including them in its official transcript; or

(B) Certifies to the Board that it will accept such courses for credit toward graduation.

(7) A graduate of a four-year degree-granting institution not accredited at the time an applicant's degree was received or at the time his application was filed will be deemed to be a graduate of a four-year accredited college or university if:

(A) In the case of a foreign institution, the Foreign Academic Credentials Service certifies that the applicant's degree is equivalent to a degree from an accredited college or university defined in subsection (c); or

(B) (i) An accredited college or university as defined by subsection (c) accepts applicant's non-accredited baccalaureate degree for admission to a graduate business degree program;

(ii) The applicant satisfactorily completes at least fifteen semester hours, or the equivalent, in post-baccalaureate education at the accredited institution, of which at least nine semester hours, or the equivalent, shall be in accounting; and

(iii) The accredited college or university certifies that the applicant is in good standing for con-

tinuation in the graduate program, or has maintained a grade point average in these courses that is necessary for graduation, or

(C) In the case of a United States institution, the University of Guam certifies that the applicant's degree is equivalent to a degree from the University of Guam with a major in accounting.

(8) The advanced subjects completed to qualify under subsection (g) (1) may not be used to satisfy the requirements of Rule 4-2(a).

(b) **Education Certification Requirement.** For purposes of certification per 22 GCA §35105(c), an applicant will be deemed to have met the education requirement if the applicant has met any one of the following four (4) conditions:

(1) Earned a graduate degree with a concentration in accounting from an accounting program or department that is accredited (level three (3) accreditation) by an accrediting agency recognized by the Board.

(2) Earned a graduate degree from a business school or college of business that is accredited (level two (2) accreditation) by an accrediting agency recognized by the Board and completed at least twenty-four (24) semester hours in accounting at the upper division or graduate level, or a combination thereof, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting. (An upper division course is normally defined as a course taken at the junior or senior level. In accounting, this would normally be all courses taken beyond the elementary level).

(3) Earned a Baccalaureate Degree from a business school or college of business that is accredited (level two (2) accreditation) by an accrediting agency recognized by the Board and completed at least one hundred fifty (150) semester hours, including twenty-four (24) semester hours in

accounting at the upper division or graduate level, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting; and completed at least thirty-six (36) semester hours in business courses (which shall include six (6) semester hours in economics, three (3) semester hours in business law, three (3) semester hours in finance, and can include accounting courses beyond the elementary level in excess of those included to meet the twenty-four (24) semester hour requirement at the upper division level or graduate level).

(4) Earned a Baccalaureate or higher degree from an accredited educational institution (level one (1) accreditation) including one hundred fifty (150) semester hours, and:

(a) to include at least twenty-four (24) semester hours of accounting at the upper division or graduate level, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting; and

(b) at least thirty-six (36) semester hours in business courses (which shall include six (6) semester hours in economics, three (3) semester hours in business law, three (3) semester hours in finance and can include accounting courses beyond the elementary level in excess of those included to meet the twenty-four (24) semester hour requirement at the upper division or graduate level).

(c) Applications for examination.

(1) Applications to take the Certified Public Accountant Examination must be made on a form provided by the Board and filed with the Board on or before March 1 for the May examination and September 1 for the November examination.

(2) An application will not be considered filed until the examination fee required by Rule 4-4 (a) or (b), photo-

graphs, and transcripts (except as provided herein) have been received.

(A) Applicants who expect to meet the educational requirements after the examination must submit certification from the educational institution not later than April 1 for the May examination and October 1 for the November examination. Official transcripts must be filed not later than the following July 31 for the May examination and the following January 31 for the November examination. Official grades will not be released until such transcripts and certification of degree have been received.

(B) Applicants who already hold degrees must file official transcripts and certification of degrees not later than April 1 for the May examination and October 1 for the November examination.

(3) An applicant who fails to appear for examination or reexamination shall forfeit the fees charged for both the application and the examination or reexamination.

(d) **time and place of examination.** Notice of the time and place of the examination shall be mailed at least ten days prior to the date set for the examination to each candidate whose application to sit for the examination has been approved by the Board.

(e) **Examination subjects.**

(1) The examination required by 22 GCA §35105(d) shall be the Uniform CPA Examination, including the following subjects:

- (A) Auditing;
- (B) Business Law;
- (C) Theory of accounts; and
- (D) Accounting practice.

(f) **Passing grades.** A passing grade for each subject shall be seventy-five. The Board uses the Advisory Grading Service of the American Institute of Certified Public Accountants.

(g) Conditional credit for parts of the examination passed ("conditioning").

(1) An applicant must, at each sitting of the examination in which he takes any part of the examination, take all parts not previously passed.

(2) An applicant who at one sitting for the examination receives a passing grade in any two parts of the examination, or in the subject Accounting Practice I and II, and who receives a grade of at least fifty in each of the remaining parts, shall be granted credit for parts passed, on the condition that the applicant receives a passing grade in each of the remaining parts on reexamination at one or more of the next six consecutive examinations, and does not, on any such examination in which a passing grade is received on a part, receive a grade of less than fifty in any part not then passed.

(h) Cheating on Examination.

(1) Cheating by an applicant in applying for or taking the examination will be deemed to invalidate any grade otherwise earned by a candidate on any part of the examination, and may warrant summary expulsion from the examination room and disqualification from taking the examination for a specified number of subsequent sittings.

(2) For purposes of this Rule, the following actions may be considered cheating:

(A) Falsifying or misrepresenting educational credentials or other information required for admission to the examination.

(B) Communication between candidates inside or outside the examination room or copying another candidate's answers while the examination is in progress;

(C) Communication with others outside the examination room while the examination is in progress;

(D) Substitution of another person to sit in the examination room in the stead of a candidate and write one or more of the examination papers;

(E) Reference to crib sheets, text books or other material inside or outside the examination room while the examination is in progress.

(3) In any case where it appears to the Board, while the examination is in progress, that cheating has occurred or is occurring, the Board may either summarily expel the candidate involved from the examination or move the candidate to a position in the room away from other examinees where the candidate can be watched more closely.

(4) In any case where the Board believes that it has evidence that a candidate has cheated on the examination, and in every case where a candidate has been expelled from the examination, the Board shall conduct a hearing immediately 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 hearings, the Board shall decide:

(A) Whether the candidate shall be given credit for any portion of the examination completed in that session;

(B) Whether the candidate shall be allowed to continue taking the examination in any additional sessions that remain; and

(C) Whether the candidate shall be barred from taking the examination in future sittings, and if so, for how many sittings.

(5) In any case where the Board permits a candidate to continue taking the examination, it may, depending on the circumstances:

(A) Admonish the candidate;

(B) Seat the candidate in a segregated location for the rest of the examination;

(C) Keep a record of the candidate's seat location and identification number, and the names and identification numbers of the candidates on either side of the candidate; and/or

(D) Notify the AICPA of the circumstances, furnishing the candidate's identification number, so that after the initial grading is completed the candidate's papers can be compared for unusual similarities with the papers of others who may have been involved.

(6) In any case where a candidate is refused credit for parts of the examination taken, or is disqualified from taking other parts, the Board 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 rehearing by the Board, with right of appeal, pursuant to the procedures provided in 22 GCA §35112.

(7) In any case where a candidate is refused credit for any part of an examination taken, disqualified from taking any part of the examination, or barred from taking the examination in future sittings, 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.

(j) Examination Education Requirement. For purposes of qualifying to take the exam per 22 GCA §35105(j), an applicant will be deemed to have met the education requirement if the applicant has met any one (1) of the following four (4) conditions:

(1) Earned a graduate degree with a concentration in accounting from an accounting program or department that is accredited (level three (3) accreditation) by an accrediting agency recognized by the Board.

(2) Earned a graduate degree from a business school or college of business that is accredited (level two (2) accreditation) by an accrediting agency recognized by the Board and completed at least twenty-four (24) semester hours in accounting at the upper division or graduate level, or a combination thereof, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting. (An upper division course is normally defined as a course taken at the junior or senior level. In accounting, this would normally be all courses taken beyond the elementary level.)

(3) Earned a Baccalaureate Degree from a business school or college of business that is accredited (level two (2) accreditation) by an accrediting agency recognized by the Board, including twenty-four (24) semester hours in accounting at the upper division or graduate level, including courses covering the subjects of financial accounting, auditing, tax-

tion, and management accounting; and completed at least twenty-four (24) semester hours in business courses (which shall include six (6) semester hours in economics, three (3) semester hours in business law, three (3) semester hours in finance, and can include accounting courses beyond the elementary level in excess of those included to meet the eighteen (18) semester hour requirement at the upper division level or graduate level).

(4) Earned a Baccalaureate or higher degree from an accredited educational institution (level one (1) accreditation), and:

(a) to include at least twenty-four (24) semester hours of accounting at the upper division or graduate level, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting; and

(b) at least twenty-four (24) semester hours in business courses (which shall include six (6) semester hours in economics, three (3) semester hours in business law, three (3) semester hours in finance, and can include accounting courses beyond the elementary level in excess of those included to meet the eighteen (18) semester hour requirement at the upper division or graduate level).

SOURCE: Subitem (b)(1)(B) amended by P.L. 24-293:4. Subsection (j) added by P.L. 27-26:5.

§2105. Permits to Practice - Individual. (a) Applications.

(1) Applications for initial permits to practice and for renewal of permits pursuant to 22 GCA §35106 shall be made on a form provided by the Board and, in the case of applications for renewal, shall be filed during November for the succeeding calendar year. Applications will not be considered filed until the applicable fee prescribed in Rule 3-4(e)(1) or 3-4(e)(3) is received. If an application for permit renewal is filed late, it shall also be accompanied by the delinquency fee prescribed in Rule 3-4(f).

(2) Applications for renewal of permits shall be accompanied by evidence satisfactory to the Board that the applicant has complied with the continuing professional education requirements

under 22 GCA §35106 and Rule 5-4 unless those requirements have been waived pursuant to Rule 5-5.

(3) The application shall be certified under penalty of perjury, by the applicant, to such matters the Board may include in the application and shall state that the applicant has not knowingly engaged in any unlawful acts.

(b) Experience required for initial permit.

(1) No person may be issued a permit to practice public accountancy, except as set forth in 22 GCA §35106, unless that person has obtained two years of experience doing public accounting work as an employee and under the direct supervision of a licensed certified public accountant who is actively engaged in the practice of public accounting. The required two years of experience shall be obtained as follows:

(A) Public accounting work for purposes of the section shall mean the performance of services involving the use of accounting or auditing skills, or one or more types of management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

The public accounting work shall be performed for the clients of the certified public accountant or the firm or certified public accountants and must regularly involve the exercise of independent judgement and the application of appropriate technical and behavioral standards such as the standards contained in the Code of Professional Conduct, Generally Accepted Auditing Standards, the Statement of Responsibilities in Tax Practice and the Statement of Standards for Management Advisory Services (all as promulgated by the American Institute of Certified Public Accountants).

(B) The required experience may be obtained by any combination of experience in performing the types of public accounting work described in section (1) above.

(C) One year of experience shall consist of full time employment for a period of at least twelve months which shall include no less than 2,080 employment hours. For purposes of computing work experience for part-time employees, 2,080 employment hours shall be determined to constitute one year. Employment may be for one or more employers and

may consist of any combination of full-time and part-time employment. For candidates sitting for the examination in November, 1991 and thereafter, this experience must cover a minimum twenty-four month period and maximum sixty month period of employment and must be obtained no more than five (5) years prior or subsequent to passing the certified public accounting examination. Those candidates who have passed their examination prior to November, 1991, shall have five years from the date they passed the examination or until August, 1996, whichever is later, in order to meet these experience requirements.

(D) The required experience shall be verified by the certified public accountant or the firm of certified public accountants supervising the applicant on a form provided by the Board.

(2) The requirement for two years of experience doing public accounting work as an employee of a certified public accountant may also be met by two years of work experience, not including in-classroom training, which meets the following standards of equivalency:

(A) The work must be under the direct supervision of a certified public accountant who holds an active permit at the time of said supervision and must be verified by the certified public accountant or firm of certified public accountants supervising the applicant on a form provided by the board.

(B) The work must regularly involve the exercise of independent judgment and the application of appropriate technical and behavioral standards.

(C) The work must have an independent or public aspect and include oversight responsibilities such as those performed in connection with commercial, financial audit relationships.

(D) The work must be of a type and at a level equivalent to that performed in public accounting practice as described in any of the following:

(i) Tax experience which is comparable to that set forth in the Statement of Responsibilities in Tax Practice (as promulgated by the American Institute of Certified Public Accountants).

(ii) Audit experience must meet the GAAS General and Field Standards, and the applicant must participate in the preparation of a written opinion which meets the GAAS reporting standards or equivalent standards (as promulgated by the American Institute of Certified Public Accountants)

(iii) Management advisory services must meet the standards set forth in the Statement on Standards for Management Advisory Services (as promulgated by the American Institute of Certified Public Accountants).

(iv) An internal auditor may gain this experience by working a minimum of two (2) years as an internal auditor under the direct supervision of a certified public accountant, and by working under the direct supervision of an external, independent auditor for two (2) annual audits. The experience gained above may also be under the direct supervision of a certified public accountant employed by government audit agencies in the performance of independent financial audits for two (2) annual audits. Qualifications under this Section (iv) requires a minimum of one hundred sixty (160) hours of auditing work under the direct supervision of the external auditor.

(3) One (1) year of the two (2) year public accounting experience requirement will be waived under Title 22 Guam Code Annotated §35106(c)(2), *if* the applicant has had not less than thirty (30) semester hours of study in addition to the requirements of Title 22 Guam Code Annotated §35106(c). Such additional study shall be in the field of business or related subjects.

(c) Evidence of applicant's experience.

(1) Any licensee who has been requested by an applicant to submit to the Board evidence of the applicant's experience and has refused to do so shall, upon request by the Board, explain in writing or in person the basis for such refusal.

(2) Any licensee who has furnished evidence of an applicant's experience to the Board shall upon request by the Board, substantiate the information in writing, by documentation and/or in person the information so provided.

(3) Any applicant may be required to appear before the board or its representatives to supplement or verify evidence of experience in writing, by documentation and/or in person.

(4) The Board may require inspection, by the Board itself or by its representatives, of documentation relating to an applicant's claimed experience. Such inspection may be made at the Board's offices or such other places as the Board may designate. A licensee having custody of such documentation shall produce it upon request at such place as the Board may designate for its inspection.

(d) **Continuing professional education requirements for renewal of permits to practice.** The following requirements of continuing professional education apply to the annual renewal of permits to practice pursuant to 22 GCA 35106.

(1) An applicant seeking renewal of a permit after the first calendar year immediately following the effective date of the Act, shall show that he has completed no less than 40 hours of continuing professional education complying with Rule 5-6 during the one-year period preceding renewal.

(2) An applicant seeking renewal of a permit, after the second calendar year immediately following the effective date of the Act, shall show that he has completed no less than 80 hours of continuing professional education complying with Rule 5-6 during the two-year period preceding renewal, of which no less than 20 hours was in each year.

(3) An applicant seeking regular annual renewal of a permit after the third calendar year immediately following the effective date of the Act, shall show that he has completed no less than 120 hours of continuing professional education complying with Rule 5-6 during the three-year period preceding renewal, of which no less than 20 hours was in each year.

(4) An applicant who has previously held a permit but whose permit has at the time of application lapsed shall make the same showing as prescribed in subsection (c).

(5) An applicant seeking to renew an initial permit issued less than two years but more than one year prior to the renewal must show that he has completed at least 40 hours of such continuing professional education.

(e) **Hardship exceptions.** The board may in particular cases make exceptions to the requirements set out in Rule 5-4 for reasons of individual Hardship including health, military service, foreign residence, retirement, or other good cause.

(f) **Programs qualifying for continuing professional education credit.**

(1) **Standards** -- A program qualifies as acceptable continuing professional education for purposes of 22 GCA §35106 and Rule 5-4 if it is a formal program of learning which contributes to the growth in the professional knowledge and professional competence of an individual in the practice of public accountancy, and meets the minimum standards of quality of development and presentation and of measurement and reporting of credits set forth in the Statement of Standards for Formal Continuing Education Programs published by the National Association of State Boards of Accountancy.

(2) **Subject Areas** -- Programs dealing with the following general subject areas are acceptable so long as they meet the standards specified in subsection (a):

- (A) Accounting and auditing;
- (B) Taxation;
- (C) Management;
- (D) Computer Science;
- (E) Mathematics, statistics, probability and quantitative applications in accounting and auditing;
- (F) Economics;
- (G) Business law;
- (H) Functional fields of business, including finance, production, marketing, personnel relations, and business management and organization;
- (I) Specialized areas of industry (film industry, real estate, farming, etc.);
- (J) Administrative practice (engagement letters, personnel, etc.) Subjects other than those listed above may be acceptable if the applicant can demonstrate that they contribute to his professional competence. The responsibility for demonstrating that a particular program is acceptable rests solely upon the applicant.

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

(A) Professional education and development programs of national, state and local accounting organizations.

(B) Technical sessions at meetings of national, state and local accounting organizations and their chapters.

(C) University or college courses, both credit and non-credit.

(D) Formal in-firm education programs.

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

(F) Committee meetings of professional societies which are structured as formal educational programs.

(G) Dinner, luncheon and breakfast meetings which are structured as formal educational programs.

(H) Firm meetings for staff and/or management groups which are structured as formal education programs. Portions of such meetings devoted to the communication and applications of general professional policy or procedure may qualify; but portions devoted to firm administrative, financial and operating matters generally will not qualify.

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

(5) **Correspondence and Formal Individual Study Programs** -- The amount of credit to be allowed for correspondence and formal individual study programs (including taped study programs) will be that which is recommended by the programs sponsor on the basis of one-half the average completion time under appropriate "field tests." Applicants claiming credit for such correspondence or formal individual study courses are required to obtain evidence

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

(6) **Instructor, Discussion Leader, or Speaker** -- Applicants who have served as instructors, discussion leaders, and speakers at programs coming under subsection (a), (b) and (c) may claim continuing professional education credit for both preparation and presentation time. Credit may be claimed for actual preparation up to two times the class contact hours. The maximum credit for such preparation and teaching is fifty percent of the applicable renewal period requirement under Rule 5-4.

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

(g) **Continuing professional education records.**

(1) Applicants for renewal of permits to practice pursuant to 22 GCA §35106 shall file with their application therefor a signed statement of the continuing professional education programs for which they have claimed credit, showing:

- (A) Sponsoring organization;
- (B) Location of program;
- (C) Title of program or description of content;
- (D) Dates attended; and
- (E) Hours claimed.

(2) Responsibility for documenting the acceptability of the program and the validity of the credits rests with the applicant. Such documentation should be retained for a period of five years after the completion of the program. Such documentation may consist of the following:

- (A) Copy of the course outline prepared by the course sponsor along with the information required by subsection (a).
 - (B) For courses taken for scholastic credit in accredited universities and colleges, evidence of satisfactory completion of the course will be sufficient; for non-credit courses taken, a statement of the hours of attendance, signed by the instructor, is required.
 - (C) For formal individual study programs, written evidence of completion.
- (3) The Board will verify on a test basis information submitted by applicants for permits. In cases where the Board determines that the requirement is not met, the Board may grant an additional period of time in which the deficiencies can be cured.

(h) Reciprocity.

- (1) The phrase "beyond such applicant's control" as it is used in 22 GCA §35105 of the Act may be applied in certain situations when a holder of a certificate issued by another state is applying for a permit under the provision of §35106.
- (2) Meeting the requirements of 22 GCA §35106 will be considered "beyond the applicant's control" as used in §35106(g), and the requirements of §35106(d) will be waived,

- (A) if at the time the applicant passed the examination required for issuance of a certificate in another state, that state:
 - (i) Did not require the applicant to sit for all parts of the examination not yet passed, or
 - (ii) Did not require a minimum grade of 50 on each part not passed at a sitting to obtain credit for parts passed, and
 - (iii) The applicant meets all other requirements for issuance of a permit; and
 - (iv) At the time the applicant took the examination, he had no intention of applying for a permit in Guam; and
- (B) Such applicant has a minimum of four years of experience in the practice of public accounting in another state while holding a valid license to practice.

SOURCE: Subitem (b)(2)(D)(iv) amended by P.L. 24-293:4. Subitem (b)(3) added by P.L. 24-293:5.

§2106. Permits to Practice - Firms. (a) Applications.

(1) Applications by firms for initial permits to practice and for renewal of permits pursuant to Section 54006 of the Act shall be made on a form provided by the Board and, in the case of applications for renewal, shall be filed in November for the succeeding calendar year. Applications will not be considered filed until the applicable fee prescribed in Rule 3-4(e)(2) or 3-4(e)(4) is received. If an application for permit renewal is filed late, it shall also be accompanied by the delinquency fee prescribed in Rule 3-4(f).

(2) A sole proprietor applying for a firm permit, whether initial or renewal, may join such application with his application for an individual permit, on a form provided for that purpose by the Board. The renewal fee for the firm permit in such a case shall be that prescribed in Rule 3-4(e)(3).

(3) Applications shall include the firm name, addresses and telephone numbers of the main office and of any branch offices of the firm in this State, the name of the manager of each such branch office, the names of the partners or, in the case of corporations, shareholders, directors and officers practicing in this State, and in the case of corporations a certified copy of the articles of incorporation and the bylaws.

(b) Notification of changes by firms.

(1) A firm registered pursuant to 22 GCA §35107 shall file with the Board a written notification of any of the following events within thirty (30) days after its occurrence:

- (A) Formation of a new partnership or corporation;
- (B) Admission of a partner or shareholder;
- (C) Retirement or death of a partner or shareholder;
- (D) Any change in the name of the firm;
- (E) Termination of the partnership or corporation;
- (F) Change in the management of any branch office in Guam;
- (G) Establishment of a new branch office or the closing or change of address of a branch office in Guam; and

(H) The occurrence of any event or events which would cause such partnership or corporation not to be in conformity with the provisions of the Act or these rules.

(2) In the event of any change in legal form of a firm, as between a proprietorship, a partnership or a corporation, such new firm shall within thirty (30) days of the change file an application for an initial permit in accordance with Rule 5-1 and pay the fee required by Rule 3-4(e)(2).

(c) **Quality reviews.** Quality reviews as defined in 22 GCA §35103 and references in §35110(b)(1) shall be conducted by the Board from time to time as prescribed by §35110 and §35111 or as required by rules or regulations for membership in the American Institute of CPA's. Fulfillment of any such AICPA requirements will fulfill the Board's quality review requirements under this Chapter.

The Quality Review Committee appointed pursuant to this §2106(c) may solicit and receive reports of licensees and related financial statements from clients, public agencies, banks, and other users of financial statements on a general and random basis without regard to whether an application for renewal of the particular licensee is then pending or whether there is any formal complaint or suspicion of impropriety on the part of any particular licensee; and it may review such reports and otherwise proceed with respect to the results of any such review in the fashion prescribed in this §2106(c).

Upon undertaking a quality review:

(1) The Board will appoint a Quality Review Committee of three members, to perform the following functions:

(A) Review of financial statements and the reports of licensees thereon, to assess their compliance with applicable professional standards;

(B) Improvement of reporting practices of licensees through educational and rehabilitative measures;

(C) Referrals to the Board of cases requiring further investigation by the Board or its designees; and

(D) Such other functions as the Board may assign to the Committee.

(2) Each reviewee shall furnish in connection with the review, with respect to each office maintained by the applicant in Guam, one copy of each of the following kinds of reports, together with their accompanying financial statements, issued by that office during the twelve month period next preceding the date of application, if any report of such kind was issued during such period:

- (A) A compilation report;
- (B) A review report; and
- (C) An audit report.

(3) The Committee may also solicit for review reports of licensees and related financial statements from clients, public agencies, banks, and other users of financial statements.

(4) Any documents submitted in accordance with subsection (b) may have the name of the client, the client's address and other identifying facts omitted, provided that the omission does not render the type or nature of the enterprise undeterminable. The identities or 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 subsection (b), and comments of reviewers, the Committee and the Board on such reports or work papers relating thereto, also shall be preserved in confidence except that they may be communicated by the Board of the licensees who issued the reports.

(5) The Committee's review of financial statements and reports of the licensees thereon shall be directed toward the following:

- (A) Presentation of financial statements in conformity with generally accepted accounting principles;
- (B) Compliance by licensees with generally accepted auditing standards;
- (C) Compliance by licensees with other professional standards; and
- (D) Compliance by licensees with the Rules of the Board and other regulations relating to the practice of public accounting.

(6) In gathering information about the professional work of licensees, the Committee may make use of investigators, either paid or unpaid, who are not members of the Committee.

(7) In any instance where the Committee finds a deficiency in the professional work of a licensee, it shall advise the board which shall advise the licensee in writing of the deficiency. The Committee may request the licensee to meet with it to discuss deficiencies. If the Committee reports to the Board that a report is substandard or seriously questionable, the Board may direct that a review of the work papers be conducted by a reviewer designated by the Committee. The review of the work papers shall be conducted by a person other than the person who performed the review of the report. The findings of any such review of the work papers shall be transmitted by the reviewer to the Committee; and, with such changes or additions as the committee may deem appropriate, by the committee to the Board.

(8) The requirement for a review shall not apply with respect to any office which within the three years immediately preceding the application had been subjected to a satisfactory quality review conducted in accordance with a peer review program sponsored by the Division for CPA Firms of the American Institute of Certified Public Accountants, or an equivalent program; provided; that a copy of the report of such quality review is submitted with the permit renewal application.

§2107. Enforcement Actions Against Licensees. (a) **Grounds for enforcement actions against licensees.** The grounds for revocation and suspension of certificates and permits, and other disciplinary action against licensees, are set out in Section 54009 of the Code in both specific and general terms. The general terms of that provision of the Act include the following particular grounds for such disciplinary action:

(1) Fraud or deceit in obtaining a certificate or permit within the meaning of 22 GCA § 35110, includes the knowing submission to the Board of any false or forged evidence in, or in support of, an application for a certificate or permit, and cheating on an examination, as defined in Rule 4-8.

(2) Dishonesty, fraud or gross negligence in the practice of public accountancy, within the meaning of 22 GCA §35110(a)(5), include making misleading, deceptive or untrue representations in the practice of public accountancy.

(3) Commission of any of the following acts by an applicant or licensee:

(A) If the applicant or licensee is a CPA, violation of the Code of Professional Conduct duly adopted by the Board;

(B) Knowingly using or attempting to use a certificate or permit which has been suspended or revoked;

(C) Making any false or misleading statement in support of an application for a certificate or a permit filed by another; or

(D) Failure of a licensee to provide any explanation requested by the Board regarding evidence submitted by the licensee in support of an application filed by another, or regarding a failure or refusal to submit such evidence; and failure by a licensee to furnish for inspection upon request by the Board or its representative documentation relating to any evidence submitted by the licensee in support of such an application.

(4) Conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy, within the meaning of 22 GCA §35110(a)(10) includes:

(A) Adjudication as mentally incompetent;

(B) Fiscal dishonesty of any kind;

(C) Knowingly presenting as one's own a certificate or permit issued to another;

(D) Knowing concealment of information regarding violations by other licensees of the Act or the Rules thereunder;

(E) Willfully failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of such a report or record, or inducing another person to impede or obstruct such filing by another; and the making or filing of such a report or record which one knows to be false; and

(F) Violations of the Rules of Professional Conduct as described in Article 14.

(b) **Return of certificates or permit to practice.** Any licensee whose certificate or permit issued by the Board is subsequently suspended or revoked shall promptly Return such certificate or permit to the Board.

§2108. Enforcement Procedures -- Hearings by the Board. (a) Complaints and notices of hearing.

(1) In the event an applicant's application has been denied by the Board or its delegate, and applicant has filed for reconsideration of the entire Board as provided in Rule 3-5, a hearing thereon shall be held as provided in Rule 11-3, 11-4 and 11-5 and the applicant to have the rights accorded by Rule 11-2.

(2) A complaint issued by the Board pursuant to Section 54011(a) of the Code will include:

(A) A short and plain statement of matters asserted or charged; and

(B) References to any particular sections of the Code or of the Rules which are asserted to have been involved in the conduct complained of.

(3) When the complaint and notice of hearing are served pursuant to 22 GCA §35112, they will be accompanied by:

(A) A copy of the Board's Rules under this Article 11;

(B) A copy of 22 GCA §35112;

(C) A copy of any particular sections of the Code or of any Rule asserted to have been violated; and

(D) A brief statement calling attention to the rights of the licensee, under the Code and the Rules, to examine reports and evidence in advance of the hearing; to appear by counsel at the hearing to present evidence; and to appeal an adverse decision.

(b) **Examination and copying of documents.** Under Section 54011(b) of the Act a licensee respondent has the right in advance of the hearing to examine and copy any report of investigation and documen-

tary or testimonial evidence and summaries of evidence in the Board's possession relating to the subject matter of the complaint. The right of examination may be exercised by the respondent or his attorney or agent at the Board's office where the records in question are kept, during regular business hours, on three days' advance notice in writing. Copies will be promptly furnished of any documents designated for copying, but the Board may charge a fee for such copying pursuant to Rule 3-4(g).

(c) Conduct of hearing.

(1) A hearing under 22 GCA §35113 shall be conducted by and shall be under the control of a presiding officer appointed by the Board. Such presiding officer may be either the Chairman of the Board, or an attorney at law licensed to practice law in the Territory of Guam appointed by a majority of the members of the Board. The Board shall appoint one of its members to present the case by the Board, which person may be assisted by legal counsel selected by such Board member, at the cost of the Board.

(2) The order of proceedings shall be as follows;

(A) Statement and presentation of evidence supporting the complaint, by the investigating officer, if any, by a Board member designated for that purpose, or by counsel.

(B) Statement and presentation of evidence of the respondent licensee, in person (or in the case of a firm through a partner, officer, director or shareholder) and by counsel.

(C) Rebuttal evidence in support of the complaint.

(D) Surrebuttal evidence of the respondent licensee.

(E) Closing statements.

(F) Board decision, which pursuant to 22 GCA 35112(h) must be by written vote of a majority of the Board to sustain any charge and impose any penalty.

(3) The presiding officer, Board members, the respondent and the person presenting the complaint shall have the right to question or examine or cross-examine any witness.

(4) The burden of presenting evidence to support a fact or position rests on the proponent of the fact or position.

(5) The Board must prove by clear and convincing evidence that an applicant for a CPA certificate lacks good character. In all other instances, the Board shall prove its case by a preponderance of the evidence.

(6) The hearing may be continued with recesses as determined by the presiding officer.

(7) The presiding officer may set reasonable time limits for oral presentation.

(8) Exhibits shall be marked, and preserved along with the stenographic transcript as part of the record of the hearing.

(d) Evidentiary rules.

(1) Under 22 GCA §35113(f) the Board is not bound by technical rules of evidence, and any evidence of a kind commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible.

(2) All such evidence that is offered and not objected to will be received by the presiding officer unless he determines that it is irrelevant, immaterial or unduly repetitious.

(3) Evidence may be received provisionally, subject to later ruling by the presiding officer as to its admissibility; but any such ruling must be made before closing statements are heard pursuant to Rule 11-3(b)(5).

(e) **Publication of decisions.** Decisions by the Board following hearings under 22 GCA §35112 will, if they sustain any charge, be made public. Decisions that do not sustain a charge will not be made public, unless the respondent licensee requests that this be done or the Board determines that the pendency of the charges had itself been the subject of substantial publicity.

(f) **Appeal.** Any person adversely affected by an order of the Board rendered pursuant to the procedures herein contained, shall have the right to have such decision reviewed by the Superior Court of the Territory of Guam as provided by the Administrative Adjudication Law for Judicial review of adjudication decisions as therein contained.

§2109. Reinstatement. (a) **Applications for relief from disciplinary penalties.**

(1) A person or firm whose certificate or permit to practice has been revoked or suspended or who has been put on probation pursuant to 22 GCA §35110 may apply to the Board for modification of the suspension, revocation or probation at any time after one year has elapsed from the effective date of the Board's decision imposing it; except that if any previous application has been made with respect to the same penalty, no additional application will be entertained before the lapse of an additional year following the Board's decision on the last such previous application.

(2) The application shall be in writing; shall set out and, as appropriate, substantiate the reasons constituting good cause for the relief sought, and shall be accompanied by at least two supporting recommendations, under oath, from licensees who have personal knowledge of the activities of the applicant since the suspension or revocation was imposed.

(b) Action by the Board.

(1) An application pursuant to Rule 12-1 will ordinarily be disposed of by the Board upon the basis of the materials submitted in support thereof, supplemented by such additional inquiries as the Board may deem fit. At the Board's discretion a hearing may be held on such an application, following such procedures as the Board may deem suitable for the particular case.

(2) The Board may impose, as a condition for reinstatement of a certificate or permit or modification of a suspension or probation, such terms and conditions as it deems suitable.

(3) In considering an application under Rule 12-1, the Board may consider all activities of the applicant since the disciplinary penalty from which relief is sought was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the certificate or permit was in good standing, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity.

(4) No application for reinstatement will be considered while the applicant is under sentence for any criminal offense, including any

period during which the applicant is on court-imposed probation or parole.

§2110. Unlawful Acts. (a) Misleading firm names. A firm name is misleading within the meaning of 22 GCA §35114(k) if, among other things:

- (1) The firm name implies the existence of a corporation when the firm is not a corporation;
- (2) The firm name implies existence of a partnership when there is not a partnership (as in "Smith & Jones, C.P.A.'s"); or
- (3) The firm name includes the name of a person who is neither a present nor a past partner or shareholder of the firm.

(b) **Fictitious firm names.** A fictitious firm name (that is, one not consisting of the names of one or more present or former partners or shareholders) may not be used by a licensee in the practice of public accounting unless such name has been registered with and approved by the Board as not being false or misleading.

(c) **Use of titles by persons holding certificates but not permits.** A holder of a certificate who does not also hold a permit may use the titles "certified public accountant" and "CPA" under the following circumstances, and no others;

- (1) By display, in an office or other place of business, of the original of a currently valid certificate;
- (2) For identification as a faculty member in an educational institution, for purposes of functioning in the capacity as such a faculty member;
- (3) For identification as the author of a book, article or other publication, provided that such publication does not offer the performance of services, or the sale of products (other than a book, article or other publication) of any kind.
- (4) Their certification is published in certification or society membership directories, or is included in the sale of mailing labels, or when certification or membership status is confirmed.
- (5) Use of the title in the form of a disclosure, when a certificate holder is required by law to disclose the fact of certification as a CPA, is not "holding out" for the purposes of this Rule.

(6) Displaying membership in CPA association.

(7) Displaying certificates of other jurisdictions.

(8) This Rule would not prevent a licensee in private accounting or in the teaching profession from identifying himself as a CPA as long as he is not offering accounting services to the public. For example, a controller of a company could affix CPA after his name; but a trust officer in a bank, or an individual selling securities or tax shelters could not do so, since these activities would represent offering accounting skills to the public while "holding out".

(9) Knowingly practicing public accounting in this Territory prior to obtaining a permit to practice.

§2111. Code of Professional Conduct. (a) **Ethical Rules.** In the case of CPA's, the Code of Professional Conduct of this Board are those published separately for purposes of convenience and are those published by the American Institute of CPA's entitled Code of Professional Conduct, as adopted, and any amendments made to the same thereafter. These Rules shall be known as the Code of Professional Conduct and by reference thereto are included herein and shall have the full force and effect of a regulation of this Board. The Rules are promulgated for the purpose of maintaining high standards of professional conduct by those licensed and registered as Certified Public Accountants.

CHAPTER 3
BOARD OF COSMETOLOGY

NOTE: Rule-making authority cited for Board of Cosmetology, 10 GCA §18106 and §18123.

Title 10 Guam Code Annotated Chapter 18 includes laws concerning applications for cosmetology licenses, qualifications for cosmetological instructors, certificates of registration, fees for examination and issuance of certificates of registration and licenses, revocation and suspension of certificates.

CHAPTER 4
COMMISSION ON LICENSURE TO PRACTICE THE
HEALING ART IN GUAM

(No rules filed)

NOTE: Rule-making authority cited for Commission on Licensure to Practice the Healing Art in Guam, 10 GCA §12202 and 10 GCA §15103.

Title 10 Guam Code Annotated Chapter 12 includes laws concerning applications for licenses to practice the healing art, examinations of applicants, payment of fees and revocation, suspension or annulment of license.