

MINA' TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. 187-33 (COR)
As Corrected by the Prime Sponsor

Introduced by:

B.J. F. Cruz 

**AN ACT TO *AMEND* CHAPTER 35, TITLE 22 OF THE
GUAM CODE ANNOTATED, RELATIVE TO THE
GUAM ACCOUNTANCY ACT OF 2003, AND TO
REPEAL AND REENACT TITLE 25, CHAPTER 2 OF
THE GUAM ADMINISTRATIVE RULES, RELATIVE
TO POLICIES WITHIN THE ADMINSTRATIVE
RULES AND REGULATIONS OF THE GUAM
BOARD OF ACCOUNTANCY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*

finds that the Guam Board of Accountancy (“GBA”) regulates the practice of public accountancy, as well as the administration of testing, certification and licensure of certified public accountants (“CPAs”) for the purpose of protecting the welfare of the general public. *I Liheslaturan Guåhan* further finds that most state boards of accountancy subscribe to regulatory and professional standards incorporated in the Uniform Accountancy Act (“UAA”), a model code issued and periodically updated by the National Association of State Boards of Accountancy (“NASBA”) and the American Institute of Certified Public Accountants (“AICPA”).

Having essentially adopted all provisions of the UAA with enactment of the

1 Guam Accountancy Act of 2003 (“the ACT”), and having last amended the ACT
2 in 2006, GBA has, during the ensuing seven (7) years, determined it is now
3 necessary to incorporate several definitive technical clarifications in Guam’s
4 Public Accountancy statutes including: 1) updating and clarifying educational
5 qualifications required of candidates for the CPA Exam; 2) updating of reciprocity
6 requirements relative to national and international "mobility" standards; 3)
7 updating definitions relative to evolving professional accounting standards and
8 standard setting organizations; 4) updating the ACT for changes in the computer-
9 based CPA exam administrative procedures; and 5) clarification of the existing
10 ACT as originally passed and amended to date.

11 It is, therefore, the intent of *I Liheslaturan Guåhan* to revise existing
12 statutes, as well as administrative rules and regulations, for the purpose of bettering
13 Guam’s compliance with and administration of nationally and internationally
14 accepted standards and practices of public accountancy.

15 **Section 2.** §35103(b) of Chapter 35, Title 22, Guam Code Annotated is
16 hereby *amended* to read:

17 “(b) ‘Attest’ means providing the following ~~financial statement~~ services:

18 (1) any audit or other engagement to be performed in accordance with
19 the Statements on Auditing Standards (‘SAS’);

20 (2) any review of a financial statement to be performed in accordance
21 with the Statements on Standards for Accounting and Review Services
22 (‘SSARS’); ~~and~~

23 (3) any examination of prospective financial information to be
24 performed in accordance with the Statements on Standards for Attestation
25 Engagements (‘SSAE’);

26 (4) any engagement to be performed in accordance with the standards
27 of the PCAOB; and

1 (5) any examination, review, or agreed upon procedures engagement
2 to be performed in accordance with the SSAE, other than an examination
3 described in subsection (3).

4 The ~~statements on~~ standards specified in this definition shall be
5 adopted by reference by the Board pursuant to rulemaking and shall be those
6 developed for general application by recognized national accountancy
7 organizations such as the AICPA and the PCAOB.”

8 **Section 3.** §35103(r) of Chapter 35, Title 22, Guam Code Annotated, is
9 hereby *amended* to read:

10 “(r) ‘State’ means any state of the United States, the District of Columbia,
11 Puerto Rico, the United States Virgin Islands, Guam, and the Commonwealth of
12 the Northern Mariana Islands; except that ‘this State’ means the Territory of
13 Guam.”

14 **Section 4.** §35103(s) of Chapter 35, Title 22, Guam Code Annotated, is
15 hereby *amended* to read:

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

27 **Section 5.** A new Subsection (v) is *added* to §35103 of Chapter 35, Title 22,

1 Guam Code Annotated, to read:

2 “(v) ‘Home Office’ is the location specified by the client as the address to
3 which a service described in § 35122(a)(4) is directed.”

4 **Section 6.** Subsection 35104(a) of Chapter 35, Title 22, Guam Code
5 Annotated, is hereby *amended* to read:

6 “(a) There is hereby created the Guam Board of Accountancy, which *shall*
7 have responsibility for the administration and enforcement of this Chapter. The
8 Board *shall* consist of five (5) members appointed by *I Maga’låhi*, all of whom
9 *shall* be residents of Guam and holders of licenses currently valid under §35105 of
10 this Chapter. The term of each member of the Board *shall* be four (4) years.
11 Vacancies occurring during a term *shall* be filled by appointment by *I Maga’låhi*
12 for the unexpired remaining term, ~~provided that all appointments first occurring~~
13 ~~after this Act becomes law, whether due to term expiration or otherwise, shall be~~
14 ~~for terms of the following lengths: the first two (2) appointments for two (2) year~~
15 ~~terms, the second two (2) appointments for three (3) year terms and a third single~~
16 ~~appointment for a four (4) year term, until the Board shall have no more than two~~
17 ~~(2) terms expiring in any one (1) year. Thereafter, all appointments shall be for~~
18 ~~four (4) year terms.~~ Upon the expiration of a member's term of office, such
19 member *shall* continue to serve until a successor shall have been appointed and
20 takes office. Any member of the Board whose license under §35105 of this
21 Chapter is revoked, or suspended, shall automatically cease to be a member of the
22 Board. *I Maga’låhi* may, after a hearing pursuant to the Administration
23 Adjudication Law, remove any member of the Board for neglect of duty or other
24 cause.”

25 **Section 7.** §35104(g) of Chapter 35, Title 22, Guam Code Annotated, is
26 hereby *amended* to read:

27 “(g) (1) The Board shall have the power to take all action that is necessary

1 and proper to effectuate the purposes of this Chapter, including the power to sue
2 and be sued in its official name as an agency of Guam. The Board shall also have
3 the power to issue subpoenas to compel the attendance of witnesses and the
4 production of documents; to administer oaths; to take testimony, to cooperate with
5 the PCAOB and the appropriate state and federal regulatory authorities in other
6 states having jurisdiction over the professional conduct in question in investigation
7 and enforcement concerning violations of this Chapter and comparable acts of
8 other states; to cooperate in enforcement with appropriate foreign regulatory
9 authorities in instances which have or may result in criminal conviction, loss of
10 license or suspension, admonishment or censure; and to receive evidence
11 concerning all matters within the scope of this Chapter. In case of disobedience of
12 a subpoena, the Board may invoke the aid of any court or other appropriate
13 regulatory authority in requiring the attendance and testimony of witnesses and the
14 production of documentary evidence. For purposes of this subsection, “appropriate
15 foreign regulatory authorities” shall be those foreign authorities granting
16 substantially equivalent foreign designations in accordance with §35106(h) of this
17 Chapter.

18 (2) The Board, its members, and its agents shall be immune from personal
19 liability for actions taken in good faith in the discharge of the Board’s
20 responsibilities, and the government of Guam shall hold the Board, its members,
21 and its agents harmless from all costs, damages, and attorneys’ fees arising from
22 claims and suits against them with respect to matters to which such immunity
23 applies.”

24 **Section 8.** A new Subsection (j) is *added* to § 35104 of Chapter 35, Title 22,
25 Guam Code Annotated, to read:

26 “(j) Records, papers, and other documents containing information collected
27 or compiled by the Board, its members, employees, contractors or agents,

1 including its legal counsel, as a result of a complaint, investigation, inquiry, or
2 interview in connection with an application for examination, certification, or
3 registration, or in connection with a licensee's professional ethics and conduct,
4 shall not be considered public records within the meaning of Guam's public
5 records laws. Additionally, any record, paper, or other document received by the
6 Board as a result of a self reporting requirement shall not be considered public
7 records within the meaning of Guam's public records laws. When any such record,
8 paper, or other document is admitted into evidence in a hearing held by the Board,
9 it shall then be a public record within the meaning of Guam's public records laws.
10 However, upon a showing of good cause, the presiding officer at such a hearing
11 may order that confidential or privileged information be redacted or admitted under
12 seal.

13 (1) Notwithstanding any other provision of this Chapter, information
14 protected by this confidentiality provision shall not be disclosed to other authorities
15 unless the recipient confirms in writing that it will assure preservation of
16 confidentiality and the licensee has been given reasonable notice that the
17 information will be provided to another entity.

18 (2) Notwithstanding any contrary provision in Guam's Public Records law,
19 disclosures to law enforcement and regulatory authorities and, only to the extent
20 deemed necessary to conduct an investigation, to the subject of the investigation,
21 persons whose complaints are being investigated and witnesses questioned in the
22 course of investigation, as provided in §35110(b), shall not be considered public
23 disclosures and shall not deprive such records of their confidential status.

24 (3) Nothing in this subsection shall be construed as a waiver of any
25 privilege, such as attorney-client privilege, which may also apply to any records
26 covered by this subsection.

27 (4) Nothing in this subsection shall confer confidential status on any record

1 collected under this subsection that was a public record when collected or
2 thereafter becomes a public record through other lawful means.”

3 **Section 9.** § 35105(c) of Chapter 35 of Title 22, Guam Code Annotated, is
4 hereby *amended* to read:

5 “(c) The education requirement for a certificate and license, which must be
6 met before an applicant is eligible to take the examination prescribed in subsection
7 (d), shall be as follows:

8 (1) During the five-year period immediately following the effective date of
9 this amendment, shall be at least a college education including a baccalaureate, or
10 higher, degree or its equivalent conferred by a college or university acceptable to
11 the Board, the total educational program to include an accounting concentration, or
12 equivalent, as determined by Board rule to be appropriate;

13 (2) After the expiration of the five-year period immediately following the
14 effective date of this amendment, at least 150 semester hours of college education
15 including a baccalaureate or higher degree conferred by a college or university
16 acceptable to the Board, the total educational program to include an accounting
17 concentration or equivalent as determined by Board rule to be appropriate.”

18 **Section 10.** §35105(d)(1) of Chapter 35 of Title 22, Guam Code Annotated,
19 is hereby *amended* to read:

20 “(1) The examination required to be passed as a condition for the granting of
21 a certificate shall be held ~~at least twice a year~~ regularly throughout the year, and
22 shall test the applicant’s knowledge of the subjects of accounting and auditing, and
23 such other related subjects as the Board may specify by rule, including but not
24 limited to business law and taxation. The time for holding such examination shall
25 be determined by the Board and may be changed from time to time. The Board
26 shall prescribe by rule the methods of applying for and conducting the
27 examination, including methods for grading and determining a passing grade

1 required of an applicant for a certificate provided, however, that the Board shall to
2 the extent possible see to it that the examination itself, grading of the examination,
3 and the passing grades, are uniform with those applicable in all other states. The
4 Board may make such use of all or any part of the Uniform Certified Public
5 Accountant Examination and Advisory Grading Service of the American Institute
6 of Certified Public Accountants and may contract with third parties to perform
7 such administrative services with respect to the examination as it deems
8 appropriate to assist it in performing its duties hereunder.”

9 **Section 11.** §35105(d)(2) of Chapter 35 of Title 22, Guam Code Annotated,
10 is hereby *amended* to read:

11 “(2) Notwithstanding §35105(c), the educational requirement, which must
12 be met *before* an applicant is qualified to take the examination prescribed in
13 §35105(d)(1), ~~shall be the completion of a baccalaureate degree, or its equivalent,~~
14 ~~conferred by a college or university acceptable to the Board, with an accounting~~
15 ~~and business concentration, or equivalent, as determined by Board rule to be~~
16 ~~appropriate, within one hundred fifty (150) days following the examination may be~~
17 fulfilled by the completion of such educational requirement within eighteen (18)
18 months following an applicant’s taking the examination. No credit for the
19 examination shall be granted if the education requirement is not completed within
20 such time.”

21 **Section 12.** §35105(f) of Chapter 35, Title 22, Guam Code Annotated, is
22 hereby *amended* to read:

23 “(f) An applicant for initial issuance of a certificate and inactive license
24 under this §35105 shall show that the applicant has met the education and
25 examination requirements as defined herein and as prescribed by the Board by rule.

26 An applicant for initial issuance of a certificate and active license under this
27 §35105 shall show that the applicant has met the education and examination

1 requirements and has had two (2) years of experience as defined herein as
2 prescribed by the Board by rule; or *if* the applicant's educational qualifications
3 comprise a ~~baccalaureate degree with~~ at least 150 semester hours of college
4 education including a baccalaureate or higher degree conferred by a college or
5 university acceptable to the Board, the total educational program to include an
6 accounting concentration or equivalent as determined by Board rule to be
7 appropriate, and ~~not less than thirty (30) semester hours of additional study in the~~
8 ~~field of business or related subjects~~, then that such applicant shall have had one (1)
9 year of experience as defined herein and as prescribed by the Board by rule. This
10 experience shall include providing any type of service or advice involving the use
11 of accounting, attest, compilation, management advisory, financial advisory, tax or
12 consulting skills, all of which must be verified by an active licensee. Experience
13 shall be acceptable if it was gained through employment in government, industry,
14 academia or public practice, meeting all requirements prescribed by the Board by
15 rule. To be authorized to sign reports on attest engagements, an applicant shall
16 show that the applicant has had experience in attest services as prescribed by the
17 Board by rule. The type of experience now acceptable can be applied retroactively.

18 ~~An applicant for initial licensure, or initial certification, who first sat for the~~
19 ~~exam as a Guam candidate in May 2000 or prior, shall have had two (2) years of~~
20 ~~experience in the practice of public accountancy, meeting requirements prescribed~~
21 ~~by the Board by rule; or, if the applicant's educational qualifications comprise a~~
22 ~~baccalaureate degree with an accounting concentration, or equivalent, as~~
23 ~~determined by the Board to be appropriate, and not less than thirty (30) semester~~
24 ~~hours of additional study in the field of business or related subjects, then that~~
25 ~~applicant shall have had one (1) year of experience in such practice.~~

26 ~~An applicant for initial licensure, or initial certification, who first sat for the~~
27 ~~exam as a Guam candidate in November 2000, or after, but before October 2005,~~

1 ~~shall have had one (1) year of experience in the practice of public accountancy,~~
2 ~~meeting requirements prescribed by the Board by rule.~~

3 An applicant for initial certification and active licensure who first sat for the
4 exam as other than a Guam candidate and did *not* meet a one hundred fifty (150)
5 hour educational requirement at the time of first sitting shall have had two (2)
6 years of experience in the practice of public accountancy, meeting requirements
7 prescribed by the Board by rule.

8 An applicant for initial certification and active licensure who first sat for the
9 exam as other than a Guam candidate and did meet a one hundred fifty (150) hour
10 educational requirement at the time of first sitting shall have had one (1) year of
11 experience in the practice of public accountancy, meeting requirements prescribed
12 by the Board by rule.”

13 **Section 13.** §35106(a)(2) of Chapter 35, Title 22, Guam Code Annotated, is
14 hereby *amended* to read:

15 “(2) that they are eligible under the substantial equivalency standard set out
16 in §35122 of ~~the Aet~~ this Chapter which requires licensure for those CPAs that
17 establish their principal place of business in another state. The holder of a license
18 issued under this Section may only provide attest services, as defined, in a CPA
19 firm that holds a permit issued under §35107 of this ~~Law~~ Chapter.”

20 **Section 14.** §35106(c)(2) of Chapter 35, Title 22, Guam Code Annotated, is
21 hereby *amended* to read:

22 “(2) As an alternative to the requirements of §35106(c)(1) of this ~~Aet~~
23 Chapter, a certificate holder licensed by another state who establishes their
24 principal place of business in Guam shall request the issuance of a license and
25 Guam CPA Firm Permit to Practice from the Board prior to establishing such
26 principal place of business. The Board shall issue a certificate and license to such
27 person who obtains from the NASBA National Qualification Appraisal Service

1 verification that such individual's CPA qualifications are substantially equivalent
2 to the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy
3 Act. ~~Such person must also apply for and receive a Guam CPA Firm Permit to~~
4 ~~Practice prior to conducting business."~~

5 **Section 15.** §35106(j) of Chapter 35, Title 22, Guam Code Annotated, is
6 hereby *amended* to read:

7 "(j) The Board has the sole authority to interpret the application of the
8 provisions of §35106(h) and ~~(i)~~ §35106(i)."

9 **Section 16.** A new Subsection (e) is *added* to § 35106 of Chapter 35, Title
10 22, Guam Code Annotated, to read:

11 "(e) The Board shall by rule require as a condition for renewal of a license
12 under this Section, by any license holder who issues compilation reports for the
13 public other than through a CPA firm, that such individual undergo, no more
14 frequently than once every three years, a peer review conducted in such manner as
15 the Board shall by rule specify, and such review shall include verification that such
16 individual has met the competency requirements set out in professional standards
17 for such services."

18 **Section 17.** §35107(a) of Chapter 35, Title 22, Guam Code Annotated, is
19 hereby *amended* to read:

20 "(a) The Board shall grant or renew ~~Firm Permits to Practice~~ permits to
21 practice as a CPA firm to ~~entities that make application and applicants that~~
22 demonstrate their qualifications therefor in accordance with ~~the following~~
23 ~~Subsections of this Section or to CPA firms originally licensed in another state that~~
24 ~~establish an office in Guam. A CPA firm must hold a Firm Permit to Practice~~
25 ~~issued under this Section in order to provide attest services as defined or to use the~~
26 ~~title 'CPAs' or 'CPA firm'.~~

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

1 (A) Any firm with an office in Guam performing attest services as
2 defined in §35103(b) of this Act; or,

3 (B) Any firm with an office in Guam that uses the title “CPA” or
4 “CPA firm;” or,

5 (C) Any firm that does not have an office in Guam but performs attest
6 services described in §35103(b)(1), (3), (4) or (5) of this Chapter for a client
7 having its home office in Guam.

8 (2) A firm which does not have an office in Guam may perform services
9 described in §35103(b)(2) or §35103(f) for a client having its home office in Guam
10 and may use the title “CPA” or “CPA firm” without a permit issued under this
11 Section only if:

12 (A) it has the qualifications described in §35107(d) and §35107(i),
13 and

14 (B) it performs such services through an individual with practice
15 privileges under §35122 of this Chapter.

16 (3) A firm which is not subject to the requirements of §35107(a)(1)(C) or
17 §35107(a)(2) may perform other professional services while using the title
18 “CPA” or “CPA firm” in Guam without a permit issued under this Section
19 only if:

20 (A) it performs such services through an individual with practice
21 privileges under §35122 of this Chapter, and,

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

24 **Section 18.** § 35107(d)(1) of Chapter 35, Title 22, Guam Code Annotated,
25 is hereby *amended* to read:

26 “(1) Notwithstanding any other provision of law, a simple majority of the
27 ownership of the CPA firm, in terms of financial interests and voting rights of all

1 partners, officers, shareholders, members or managers, belongs to holders of a
2 certificate who are licensed in some state, and such partners, officers, shareholders,
3 members or managers, whose principal place of business is in Guam, and who
4 perform professional services in Guam hold a valid license issued under §35106 or
5 the corresponding provision of prior law. Although CPA firms may include non-
6 licensee owners, the CPA firm and its ownership must comply with rules
7 promulgated by the Board. An individual who has practice privileges under
8 §35122 who performs services for which a firm permit is required under
9 §35122(a)(4) shall not be required to obtain a license from Guam pursuant to
10 §35106 of this Chapter.”

11 **Section 19.** § 35107(d)(2) of Chapter 35, Title 22, Guam Code Annotated,
12 is hereby *amended* to read:

13 “(2) Any CPA firm as defined in this Act may include non-licensee owners
14 provided that:

15 (A) The CPA firm designates a licensee of Guam, or in the case of a firm
16 which must have a permit pursuant to §35122(a)(4) a licensee of another state who
17 meets the requirements set out in §35122(a)(1) or in §35122(a)(2), who is
18 responsible for the proper registration of the firm and identifies that individual to
19 the Board.

20 (B) All non-licensee owners are of good moral character and active
21 individual participants in the CPA firm or affiliated entities.

22 (C) The CPA firm complies with such other requirements as the Board may
23 impose by rule.”

24 **Section 20.** § 35107(d)(3) of Chapter 35, Title 22, Guam Code Annotated,
25 is hereby *amended* to read:

26 “(3) Any individual licensee and any individual granted practice privileges
27 under this Chapter who is responsible for supervising attest or compilation services

1 and signs or authorizes someone to sign the accountant's report ~~on the financial~~
2 ~~statements~~ on behalf of the CPA firm, shall meet the competency requirements set
3 out in the professional standards for such services as prescribed by the Board by
4 rule.”

5 **Section 21.** § 35107(d)(4) of Chapter 35, Title 22, Guam Code Annotated,
6 is hereby *amended* to read:

7 “(4) Any individual licensee and any individual granted practice privileges
8 under this Chapter who signs or authorizes someone to sign the accountants' report
9 ~~on the financial statements~~ on behalf of the CPA firm shall meet the competency
10 requirement of §35107(d)(3).”

11 **Section 22.** § 35109(a)(4) of Chapter 35, Title 22, Guam Code Annotated, is
12 hereby *amended* to read:

13 “(4) Revocation or suspension of the right to practice before any state or
14 Federal agency regulatory authority or by the PCAOB;”

15 **Section 23.** § 35109(a)(11) of Chapter 35, Title 22, Guam Code Annotated,
16 is hereby *amended* to read:

17 “(11) Making any false or misleading statement or verification, in support of
18 an application for a certificate or Firm Permit to Practice filed by another; ~~and~~ or”

19 **Section 24.** § 35111(k) of Chapter 35, Title 22, Guam Code Annotated, is
20 hereby *amended* to read:

21 “(k) In any case where the Board renders a decision imposing discipline
22 under §35109, §35111, or §35122, against a licensee or CPA firm, ~~a holder of a~~
23 ~~certificate~~, or an individual granted privileges under §35122, the Board shall
24 examine its records to determine whether the licensee, ~~holder of a certificate,~~ or
25 CPA firm, or individual holds a license certificate or a permit or practice privilege
26 in any other state or is subject to the PCAOB's authority; and if so, the Board shall
27 notify the State Boards of Accountancy and any other regulatory authorities,

1 including the PCAOB if applicable, of such other state of its decision, immediately
2 in the case of a consent order and in all other cases when the time for petitioning
3 for review of the Board’s decision has expired. Such immediate notice shall
4 indicate whether or not the consent order has been petitioned for review and
5 whether or not the subject order has been stayed. Subject to §35104(j) of this
6 Chapter, by mail, within forty five (45) days of rendering the decision. The the
7 Board may also furnish information relating to proceedings resulting in
8 disciplinary action to other public authorities and to private professional
9 organizations having a disciplinary interest in the licensee or CPA firm or
10 individual. Where a petition for review has been filed pursuant to §35111(j), the
11 notification and furnishing of information provided for in this Subsection shall
12 await the resolution of such review and, if resolution is in favor of the licensee or
13 CPA firm, a holder of a certificate, or an individual granted privileges under
14 §35122 of this Chapter, no such notification or furnishing of information shall be
15 made.”

16 **Section 25.** §35113(a) of Chapter 35, Title 22, Guam Code Annotated, is
17 hereby *amended* to read:

18 “(a) Only licensees and individuals who have practice privileges under
19 §35122 of this Chapter may issue a report on financial statements of any person,
20 firm, organization, or governmental unit or offer to render or render any attest or
21 compilation service, as defined herein. This restriction does not prohibit any act of
22 a public official or public employee in the performance of that person’s duties as
23 such; or prohibit the performance by any non-licensee of other services involving
24 the use of accounting skills, including the preparation of tax returns, management
25 advisory services, and the preparation of financial statements without the issuance
26 of reports thereon. Non-licensees may prepare financial statements and issue non-
27 attest transmittals or information thereon which do not purport to be in compliance

1 with the Statements on Standards for Accounting and Review Services (SSARS).”

2 **Section 26.** § 35113(b) of Chapter 35, Title 22, Guam Code Annotated, is
3 hereby *amended* to read:

4 “(b) Licensees and individuals who have practice privileges under §35122 of
5 this Chapter performing attest or compilation services must provide those services
6 in accordance with applicable professional standards.”

7 **Section 27.** § 35113(c) of Chapter 35, Title 22, Guam Code Annotated, is
8 hereby *amended* to read:

9 “(c) No person not holding a valid license in accordance with §35106 or a
10 practice privilege pursuant to §35122 of this Chapter shall use or assume the title
11 ‘certified public accountant,’₂ or the abbreviation ‘CPA’ or any other title,
12 designation, words, letters, abbreviation, sign, card, or device tending to indicate
13 that such person is a certified public accountant.”

14 **Section 28.** § 35113(d) of Chapter 35, Title 22, Guam Code Annotated, is
15 hereby *amended* to read:

16 “(d) No firm shall provide attest services or assume or use the title ‘certified
17 public accountants₂’ or the abbreviation ‘CPAs₂’ or any other title, designation,
18 words, letters, abbreviation, sign, card, or device tending to indicate that such firm
19 is a CPA firm unless (1) the firm holds a valid permit issued under §35107 of this
20 Chapter, and (2) ownership of the firm is in accord with this Chapter and rules
21 promulgated by the Board. ~~No individual or firm shall provide or offer professional~~
22 ~~CPA services in Guam via a Web site, or represent via a Web site that such firm or~~
23 ~~individual has a office in Guam or is authorized to practice as a CPA in Guam,~~
24 ~~unless such individual or firm is licensed to practice in accordance with 22 GCA §~~
25 ~~35107.”~~

26 **Section 29.** § 35113(h) of Chapter 35, Title 22, Guam Code Annotated,, is
27 hereby *amended* to read:

1 “(h) No person holding a license or firm holding a permit under this Chapter
2 shall use a professional or firm name or designation that is misleading about the
3 legal form of the firm, or about the persons who are partners, officers, members,
4 managers or shareholders of the firm, or about any other matter, provided,
5 however, that names of one (1) or more former partners, members, managers or
6 shareholders may be included in the name of a firm, or its successor. A common
7 brand name, including common initials, used by a CPA Firm in its name, is not
8 misleading if said firm is a Network Firm as defined in the AICPA Code of
9 Professional Conduct (“Code”) in effect December 15, 2014 and, when offering or
10 rendering services that require independence under AICPA standards, said firm
11 must comply with the Code’s applicable standards on independence.”

12 **Section 30.** A new Subsection (o) is *added* to § 35113 of Chapter 35, Title
13 22, Guam Code Annotated, to read:

14 “(o) Notwithstanding anything to the contrary in this Section, it shall not be
15 a violation of this Section for a firm which does not hold a valid permit under
16 §35107 of this Chapter and which does not have an office in Guam to provide its
17 professional services in Guam so long as it complies with the requirements of
18 §35107(a)(2) or §35107(a)(3) of this Chapter, whichever is applicable.”

19 **Section 31.** §35115(a) of Chapter 35, Title 22, Guam Code Annotated, is
20 hereby *amended* to read:

21 “(a) Whenever, by reason of an investigation under §35110 of this Chapter
22 or otherwise, the Board has reason to believe that any person or firm has
23 knowingly engaged in acts or practices that constitute a violation of §35113, or any
24 other provision of ~~the~~ this Chapter, or any rule adopted by the Board, the Board
25 may bring its information to the attention of the Attorney General of Guam or any
26 State (or other appropriate law enforcement officer) who may, in the officer’s
27 discretion, cause appropriate criminal proceedings to be brought thereon.”

1 **Section 32.** § 35117 of Chapter 35, Title 22, Guam Code Annotated, is
2 hereby *amended* to read:

3 “Except by permission of the client for whom a licensee performs services
4 or the heirs, successors, or personal representatives of such client, a licensee under
5 this Chapter, shall *not* voluntarily disclose information communicated to the
6 licensee by the client relating to and in connection with services rendered to the
7 client by the licensee. Such information shall be deemed confidential, provided,
8 however, that nothing herein shall be construed as prohibiting the disclosure of
9 information required to be disclosed by the standards of the public accounting
10 profession in reporting on the examination of financial statements or as prohibiting
11 compliance with applicable laws, government regulations or PCAOB
12 requirements, disclosures in court proceedings, in investigations or proceedings
13 under §35110 or §35111 of this Chapter, in ethical investigations conducted by
14 private professional organizations, or in the course of peer reviews, or to other
15 persons active in the organization performing services for that client on a need to
16 know basis or to persons in the entity who need this information for the sole
17 purpose of assuring quality control.”

18 **Section 33.** § 35122(a)(1) of Chapter 35, Title 22, Guam Code Annotated, is
19 hereby *amended* to read:

20 “(1) An individual whose principal place of business is not in Guam and
21 who holds ~~having~~ a valid ~~certificate~~ or license as a Certified Public Accountant
22 from any state which the NASBA National Qualification Appraisal Service has
23 verified to be in substantial equivalence with the CPA licensure requirements of
24 the AICPA/NASBA Uniform Accountancy Act shall be presumed to have
25 qualifications substantially equivalent to Guam’s ~~the requirements of Guam~~ and
26 shall have all the privileges of licensees of Guam without the need to obtain a
27 license under §35105 or §35106 of this Chapter. Notwithstanding any other

1 provision of law, an individual who offers or renders professional services,
2 whether in person, by mail, telephone or electronic means, under this section shall
3 be granted practice privileges in Guam and no notice or other submission shall be
4 provided by any such individual. Such an individual shall be subject to the
5 requirements in §35122(a)(3).”

6 **Section 34.** § 35122(a)(2) of Chapter 35, Title 22, Guam Code Annotated, is
7 hereby *amended* to read:

8 “(2) An individual whose principal place of business is *not* in Guam ~~having~~
9 ~~and who holds~~ a valid license as a Certified Public Accountant from any state
10 which the NASBA National Qualification Appraisal Service has *not* verified to be
11 in substantial equivalence with the CPA licensure requirements of the
12 AICPA/NASBA Uniform Accountancy Act shall be presumed to have
13 qualifications substantially equivalent to ~~the Guam’s~~ requirements ~~of Guam~~ and
14 shall have all the privileges of ~~certificate holders and~~ licensees of Guam without
15 the need to obtain a ~~certificate or~~ license under §35105 or §35106 of this Chapter,
16 if such individual obtains from the NASBA National Qualification Appraisal
17 Service verification that such individual’s CPA qualifications are substantially
18 equivalent to the CPA licensure requirements of the AICPA/NASBA Uniform
19 Accountancy Act. ~~However, such individuals shall file written notice with the~~
20 ~~Board, on such form as may be specified by the Board, of their intent to enter~~
21 ~~Guam under this provision, shall pay any fee required, and shall have received~~
22 ~~written confirmation of receipt of such notice from the Board prior to practicing as~~
23 ~~a CPA.~~ Any individual who passed the Uniform CPA Examination and holds a
24 valid license issued by any other state prior to January 1, 2012 may be exempt
25 from the education requirement in §35105(c)(2) of this Chapter for purposes of this
26 §35122(a)(2). Notwithstanding any other provision of law, an individual who
27 offers or renders professional services, whether in person, by mail, telephone or

1 electronic means, under this section shall be granted practice privileges in Guam
2 and no notice or other submission shall be provided by any such individual. Such
3 an individual shall be subject to the requirements in §35122(a)(3).”

4 **Section 35.** § 35122(a)(3) of Chapter 35, Title 22, Guam Code Annotated, is
5 hereby *amended* to read:

6 “(3) Any individual licensee of another state exercising the privilege
7 afforded under this section and the firm which employs that licensee hereby
8 simultaneously consents, as a condition of the grant of this privilege:

9 (A) to the personal and subject matter jurisdiction and disciplinary authority
10 of the Board,

11 (B) to comply with this Chapter and the Board’s rules; and,

12 (C) that in the event the license from the state of the individual’s principal
13 place of business is no longer valid, the individual will cease offering or rendering
14 professional services in Guam individually and on behalf of a firm; and

15 (D) ~~(C)~~ to the appointment of the ~~Director of the Department of Revenue~~
16 ~~and Taxation~~ State Board which issued their license as their agent upon whom
17 process may be served in any action or proceeding by this Board against the
18 licensee.”

19 **Section 36.** A new Subsection (a)(4) is *added* to § 35122 of Chapter 35,
20 Title 22, Guam Code Annotated, to read:

21 “(4) Any individual who has been granted practice privileges under this
22 section who performs any attest service described in §35103(b) may only do so
23 through a firm which meets the requirements of §35107(a)(1)(C) or which has
24 obtained a permit issued under §35107 of this Chapter.”

25 **Section 37.** §35122(c) of Chapter 35, Title 22, Guam Code Annotated, is
26 hereby *amended* to read:

27 “(c)Repealed. ~~The provisions of this section only apply to individual~~

1 ~~licensees. No firm, as defined in §35103(g), shall practice public accountancy in~~
2 ~~Guam without a Firm Permit to Practice issued pursuant to § 35107.”~~

3 **Section 38.** §35103(p) of Chapter 35, Title 22, Guam Code Annotated, is
4 hereby *amended* to read:

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

20 **Section 39.** §35113(g)(1) of Chapter 35, Title 22, Guam Code Annotated, is
21 hereby *amended* to read:

22 “(g) Non-licensees, non-firms use of titles and language.

23 (1) Non-licensees may *not* use language in any statement relating to
24 the affairs of a person or entity which is conventionally used by licensees in
25 reports on financial statements or on any attest service as defined herein. In
26 this regard, the Board shall issue safe harbor language that non-licensees
27 may use in connection with such financial information.”

1 **Section 40.** §35113(i) of Chapter 35, Title 22, Guam Code Annotated, is
2 hereby *amended* to read:

3 “(i) None of the foregoing provisions of this §35113 shall have any
4 application to a person or firm holding a certification, designation, degree, or
5 license granted in a foreign country entitling the holder thereof to engage in the
6 practice of public accountancy or its equivalent in such country, whose activities in
7 Guam, are limited to the provision of professional services to persons or firms who
8 are residents of, governments of, or business entities of the country in which the
9 person holds such entitlement, who performs no attest or compilation services as
10 defined in this Chapter and who issues no reports as defined in this Chapter with
11 respect to the ~~financial statements~~ information of any other persons, firms, or
12 governmental units in Guam, and who does not use in Guam any title or
13 designation other than the one under which the person practices in such country,
14 followed by a translation of such title or designation into the English language, *if* it
15 is in a different language, and by the name of such country.”

16 **Section 41.** §35106(d) of Chapter 35, Title 22, Guam Code Annotated, is
17 hereby *amended* to read:

18 “(d) For renewal of a license under this §35106 each licensee shall
19 participate in a program of learning designed to maintain professional competency.
20 Such program of learning must comply with rules adopted by the Board. The
21 Board may by rule create an exception to this requirement for ~~certificate holders~~
22 licensees who do not perform or offer to perform for the public one (1) or more
23 kinds of services involving the use of accounting or auditing skills, including
24 issuance of reports on financial statements, or of one (1) or more kinds of
25 management advisory, financial advisory or consulting services, or the preparation
26 of tax returns or the furnishing of advice on tax matters. Licensees granted such an
27 exception by the Board must place the word ‘inactive’, or such other indicative

1 wording as the Board may prescribe by rule, adjacent to their CPA title on any
2 business card, letterhead or any other document or device, with the exception of
3 their CPA certificate, on which their CPA title appears. A licensee availing of such
4 exception who desires to resume performing or offering to perform services for the
5 public as described in this section must comply with the rules adopted by the
6 Board for 'reactivation' of their license."

7 **Section 42.** §35103(h) of Chapter 35, Title 22, Guam Code Annotated, is
8 hereby *amended* to read:

9 "(h) 'License' means a certificate or license issued under §35106 of this
10 Chapter; ~~or an individual, a permit to practice or Firm Permit to Practice issued~~
11 under §35107 of this Chapter; or, in each case, a certificate, license or permit
12 issued under corresponding provisions of prior law."

13 **Section 43.** §35113(e) of Chapter 35, Title 22, Guam Code Annotated, is
14 hereby *amended* to read:

15 "(e) **Repealed.** ~~No firm not holding a valid permit issued under § 35107 of~~
16 ~~this Chapter shall provide attest services or assume or use the title 'public~~
17 ~~accountant,' the abbreviation 'PA,' or any other title, designation, words, letters,~~
18 ~~abbreviation, sign, card, or device tending to indicate that such firm is composed of~~
19 ~~public accountants."~~

20 **Section 44.** §35113(f) of Chapter 35, Title 22, Guam Code Annotated, is
21 hereby *amended* to read:

22 "(f) No person or firm not holding a valid license or permit issued under
23 §35106 or §35107 of this Chapter or a practice privilege pursuant to §35122 of this
24 Chapter, shall assume or use the title '*certified accountant,*' '*chartered*
25 *accountant,*' '*enrolled accountant,*' '*licensed accountant,*' '*registered accountant,*'
26 '*accredited accountant,*' 'public accountant' or any other title or designation likely
27 to be confused with the title '*certified public accountant*' ~~or '*public accountant,*'~~ or

1 use any of the abbreviations 'CA,' 'LA,' 'RA,' 'AA,' 'PA,' or similar abbreviation
2 likely to be confused with the abbreviation 'CPA,' or '~~PA~~.' The title 'Enrolled
3 Agent' or 'EA' may only be used by individuals so designated by the Internal
4 Revenue Service, ~~or the Director of the Department of Revenue and Taxation.~~"

5 **Section 45.** Chapter 2 of Title 25 of the Guam Administrative Rules are
6 hereby *repealed* and *reenacted* to read:

7 **CHAPTER 2**

8 **~~"Guam Board of Public Accountancy Regulations~~**

9 **Guam Accountancy Act Administrative Rules**

10 **§2101. ~~Introduction~~ Preamble.**

11 **§2102. ~~Definitions~~ Terms Used in These Rules.**

12 **§2103. ~~Guam Board of Accountants~~ Accountancy.**

13 **§2104. ~~Certified Public Accountants.~~**

14 **§2105. ~~Permits to Practice — Individuals~~ Issuance of Certificates and
15 Licenses, Renewal of Licenses, Continuing Professional Education and
16 Reciprocity.**

17 **§2106. ~~Permits to Practice — Firms.~~**

18 **§2107. ~~Enforcement Actions Against~~ against Licensees.**

19 **§2108. Enforcement Procedures — Investigations.**

20 **§ ~~2108~~ 2109. Enforcement Procedures — Hearings by the Board.**

21 **§ ~~2109~~ 2110. Reinstatement.**

22 **§ ~~2110~~ 2111. Unlawful Acts.**

23 **§ ~~2111~~ 2112. Substantial Equivalency.**

24 **§ ~~2112~~ 2113. Code of Professional Conduct.**

25 **§2101. ~~Introduction.~~** The purpose of the Guam Territorial Board of
26 Accountancy (the "Board") is to administer and enforce the provisions of the
27 Public Accountancy Laws is 22 GCA Chapter 35 with regard to the practice of

1 ~~accountancy in the Territory of Guam including the examination of candidates;~~
2 ~~issuance of certificates and permits to practice public accountancy; investigation of~~
3 ~~violations and infractions to the accountancy law; and revocation or suspension of~~
4 ~~the certificate or refusal to renew permits to practice. To this end, the Board has~~
5 ~~promulgated these regulations to clarify the Accountancy Law's intent and the~~
6 ~~Board's procedures, as provided. Masculine pronouns when used herein also~~
7 ~~include the feminine and the neuter.~~

8 **Preamble.** These Rules are adopted by the Guam Board of Accountancy,
9 pursuant to its authority under 22 GCA Chapter 35. Their purpose is to promote
10 and protect the public interest by implementing the provisions of that Chapter,
11 which provide for the issuance of certificates and licenses as certified public
12 accountants; the renewal of licenses, the issuance and renewal of Firm Permits to
13 Practice, and the regulation of licensees, all to enhance the reliability of
14 information which is used for guidance in financial transactions or accounting for
15 or assessing the financial status or performance of commercial, noncommercial and
16 governmental enterprises.

17 **§2102. Definitions Terms Used in These Rules.** In addition to the
18 statutory definitions provided in 22 GCA §35103, the following terms have the
19 meaning indicated. For purposes of these Rules, the following terms have the
20 meanings indicated:

21 (a) *Act* means ~~the Public Accountancy Act of 1990,~~ pursuant to 22 GCA
22 ~~§35104~~ Chapter 35, 'the Guam Accountancy Act of 2003', as amended from time
23 to time.

24 (b) *Financial statements* means statements and footnotes related thereto that
25 undertake purport to present an show actual or anticipated financial position as of a
26 point in time, or results of operations, cash flow, or changes in financial position
27 for a period of time, in conformity with generally accepted accounting principles or

1 another comprehensive basis of accounting. The term ~~includes specific elements,~~
2 ~~accounts or items of such statements,~~ but does *not* include incidental financial data
3 included in management advisory services reports to support recommendations to a
4 client; nor does it include tax returns and supporting schedules.

5 (c) Agreed Upon Procedure means an engagement which is to be performed
6 in accordance with applicable attestation standards and is one in which a licensee is
7 engaged to issue a written finding(s) that (i) is based on specific procedures that
8 the specified parties agree are sufficient for their purposes, (ii) is restricted to the
9 specified parties, and (iii) does not provide an opinion or negative assurance.

10 (d) Audit means the procedures performed in accordance with applicable
11 auditing standards for the purpose of expressing or disclaiming an opinion on the
12 fairness with which the historical financial information is presented in conformity
13 with generally accepted accounting principles, another comprehensive basis of
14 accounting, or basis of accounting described in the report.

15 (e)(e) Professional Engagement means an agreement between a client and a
16 licensee relative to the performance of professional services and the services
17 performed under this agreement.

18 (f) License means any certificate and license or permit issued under §35106
19 or §35107 of the Act, or a certificate or individual permit to practice issued under
20 corresponding provisions of prior law, with one of the following statuses, as
21 prescribed by the Board by rule:

22 (1) 'Active License' status means a license issued and timely renewed
23 under §35106 of the Act to an applicant fulfilling all education, examination
24 and experience requirements of §35105 of the Act. An Active License status
25 entitles the licensee to practice public accountancy in Guam. Active status
26 licenses issued after October 1, 2005, will indicate on the face thereof
27 whether the licensee has fulfilled the attest experience requirements and is

1 authorized to perform attest services in Guam;

2 (2) 'Inactive License' status means a license issued and timely
3 renewed under §35106 of the Act to an applicant fulfilling only the
4 education and examination requirements, but not the experience
5 requirements, of §35105 of the Act. Inactive status licenses may also be
6 granted by the Board as an exception under §35106(d) of the Act, as
7 prescribed by rule. An Inactive status licensee is not authorized to and shall
8 not practice public accountancy in Guam. All Inactive status licensees are
9 granted an exception under 25 GAR §2105(g)(1) to the CPE renewal
10 requirements of 25 GAR §2105(d)(1) and must comply with the
11 requirements of 25 GAR §2105(g) applicable to each Inactive status
12 licensee's exception;

13 (3) 'Retired License' status means any valid, timely renewed Active
14 status or Inactive status license that a licensee requests be granted Retired
15 status as an exception by the Board under §35106(d) of the Act, as
16 prescribed by rule. Retired status licensees are granted an exception under
17 25 GAR §2105(g)(1) to the CPE renewal requirements of 25 GAR
18 §2105(d)(1) and must comply with the requirements of 25 GAR §2105(g)
19 applicable to their exception; and

20 (4) 'Delinquent License' status means any certificate, license or
21 permit issued under this Act, or under corresponding provisions of prior law,
22 that is not timely renewed under §35106 or §35107 of the Act or as
23 prescribed by the Board by rule.

24 **§2103. Guam Board of ~~Accounts~~ Accountancy.** (a) **Board meetings.** ~~An~~
25 ~~annual meeting of the Board shall be held in January of each year, and at least~~
26 ~~three other meetings shall be held each year to certify exam applicants and certify~~
27 ~~exam results. The chairman or a quorum of the board shall have the authority to~~

1 ~~call other meetings of the Board.~~ The Board shall meet at least four (4) times each
 2 year. The first meeting of the Board in each calendar year shall be known as the
 3 annual meeting. The Board's purpose is to carry out its duties as stated in the
 4 Guam Accountancy Act and Guam Accountancy Act Rules. The chair or a quorum
 5 of the Board shall have the authority to call meetings of the Board. The Board shall
 6 follow and apply the rules of procedure set forth in 5 GCA Chapter 43 regarding
 7 notice and conduct of meetings.

8 **(b) Election and tenure of officers.** ~~At the annual~~ its first meeting in each
 9 calendar year, the Board shall elect from among its members a ~~chairman~~ chair, a
 10 ~~vice-chairman~~ chair, and a ~~secretary~~ such other officers as the Board may require.
 11 The officers shall assume the duties of their respective offices at the conclusion of
 12 the annual meeting at which they were elected. They shall serve a term of one year,
 13 but shall be eligible for reelection ~~for additional terms.~~

14 **(c) Duties of officers.** ~~The chairman~~ chair or, in the event of ~~his~~ the chair's
 15 ~~absence or inability to act,~~ the ~~vice-chairman~~ vice chair shall preside at all
 16 meetings of the Board. ~~Other duties of the officers shall be such as the Board may~~
 17 ~~from time to time determine.~~ The Board shall determine the duties of the officers at
 18 the annual meeting.

| | | |
|----|--|----------|
| 19 | (1) Examination Application (initial) Student of a | |
| 20 | college or university and resident of Guam | \$ 50.00 |
| 21 | _____ (B) Non Student and resident of Guam | 125.00 |
| 22 | _____ (C) Others | 175.00 |
| 23 | (2) Administration of Re-examination, per part | 50.00 |
| 24 | (3) Proctoring fee | 150.00 |
| 25 | (4) Certification | |
| 26 | _____ (A) Initial certification | 200.00 |
| 27 | _____ (B) Reciprocal certification | 200.00 |

| | | |
|----|---|----------------|
| 1 | (5) Permits to practice in lieu of business license: | |
| 2 | — (A) Initial permits (individual) ————— | 100.00 |
| 3 | — (B) Initial permits (firm) ————— | 250.00 |
| 4 | — (C) Renewal of permit (individual) ————— | 75.00 |
| 5 | — (D) Renewal of permit (firm) ————— | 200.00 |
| 6 | (6) Delinquency fee for permit renewal application | |
| 7 | — received after December 31 ————— | \$1.00 per day |
| 8 | — (minimum of \$25.00) | |
| 9 | (7) Copies of records, per page ————— | .50 |
| 10 | (8) Applications for reinstatement ————— | 250.00 |
| 11 | (9) Annual reports of the Board, per copy ————— | 10.00 |

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

13 (d) Fees. Fees charged by the Board shall be as established from time to
14 time. The fees effective November 15, 2011, are as follows:

15 (1) Exam applications (Initial and Re-Exam).

16 (A) Application Processing Fee, Fifty Dollars (\$50.00)/application.

17 (B) NASBA/Prometric/AICPA Fees, shall be determined by the actual
18 amounts specified in the CBT Services Agreement between AICPA,
19 NASBA and Prometric, as amended from time to time.

20 (C) Jurisdictional Testing Fee shall be determined by the actual
21 amounts specified in the agreement between Guam Board of
22 Accountancy and NASBA's CPA Examination Services, or its
23 successor entity, as amended from time to time.

24 (i) The Jurisdictional Testing Fee to be given to Guam Board of
25 Accountancy will be rebated or waived for those applicants
26 who demonstrate Guam residency.

27 (D) Application for Expiration Extensions (for Notice to Schedule,

1 Conditional Credits, etc.), Fifty Dollars (\$50.00)/application.

2 (2) Certification/licensure.

3 (A) Initial.

4 (i) Active, per 22 GCA, §35105(f), Two Hundred Twenty-Five
5 Dollars (\$225.00).

6 (ii) Inactive, per 22 GCA, §35105(f), Two Hundred Twenty-
7 Five Dollars (\$225.00).

8 (iii) Foreign, per 22 GCA, §35106(h), Two Hundred Twenty-
9 Five Dollars (\$225.00).

10 (iv) Substantial Equivalency, per 22 GCA, §35122, Two
11 Hundred Twenty-Five Dollars (\$225.00).

12 (B) Renewal (annually).

13 (i) Active, per 22 GCA, §35105(f), One Hundred Dollars
14 (\$100.00).

15 (ii) Inactive, per 22 GCA, §35105(f), One Hundred Dollars
16 (\$100.00).

17 (iii) Foreign, per 22 GCA, §35106(h), One Hundred Dollars
18 (\$100.00).

19 (iv) Substantial Equivalency, per 22 GCA, §35122, One
20 Hundred Seventy-Five Dollars (\$175.00).

21 (v) Retired, per 22 GCA, §35106(d), One Hundred Dollars
22 (\$100.00).

23 (C) Reactivation or Reinstatement.

24 (i) Active, per 22 GCA, §35105(f), Two Hundred Seventy-Five
25 Dollars (\$275.00).

26 (ii) Inactive, per 22 GCA, §35105(f), Two Hundred Seventy-
27 Five Dollars (\$275.00).

1 (iii) Foreign, per 22 GCA, §35106(h), Two Hundred Seventy-
2 Five Dollars (\$275.00).

3 (iv) Substantial Equivalency, per 22 GCA, §35122, Two
4 Hundred Seventy-Five Dollars (\$275.00).

5 (D) Provisional (every ninety (90) days).

6 (i) Active, per 22 GCA, §35105(f), One Hundred Dollars
7 (\$100.00).

8 (ii) Inactive, per 22 GCA, §35105(f), One Hundred Dollars
9 (\$100.00).

10 (iii) Foreign, per 22 GCA, §35106(h), One Hundred Dollars
11 (\$100.00).

12 (iv) Substantial Equivalency, per 22 GCA, §35122, One
13 Hundred Seventy-Five Dollars (\$175.00).

14 (3) Firm Permits to Practice:

15 (A) Initial, per 22 GCA, §35107(d), Two Hundred Seventy-Five
16 Dollars (\$275.00).

17 (B) Renewal, per 22 GCA, §35107(d), Two Hundred Twenty-Five
18 Dollars (\$225.00) (annually).

19 (C) Reinstatement, per 22 GCA, §35107(d), Two Hundred Seventy-
20 Five Dollars (\$275.00).

21 (D) Provisional, per 22 GCA, §35107(c), Two Hundred Twenty-Five
22 Dollars (\$225.00) (every ninety (90) days).

23 (4) Delinquency fee for late filing of any required CPE forms, or
24 License/Permit renewal application forms Seventy-Five Dollars (\$75.00) per
25 form.

26 (5) Copies of records, Seventy-Five Cents (\$0.75)/page.

27 (6) Annual reports of the Board, Twenty-Five Dollars (\$25.00)/copy.

1 (7) Requests for Interstate Exchange of Information for

2 - Uniform CPA Examination Scores

3 - CPA License Status

4 - Disciplinary Action (if applicable), Twenty-Five Dollars (\$25.00).

5 ~~(e) Reconsideration of Board actions on applications for certificates and~~
6 ~~permits~~ **Obligation of licensees to notify the Board of changes of address and**
7 **other information.**

8 ~~Any applicant for a certificate or permit to practice who is aggrieved by an~~
9 ~~action taken by the Board with respect to his application may request the board to~~
10 ~~recon- sider such action. Any such request shall be filed within sixty days of the~~
11 ~~mailing of the Board's letter advising the applicant of the action complained of, and~~
12 ~~shall contain the following information:~~

13 ~~(1) the name and address of the applicant;~~

14 ~~(2) The date of the Board's letter advising the applicant of the action of the~~
15 ~~board complained of; and~~

16 ~~(3) A statement of any facts or consideration to which the applicant believes~~
17 ~~the Board failed to give due weight.~~

18 All holders of any license(s) issued pursuant to §35106, §35107 or §35122
19 of the Act shall notify the Board in writing within thirty (30) days of any change of
20 address or, in the case of individual licensees, any change of employment.

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

25 ~~(g) **Communications.**~~

26 Holders of any license(s) issued pursuant to §35106, §35107 or §35122 of
27 the Act shall respond in writing to any communication from the Board requesting a

1 response, within thirty (30) days of the mailing of such communication by
2 registered or certified mail, to the last address furnished to the Board by the holders
3 of said license(s) licensee.

4 **(g) Reconsideration of Board actions on applications for License.**

5 Any applicant for a license who is aggrieved by an action taken by the Board
6 with respect to such application may request the Board to reconsider such action.

7 Any such request shall be filed within sixty (60) days of the mailing of the Board's
8 letter advising the applicant of the action complained of, and shall contain the
9 following information:

10 (1) The name and address of the applicant;

11 (2) The date of the Board's letter advising the applicant of the action of the
12 Board complained of; and

13 (3) A statement of any facts or consideration to which the applicant believes
14 the Board failed to give due weight.

15 **§2104. Certified Public Accountants.**

16 **~~(a) Accredited colleges and universities; credit for courses.~~**

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

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

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

26 ~~(A) Middle States Association of Colleges and Secondary Schools;~~

27 ~~(B) New England Association of Schools and Colleges;~~

1 ~~(C) North Central Association of Colleges and Secondary Schools;~~

2 ~~(D) Northwest Association of Schools and Colleges;~~

3 ~~(E) Southern Association of Colleges and Schools; and~~

4 ~~(F) Western Association of Schools and Colleges.~~

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

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

13 ~~(A) Certifies that the applicant's total educational program would qualify~~
14 ~~him~~
15 ~~_____ for graduation with a baccalaureate degree during the time the institution~~
16 ~~_____ has been accredited; and~~

17 ~~(B) Furnishes the Board satisfactory proof, including college catalogue~~
18 ~~course numbers and descriptions, that the pre-accrediting courses used to qualify~~
19 ~~the applicant as an accounting major are substantially equivalent to post-~~
20 ~~accrediting courses.~~

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

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

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

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

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

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

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

16 ~~(iii) The accredited college or university certifies that the applicant is~~
17 ~~in good standing for continuation in the graduate program, or has~~
18 ~~maintained a grade point average in these courses that is necessary for~~
19 ~~graduation, or~~

20 ~~(C) In the case of a United States institution, the University of Guam~~
21 ~~certifies~~

22 ~~— that the applicant's degree is equivalent to a degree from the University~~
23 ~~of~~

24 ~~— Guam with a major in accounting.~~

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

27 **(a) Education requirements – definitions.**

1 (1) “Semester credit hour” (SCH) means the conventional college semester
2 credit hour. “Quarter credit hours” may be converted to semester credit hours by
3 multiplying them by two-thirds; i.e., one quarter credit hour equals two-thirds of a
4 semester credit hour.

5 (2) “College(s) or university(s)” means board-recognized institution(s) of
6 higher education accredited by generally recognized accrediting organizations.

7 (3) “Accreditation” reflects the quality control of the education process
8 provided by generally recognized regional and/or national accreditation
9 organizations. These Rules refer to three levels of accreditation. Level 1 represents
10 the most comprehensive review at the accounting program level and Level 3 is the
11 least comprehensive review at the college or university level. Colleges or
12 universities without accreditation, as defined below, would generally lack any level
13 of accreditation including the college or university, the business school or program
14 (“business school”), and/or the accounting department or program (“accounting
15 program”).

16 (A) Level 1 accreditation – the accounting program. In a Level 1
17 accreditation, the college or university, business school, and the accounting
18 program are separately accredited. This level applies to an accounting
19 program that is accredited by an organization recognized by the Council for
20 Higher Education Accreditation (CHEA) as a specialized or professional
21 accrediting organization, such as the Association to Advance Collegiate
22 Schools of Business-International (AACSB). Accredited accounting
23 programs have met standards substantially higher and much more specific
24 than those required for Level 2 or Level 3 accreditation.

25 (B) Level 2 accreditation – the business school. In a Level 2
26 accreditation, the college or university and the business school are
27 accredited, but the accounting program is not separately accredited. This

1 level applies to a business school that is accredited by an organization
2 recognized by the Council for Higher Education Accreditation (CHEA) as a
3 specialized or professional accrediting organization, such as the AACSB or
4 the Association of Collegiate Business Schools and Programs (ACBSP).

5 (C) Level 3 accreditation – the college or university. In a Level 3
6 accreditation, the college or university is accredited, but neither the business
7 school nor the accounting program meet Level 1 or Level 2 accreditation
8 requirements. This level applies to a degree-granting college or university
9 that is not accredited at Level 1 or Level 2, but is accredited by an
10 organization currently recognized by the Council for Higher Education
11 Accreditation as a regional accrediting organization, such as Middle States
12 Association of Colleges and Schools, New England Association of Schools
13 and Colleges Commission on Colleges or Universities of Higher Education,
14 North Central Association of Colleges and Schools-The Higher Learning
15 Commission, Northwest Commission on Colleges and Universities,
16 Southern Association of Colleges and Schools Commission on Colleges, and
17 Western Association of Schools and Colleges Accrediting Commission for
18 Senior Colleges and Universities.

19 (D) College or university without accreditation – an educational
20 institution or entity that does not have an accreditation of either the college
21 or university, business school, or accounting program; or a college or
22 university accredited by organizations not recognized by the Board.

23 (4) ‘Integration of subject matter’ means a program of learning where
24 certain subjects, which may be discrete courses in some colleges or universities,
25 are integrated or embedded within related courses. Colleges or universities that use
26 an integrated approach to cover such multiple course subjects should provide
27 evidence of the required coverage pursuant to 25 GAR §2104(b)(4) and 25 GAR

1 §2104(b)(5). Acceptance of integration of any subject matter requires Board
2 approval.

3 (5) 'Ethics' means a program of learning that provides students with a
4 framework of ethical reasoning, professional values and attitudes for exercising
5 professional skepticism and other behavior that is in the best interest of the public
6 and profession. At a minimum, an ethics program should provide a foundation for
7 ethical reasoning and the core values of integrity, objectivity and independence.

8 (6) 'Internship' means faculty approved and appropriately supervised short-
9 term work experience, usually related to a student's major field of study, for which
10 the student earns academic credit.

11 (7) 'Independent study' means academic work selected or designed by the
12 student with the approval of the appropriate department of a college or university
13 under faculty supervision. This work typically occurs outside of the regular
14 classroom structure.

15 **~~(b) Education Certification Requirement.~~**

16 ~~For purposes of certification per 22 GCA §35105(c), an applicant will be~~
17 ~~deemed to have met the education requirement if the applicant has met any one of~~
18 ~~the following four (4) conditions:~~

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

22 ~~(2) Earned a graduate degree from a business school or college of business~~
23 ~~that is accredited (level two (2) accreditation) by an accrediting agency recognized~~
24 ~~by the Board and completed at least twenty four (24) semester hours in accounting~~
25 ~~at the upper division or graduate level, or a combination thereof, including courses~~
26 ~~covering the subjects of financial accounting, auditing, taxation, and management~~
27 ~~accounting. (An upper division course is normally defined as a course taken at the~~

1 junior or senior level. In accounting, this would normally be all courses taken
2 beyond the elementary level).

3 ~~(3) Earned a Baccalaureate Degree from a business school or college of~~
4 ~~business that is accredited (level two (2) accreditation) by an accrediting agency~~
5 ~~recognized by the Board and completed at least one hundred fifty (150) semester~~
6 ~~hours, including twenty four (24) semester hours in accounting at the upper~~
7 ~~division or graduate level, including courses covering the subjects of financial~~
8 ~~accounting, auditing, taxation, and management accounting; and completed at least~~
9 ~~thirty six (36) semester hours in business courses (which shall include six (6)~~
10 ~~semester hours in economics, three (3) semester hours in business law, three (3)~~
11 ~~semester hours in finance, and can include accounting courses beyond the~~
12 ~~elementary level in excess of those included to meet the twenty four (24) semester~~
13 ~~hour requirement at the upper division level or graduate level).~~

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

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

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

25 **(b) Education requirements - determining compliance of the applicant's**
26 **education.**

27 (1) These requirements are intended to provide a foundation in accounting

1 and business course subjects. The program should:

2 (A) Develop the skills required to apply the knowledge attained
3 (including skills in communications, research, judgment and analysis).

4 (B) Include and emphasize ethical behavior and professional
5 responsibility.

6 (C) Provide the highest quality instruction in subjects that clearly
7 contribute to the knowledge, skills and abilities necessary to meet the
8 public's expectations of a CPA.

9 (2) For purposes of §35105(c) of the Act, an applicant will be deemed to
10 have met the education requirement(s) if the Board has determined the applicant
11 has met the requirements of 25 GAR §2104(b)(3) and 25 GAR §2104(b)(4),
12 together with appropriate consideration of 25 GAR §2104(b)(1).

13 (3) Determining compliance of the applicant's education shall be
14 accomplished through the Board's use of the following procedures:

15 (A) Reliance on accreditation, as defined in 25 GAR §2104(a)(3), of
16 the college or university, from which the candidate has obtained the
17 necessary degree and hours as defined in 25 GAR §2104(b)(4) for purposes
18 of determining the acceptability of the degree and the amount of detailed
19 review required for compliance with the accounting and business content.

20 State Boards may place significant reliance on the quality, content and
21 delivery method of accounting and business courses included in accounting
22 degrees from Level 1 colleges or universities and as such, transcripts from such
23 colleges or universities would require minimal or no Board review. Colleges or
24 universities with Level 2 accreditation would require little or no Board review of
25 transcripts in terms of the business content, but the accounting content would
26 require more review than Level 1. Transcripts from a Level 3 college or university
27 would require more detailed review by the Board for compliance with the

1 accounting and business content. Degrees from colleges or universities without
2 accreditation or with accreditation by an organization not recognized by the Board
3 would generally not be acceptable.

4 (B) Reliance on other procedures and information where the degree
5 and/or courses were obtained from a college or university(s) not meeting the
6 accreditation requirements of 25 GAR §2104(b)(3)(A). Accepting degrees or
7 courses under 25 GAR §2104(b)(4) should only be based on evidence of
8 acceptable course content, instruction and quality as would be expected by
9 accreditation and as approved by the Board.

10 (C) Reliance on other procedures and information where the
11 requirements of 25 GAR §2104(b)(4) are met by integration of subject
12 matter. The requirements set forth in 25 GAR §2104(b)(5) should be used to
13 determine compliance.

14 (4) An applicant shall be deemed to have satisfied the education
15 requirements if the following conditions are met:

16 (A) Earned a graduate degree and/or a baccalaureate degree at a
17 college or university that is accredited as described in 25 GAR §2104(a)(3),
18 or its equivalent as certified by a credentials evaluation service approved by
19 the Board;

20 (B) Earned a minimum of twenty-four (24) SCH (or the equivalent) of
21 accounting courses at the undergraduate or graduate level, excluding
22 principles or introductory accounting courses, covering some or all of the
23 following subject-matter content, which are to be contemporaneously
24 derived from the Uniform CPA Examination Content Specification Outline
25 (CSO):

26 (i) Financial accounting and reporting for business
27 organizations, government and not-for-profit entities

- 1 (ii) Auditing and attestation services
- 2 (iii) Managerial or cost accounting
- 3 (iv) Taxation
- 4 (v) Ethics (accounting course), as described in 25 GAR
- 5 §2104(b)(4)(F)
- 6 (vi) Other areas included in the CSO or as may be approved by
- 7 the Board.

8 (C) Earned a minimum of two (2) SCH in research and analysis
9 relevant to the course content described in 25 GAR §2104(b)(4)(B) through
10 a discrete undergraduate and/or graduate accounting course, or two (2) SCH
11 integrated throughout the undergraduate and/or graduate accounting
12 curriculum. Colleges or universities must provide evidence of coverage
13 under integration as specified in 25 GAR §2104(b)(5). The SCH earned
14 through a discrete course in research and analysis in accounting may fulfill
15 two (2) SCH of the accounting subject matter requirements in 25 GAR
16 §2104(b)(4)(B).

17 (D) Earned a minimum of twenty-four (24) SCH (or the equivalent) of
18 business courses, other than accounting, at the undergraduate and/or
19 graduate level, covering some or all of the following subject-matter content,
20 as follows:

- 21 (i) a minimum of three (3) SCH in Business law;
- 22 (ii) a minimum of six (6) SCH in Economics;
- 23 (iii) a minimum of three (3) SCH in Finance; and
- 24 (iv) Other areas as may be approved by the Board.

25 (E) Earned a minimum of two (2) SCH in communications in an
26 undergraduate and/or a graduate course listed or cross-listed as an
27 accounting or business course or two (2) SCH integrated throughout the

1 undergraduate or graduate accounting or business curriculum. Colleges or
2 universities must provide evidence of coverage under integration as
3 specified in 25 GAR §2104(b)(5). The SCH earned through a discrete course
4 in communications may fulfill two (2) SCH of the subject matter
5 requirements of 25 GAR §2104(b)(4)(D).

6 (F) Earned a minimum of three (3) SCH in an undergraduate and/or a
7 graduate course listed or cross listed as an accounting or business course in
8 ethics as defined in 25 GAR §2104(a)(5). A discrete three (3) SCH course in
9 ethics may count towards meeting the accounting or business course
10 requirements of 25 GAR §2104(b)(4)(B) or 25 GAR §2104(b)(4)(D). As an
11 alternative, colleges or universities may choose to integrate the course
12 throughout the undergraduate and/or graduate accounting or business
13 curriculum. Universities must provide evidence of coverage under
14 integration as specified in 25 GAR §2104(b)(5). Proof of coverage may be
15 provided through specific evaluation by a national accrediting agency
16 recognized by CHEA, such as AACSB or ACBSP, in which evidence is
17 provided to assure the Board that the program of learning defined in 25 GAR
18 §2104(a)(5) has been adequately covered and at the equivalent of the three
19 (3) SCH minimum. Alternate methods for proof of ethics coverage may be
20 determined and approved by the Board following careful scrutiny.

21 (G) A maximum of six (6) SCH for internships and independent
22 study, as defined in 25 GAR §2104(a)(6) and 25 GAR §2104(a)(7), may
23 count towards the subject matter requirements of 25 GAR §2104(b)(4)(B) or
24 25 GAR §2104(b)(4)(D). However, of the six (6) SCH, a maximum of three
25 (3) SCH may apply to accounting courses under 25 GAR §2104(b)(4).

26 (5) Colleges or universities that use an integrated approach to meet the
27 requirements of 25 GAR §2104(b)(3)(C) and 25 GAR §2104(b)(4)(C, E or F) must

1 provide evidence that the respective subjects adequately cover the desired content,
2 with acceptable instruction and quality to attain the objectives. Proof of coverage
3 may be provided through specific evaluation by a national accrediting agency
4 recognized by CHEA, such as AACSB or ACBSP. Alternate methods for proof of
5 coverage may be determined and approved by the Board following careful
6 scrutiny.

7 **(c) Applications for examination.**

8 (1) Applications to take the Certified Public Accountant Examination must
9 be made on a form provided by the Board and filed with the Board by a due date
10 specified by the Board in the application form.

11 (2) An application will not be considered filed until the application fee and
12 examination fee required by these Rules and all required supporting documents
13 have been received, including proof of identity as determined by the Board and
14 specified on the application form, official transcripts and proof that the candidate
15 has satisfied the education requirement.

16 (3) A candidate who fails to appear for the examination shall forfeit all fees
17 charged for both the application and the examination.

18 (4) The Board, or its designee, will forward notification of eligibility
19 (Authorization to Test) for the computer-based examination to NASBA's National
20 Candidate Database.

21 **(d) Time and place of examination.**

22 Eligible candidates shall be notified of the time and place of the examination
23 or shall independently contact the Board, the Board's designee or a test center
24 operator to schedule the time and place for the examination at an approved test site.
25 Scheduling reexaminations must be made in accordance with 25 GAR §2104(g)(2)
26 below.

27 **(e) Examination subjects content.**

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

3 ~~(A) Auditing;~~

4 ~~(B) Business Law;~~

5 ~~(C) Theory of accounts; and (D) Accounting practice.~~

6 The examination required by §35105 of the Act shall test the knowledge and
7 skills required for performance as an entry-level certified public accountant. The
8 examination shall include the subject areas of accounting and auditing and related
9 knowledge and skills as the Board may require.

10 **(f) Passing grades Determining and Reporting Examination Grades.**

11 ~~A passing grade for each subject shall be seventy five. The Board uses the~~
12 ~~Advisory Grading Service of the American Institute of Certified Public~~
13 ~~Accountants.~~

14 A candidate shall be required to pass all Test Sections of the examination
15 provided for in §35105(d) of the Act in order to qualify for a certificate and
16 license. Upon receipt of advisory grades from the examination provider, the Board
17 will review and may adopt the examination grades and will report the official
18 results to the candidate. The candidate must attain the uniform passing grade
19 established through a psychometrically acceptable standard-setting procedure and
20 approved by the Board.

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

23 ~~(2) An applicant who at one sitting for the examination receives a passing~~
24 ~~grade in any two parts of the examination, or in the subject Accounting Practice I~~
25 ~~and II, and who receives a grade of at least fifty in each of the remaining parts,~~
26 ~~shall be granted credit for parts passed, on the condition that the applicant receives~~
27 ~~a passing grade in each of the remaining parts on reexamination at one or more of~~

1 ~~the next six consecutive examinations, and does not, on any such examination in~~
2 ~~which a passing grade is received on a part, receive a grade of less than fifty in any~~
3 ~~part not then passed.~~

4 **(g) Retake and Granting of Credit Requirements.**

5 (1) A candidate shall be required to pass all sections of the examination
6 provided for in §35105(d) of the Act in order to qualify for a certificate and
7 license.

8 (2) A candidate may take the required Test Sections individually and in any
9 order. Credit for any Test Section(s) passed shall be valid through the end of the
10 eighteenth (18th) month after the actual month the candidate took that Test Section,
11 without having to attain a minimum score on any failed Test Section(s) and
12 without regard to whether the candidate has taken other Test Sections.

13 (A) Candidates must pass all four (4) Test Sections of the Uniform
14 CPA Examination within a rolling eighteen (18)-month period, which begins
15 in the month that the first Test Section(s) passed is taken.

16 (B) Candidates cannot retake a failed Test Section(s) in the same
17 examination window. An examination window refers to a three (3)-month
18 period in which candidates have an opportunity to take the CPA examination
19 (comprised of two (2) months in which the examination is available to be
20 taken and one (1) month in which the examination will *not* be offered while
21 routine maintenance is performed and the item bank is refreshed). Thus,
22 candidates will be able to test two (2) out of the three (3) months within an
23 examination window.

24 (C) In the event all four (4) Test Sections of the Uniform CPA
25 Examination are not passed within the rolling eighteen (18)-month period,
26 credit for any Test Section(s) passed outside the eighteen (18)-month period
27 will expire and that Test Section(s) must be retaken.

1 (3) A candidate shall retain credit for any and all Test Sections of the
2 examination passed in another state if such credit would have been given under
3 then applicable requirements in Guam.

4 (4) A candidate shall be deemed to have passed the Uniform CPA
5 Examination once the candidate holds at the same time valid credit for passing
6 each of the four Test Sections of the examination. For purposes of this section,
7 credit for passing a Test Section of the computer-based examination is valid from
8 the actual month of the Testing Event for that Test Section, regardless of the date
9 the candidate actually receives notice of the passing grade.

10 (5) Notwithstanding 25 GAR §2104(g)(4), the Board may in particular cases
11 extend the term of credit validity upon a showing that the credit was lost by reason
12 of circumstances beyond the candidate's control.

13 **(h) Candidate Testing Fee.**

14 The candidate shall, for each Test Section scheduled by the candidate, pay a
15 candidate Testing Fee to the Board or its designee that includes the fees charged by
16 the AICPA, NASBA, and the Test Delivery Service Provider(s), as well as
17 application fees established by the Board.

18 ~~(h)~~ **(i) Cheating.**

19 (1) Cheating by a candidate ~~an applicant~~ in applying for, taking or
20 subsequent to taking the examination will be deemed to invalidate any grade
21 otherwise earned by a candidate on any Test Section of the examination, and may
22 warrant summary expulsion from the test site examination room and
23 disqualification from taking the examination for a specified period of time number
24 of subsequent sittings.

25 (2) For purposes of this Rule, the following actions or attempted activities,
26 among others, may be considered cheating:

27 (A) Falsifying or misrepresenting educational credentials or other

1 information required for admission to the examination;

2 (B) Communication between candidates inside or outside the test site
3 ~~examination room~~ or copying another candidate's answers while the
4 examination is in progress;

5 (C) Communication with others inside or outside the test site
6 ~~examination room~~ while the examination is in progress;

7 (D) Substitution of another person to sit in the test site examination
8 ~~room~~ in the stead of a candidate ~~and write one or more of the examination~~
9 ~~papers~~;

10 (E) Reference to or possession of crib sheets, text books or other
11 material or electronic media (other than that provided to the candidate as
12 part of the examination) inside or outside the test site examination room
13 while the examination is in progress;

14 (F) Violating the nondisclosure prohibitions of the examination or
15 aiding or abetting another in doing so, or otherwise participating in the
16 collection of Test Items for use, redistribution or sale;

17 (G) Retaking or attempting to retake a Test Section by an individual
18 holding a valid certificate and license or by a candidate who has unexpired
19 credit for having already passed the same Test Section, unless the individual
20 has been directed to retake a Test Section pursuant to Board order or unless
21 the individual has been expressly authorized by the Board to participate in a
22 'secret shopper' program.

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

1 (4) In any case where the Board believes that it has evidence that a candidate
2 has cheated on the examination, including those cases where the a candidate has
3 been expelled from the examination, the Board shall conduct an investigation and
4 may conduct a hearing consistent with the requirements of the 5 GCA §9100 et
5 seq. ('the Administrative Adjudication Law') ~~immediately~~ following the
6 examination session for the purpose of determining whether or not there was
7 cheating, and if so what remedy should be applied. In such proceedings ~~hearings~~,
8 the Board shall decide:

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

11 (B) Whether the candidate shall be barred from taking the
12 examination ~~in future sittings~~ and if so, for what period of time ~~how many~~
13 ~~sittings~~.

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

16 (A) Admonish the candidate;

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

19 (C) Keep a record of the candidate's seat location and identifying
20 information ~~identification number~~, and the names and identifying
21 information ~~identification numbers~~ of the candidates in close proximity ~~on~~
22 ~~either side~~ of the candidate; and/or

23 (D) Notify the National Candidate Database and the AICPA and/or
24 the Test Center of the circumstances, ~~furnishing the candidate's~~
25 ~~identification number~~, so that ~~after the initial grading is completed~~ the
26 candidate ~~after the initial grading is completed~~ may be more closely
27 monitored in future examination sessions ~~have been involved~~.

1 ~~(6) In any case where a candidate is refused credit for parts of the~~
2 ~~examination taken, or is disqualified from taking other parts, the Board shall give~~
3 ~~the candidate a statement containing its findings, the evidence upon which the~~
4 ~~findings are based, and a notice of the right of the candidate to a formal rehearing~~
5 ~~by the Board, with right of appeal, pursuant to the procedures provided in 22 GCA~~
6 ~~§35112.~~

7 ~~(7) In any case~~in which ~~where~~ a candidate is refused credit for any Test
8 Section ~~part~~ of an examination taken, disqualified from taking any Test Section
9 ~~part of the examination~~, or barred from taking the examination in the future , the
10 Board will provide to the Board of Accountancy of any other state to which the
11 candidate may apply for the examination information as to the Board's findings
12 and actions taken.

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

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

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

1 ~~(3) Earned a Baccalaureate Degree from a business school or college of~~
2 ~~business that is accredited (level two (2) accreditation) by an accrediting agency~~
3 ~~recognized by the Board, including twenty four (24) semester hours in accounting~~
4 ~~at the upper division or graduate level, including courses covering the subjects of~~
5 ~~financial accounting, auditing, taxation, and management accounting; and~~
6 ~~completed at least twenty four (24) semester hours in business courses (which shall~~
7 ~~include six (6) semester hours in economics, three (3) semester hours in business~~
8 ~~law, three (3) semester hours in finance, and can include accounting courses~~
9 ~~beyond the elementary level in excess of those included to meet the eighteen (18)~~
10 ~~semester hour requirement at the upper division level or graduate level).~~

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

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

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

21 **Security and Irregularities.** Notwithstanding any other provisions under
22 these rules, the Board may postpone scheduled examinations, the release of grades,
23 or the issuance of certificates due to a breach of examination security;
24 unauthorized acquisition or disclosure of the contents of an examination; suspected
25 or actual negligence, errors, omissions, or irregularities in conducting an
26 examination; or for any other reasonable cause or unforeseen circumstance.

27 **(k) Good moral character.**

1 (1) Applicants have the burden of demonstrating good moral character as
2 defined by §35105(b) of the Act in the manner specified by the Board in its
3 application forms.

4 (2) Prima facie evidence of a lack of good moral character includes, but is
5 not limited to:

6 (A) any deferred prosecution agreement involving an admission of
7 wrongdoing, or any criminal conviction, including conviction following a
8 guilty plea or plea of *nolo contendere*, for any felony or any crime, an
9 essential element of which is fraud, dishonesty, deceit, or any other crime
10 which evidences an unfitness of the applicant to practice public accountancy
11 in a competent manner and consistent with public protection; or

12 (B) active or stayed revocation or suspension of any occupational
13 license, privilege or other authority to practice any licensed occupation by or
14 before any state, federal, foreign or other licensing or regulatory authority,
15 provided the grounds for the revocation or suspension include wrongful
16 conduct such as fraud, dishonesty, or deceit or any other conduct which
17 evidences any unfitness of the applicant to practice public accountancy; or

18 (C) any act which would be grounds for revocation or suspension of a
19 license if committed by a licensee of the Board.

20 (3) Factors which the Board may consider in determining rehabilitation of
21 moral character include, but are not limited, to the following: Completion of
22 criminal probation, restitution, community service, military or other public service,
23 the passage of time without the commission of any further crime or act
24 demonstrating a lack of moral character under 25 GAR 2104(k)(2), the
25 expungement of any conviction, or reduction of a conviction from a felony to
26 misdemeanor.

27 **§2105. Permits to Practice—Individual. (a) Applications. Issuance of**

1 Certificates and Licenses, Renewal of Licenses, Continuing Professional
2 Education, and Reciprocity.

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

10 ~~(2) Applications for renewal of permits shall be accompanied by evidence~~
11 ~~satisfactory to the Board that the applicant has complied with the continuing~~
12 ~~professional education requirements under 22 GCA §35106 and Rule 5-4 unless~~
13 ~~those requirements have been waived pursuant to Rule 5-5.~~

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

17 ~~(b) Experience required for initial permit.~~

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

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

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

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

13 ~~(C) One year of experience shall consist of full time employment for~~
14 ~~a period of at least twelve months which shall include no less than 2,080~~
15 ~~employment hours. For purposes of computing work experience for part-~~
16 ~~time employees, 2,080 employment hours shall be determined to constitute~~
17 ~~one year. Employment may be for one or more employers and may consist~~
18 ~~of any combination of full time and part time employment. For candidates~~
19 ~~sitting for the examination in November, 1991 and thereafter, this~~
20 ~~experience must cover a minimum twenty four month period and maximum~~
21 ~~sixty month period of employment and must be obtained no more than five~~
22 ~~(5) years prior or subsequent to passing the certified public accounting~~
23 ~~examination. Those candidates who have passed their examination prior to~~
24 ~~November, 1991, shall have five years from the date they passed the~~
25 ~~examination or until August, 1996, whichever is later, in order to meet~~
26 ~~these experience requirements.~~

27 ~~(D) The required experience shall be verified by the certified public~~

1 ~~accountant or the firm of certified public accountants supervising the~~
2 ~~applicant on a form provided by the Board.~~

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

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

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

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

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

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

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

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

5 ~~(iv) An internal auditor may gain this experience by working a~~
6 ~~minimum of two (2) years as an internal auditor under the direct~~
7 ~~supervision of a certified public accountant, and by working under~~
8 ~~the direct supervision of an external, independent auditor for two (2)~~
9 ~~annual audits. The experience gained above may also be under the~~
10 ~~direct supervision of a certified public accountant employed by~~
11 ~~government audit agencies in the performance of independent~~
12 ~~financial audits for two (2) annual audits. Qualifications under this~~
13 ~~Section~~

14 ~~(iv) requires a minimum of one hundred sixty (160) hours of~~
15 ~~auditing work under the direct supervision of the external auditor.~~

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

21 ~~(c) Evidence of applicant's experience.~~

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

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

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

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

9 ~~(d) Continuing professional education requirements for renewal of permits to~~
10 ~~practice. The following requirements of contin uing professional education apply~~
11 ~~to the annual renewal of permits to practice pursuant to 22 GCA 35106.~~

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

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

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

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

1 subsection (c).

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

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

9 ~~(f) Programs qualifying for continuing professional education credit.~~

10 ~~(1) Standards—A program qualifies as acceptable continuing professional~~
11 ~~education for purposes of 22 GCA §35106 and Rule 5-4 if it is a formal program of~~
12 ~~learning which contributes to the growth in the professional knowledge and~~
13 ~~professional compe tence of an individual in the practice of public accountancy,~~
14 ~~and meets the minimum standards of quality of development and presentation and~~
15 ~~of measurement and reporting of credits set forth in the Statement of Standards for~~
16 ~~Formal Continuing Educa tion Programs published by the National Association of~~
17 ~~State Boards of Accountancy.~~

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

20 ~~(A) Accounting and auditing;~~

21 ~~(B) Taxation;~~

22 ~~(C) Management;~~

23 ~~(D) Computer Science;~~

24 ~~(E) Mathematics, statistics, probability and quantitative applications in~~
25 ~~accounting and auditing;~~

26 ~~(F) Economics;~~

27 ~~(G) Business law;~~

1 (H) ~~Functional fields of business, including finance, produc- tion, marketing,~~
2 ~~personnel relations, and business manage- ment and organization;~~

3 (I) ~~Specialized areas of industry (film industry, real estate, farming, etc.);~~

4 (J) ~~Administrative practice (engagement letters, personnel, etc.)~~ Subjects
5 ~~other than those listed above may be accept- able if the applicant can demonstate~~
6 ~~that they contribute to his professional competence. The responsibility for demon-~~
7 ~~strating that a particular program is acceptable rests solely upon the applicant.~~

8 (3) ~~Group Programs~~—Group programs such as the following are acceptable
9 ~~so long as they meet the standards specified in subsec- tion (a) and deal with~~
10 ~~subjects referred to in subsection (b):~~

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

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

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

16 (D) ~~Formal in-firm education programs.~~

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

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

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

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

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

9 ~~(5) Correspondence and Formal Individual Study Programs — The amount~~
10 ~~of credit to be allowed for correspondence and formal individual study programs~~
11 ~~(including taped study programs) will be that which is recommended by the~~
12 ~~programs sponsor on the basis of one-half the average completion time under~~
13 ~~appropriate "field tests." Applicants claiming credit for such correspondence or~~
14 ~~formal individual study courses are required to obtain evidence of satisfactory~~
15 ~~completion of the course from the program spon sor. Credit will be allowed in the~~
16 ~~renewal period in which course is completed.~~

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

24 ~~(7) Published Articles, Books — Credit toward the continuing professional~~
25 ~~education requirement may be claimed for published articles and books, provided~~
26 ~~they contribute to the professional competence of the licensee. Credit for~~
27 ~~preparation of such publica tions may be claimed on a self-declaration basis for up~~

1 ~~to twenty five percent of the renewal period requirement. In exceptional~~
2 ~~circumstances a licensee may request additional credit by submit-ting the article(s)~~
3 ~~or book(s) to the Board with an explanation of the circumstances which justify a~~
4 ~~greater credit. The amount of credit awarded for a given publication will be~~
5 ~~determined by the Board.~~

6 ~~(g) Continuing professional education records.~~

7 ~~(1) Applicants for renewal of permits to practice pursuant to 22 GCA~~
8 ~~§35106 shall file with their application therefor a signed statement of the~~
9 ~~continuing professional education programs for which they have claimed credit,~~
10 ~~showing:~~

11 ~~(A) Sponsoring organization;~~

12 ~~(B) Location of program;~~

13 ~~(C) Title of program or description of content;~~

14 ~~(D) Dates attended; and~~

15 ~~(E) Hours claimed.~~

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

20 ~~(A) Copy of the course outline prepared by the course spon-sor along~~
21 ~~with the information required by subsection (a).~~

22 ~~(B) For courses taken for scholastic credit in accredited uni-versities~~
23 ~~and colleges, evidence of satisfactory completion of the course will be~~
24 ~~sufficient; for non credit courses taken, a statement of the hours of~~
25 ~~attendance, signed by the instruc-tor, is required.~~

26 ~~(C) For formal individual study programs, written evidence of~~
27 ~~completion.~~

1 ~~(3) The Board will verify on a test basis information submitted by applicants~~
2 ~~for permits. In cases where the Board determines that the requirement is not met,~~
3 ~~the Board may grant an additional period of time in which the deficiencies can be~~
4 ~~cured.~~

5 ~~(h) Reciprocity.~~

6 ~~(1) The phrase "beyond such applicant's control" as it is used in 22 GCA~~
7 ~~§35105 of the Act may be applied in certain situations when a holder of a~~
8 ~~certificate issued by another state is applying for a permit under the provision of~~
9 ~~§35106.~~

10 ~~(2) Meeting the requirements of 22 GCA §35106 will be consid-ered~~
11 ~~"beyond the applicant's control" as used in §35106(g), and the requirements of~~
12 ~~§35106(d) will be waived,~~

13 ~~(A) if at the time the applicant passed the examination re-quired for~~
14 ~~issuance of a certificate in another state, that state:~~

15 ~~(i) Did not require the applicant to sit for all parts of the~~
16 ~~examination not yet passed, or~~

17 ~~(ii) Did not require a minimum grade of 50 on each part not~~
18 ~~passed at a sitting to obtain credit for parts passed, and~~

19 ~~(iii) The applicant meets all other requirements for issuance of a~~
20 ~~permit; and~~

21 ~~(iv) At the time the applicant took the examination, he had no~~
22 ~~intention of applying for a permit in Guam; and~~

23 ~~(B) Such applicant has a minimum of four years of experi-ence in the~~
24 ~~practice of public accounting in another state while holding a valid license to~~
25 ~~practice.~~

26 ~~(a) Applications.~~

27 ~~Applications for initial certificates and licenses and for renewal of licenses~~

1 pursuant to the Act shall be made on a form provided by the Board. Applications
2 for renewal of licenses are due annually no later than June 30th. Applications will
3 not be considered filed until the applicable fee prescribed in the Rules is received.
4 If an application for renewal is filed late, it shall also be accompanied by the
5 delinquency fee prescribed in the Rules.

6 Applications for renewal of licenses shall be accompanied by evidence
7 satisfactory to the Board that the applicant has complied with the continuing
8 professional education requirements under §35106(d) of the Act and of these
9 Rules.

10 Failure to meet the license renewal requirements by the deadlines set forth in
11 these Rules will result in the license reverting to a delinquent status license. Any
12 delinquent status license that is not renewed to an active, inactive or retired status
13 within three years of reverting to a delinquent status will be cancelled.

14 Submission of an application for an initial certificate and license, or for
15 renewal of a license, shall constitute assurance of applicant's personal compliance
16 with all applicable Guam business and tax laws and filing requirements, and
17 assurance, to the best of applicant's knowledge, that applicant owes no unpaid or
18 delinquent tax obligations. A list of all applicants for initial certificates and
19 licenses, and for renewal of licenses pursuant to the Act shall be submitted to the
20 Director of the Department of Revenue and Taxation for verification of applicants'
21 assurances regarding unpaid or delinquent taxes. Any new or renewing licensee
22 having been issued a valid license and subsequently alleged to have a tax
23 deficiency or delinquency with the Department of Revenue and Taxation shall be
24 subject to disciplinary action by the Board in accordance with a violation of
25 §35109(a) of the Act if such alleged tax deficiency or delinquency is determined
26 by the Board to exist and to have been known to licensee at the time of licensee's
27 application for issuance or renewal of such license.

1 **(b) Experience required for initial certificate and active license.** The
2 experience required to be demonstrated for issuance of an initial certificate and
3 active status license pursuant to §35105 of the Act shall have been obtained within
4 the five (5) years prior to the date of application and shall meet the requirements of
5 this Rule.

6 (1) Experience may consist of providing any type of services or advice using
7 accounting, attest, compilation, management advisory, financial advisory, tax or
8 consulting skills.

9 (2) The applicant shall have their experience verified to the Board by an
10 active status licensee as defined in the Act or from another state. Acceptable
11 experience shall include employment in industry, government, academia or public
12 practice. The Board shall look at such factors as the complexity and diversity of the
13 work. The applicant's experience shall have been performed in accordance with
14 applicable professional standards. Experience in public accounting shall be
15 completed under the supervision or in the employ of a person licensed or otherwise
16 having comparable authority under the laws of any state or country to engage in
17 the practice of public accountancy. Experience in academia, private or
18 governmental accounting or auditing shall be completed under the supervision of
19 an individual actively licensed by a state to engage in the practice of public
20 accountancy. Experience in attest services shall be comprised of at least one
21 thousand (1,000) hours of direct experience in providing attest services under the
22 direct supervision of an individual licensed or otherwise having comparable
23 authority under the laws of any state or country to engage in the practice of public
24 accountancy and provide attest services.

25 (3) One year of experience shall consist of full or part-time employment that
26 extends over a period of no less than a year and no more than three years and
27 includes no fewer than two thousand (2,000) hours of performance of services

1 described in 25 GAR §2105(b)(1) above.

2 **(c) Evidence of applicant's experience.**

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

6 (2) The Board may require any licensee who has furnished evidence of an
7 applicant's experience to substantiate the information.

8 (3) Any applicant may be required to appear before the Board, or its
9 representative, to supplement or verify evidence of experience.

10 (4) The Board may inspect documentation relating to an applicant's claimed
11 experience.

12 **(d) Continuing professional education requirements for renewal of the**
13 **license.**

14 The following requirements of continuing professional education (CPE)
15 apply to the renewal of licenses pursuant to §35106 of the Act:

16 (1) An applicant seeking renewal of an active status license, shall show that
17 the applicant has completed no less than one hundred twenty (120) hours of CPE
18 complying with these Rules during the three year period preceding renewal, with a
19 minimum of twenty (20) hours of CPE in each year. An applicant seeking renewal
20 of an active status license shall demonstrate participation in a program of learning,
21 meeting the standards set forth in the Statement on Standards for Continuing
22 Professional Education (CPE) Programs jointly approved by NASBA and AICPA.

23 (2) An applicant whose license has become delinquent shall complete no less
24 than one hundred twenty (120) hours of CPE complying with these Rules during
25 the three year period preceding the date of application for reactivation. An
26 applicant for reactivation of a delinquent license shall be required to identify and
27 complete a program of learning designed to demonstrate the currency of the

1 licensee's competency directly related to his or her area of service.

2 (3) An active status licensee granted an exception from the competency
3 requirement by the Board may discontinue use of the word 'inactive' or 'retired' in
4 association with their CPA title upon showing that they have completed no less
5 than one hundred twenty (120) hours of continuing professional education
6 complying with these Rules during the three year period preceding their request to
7 discontinue use of the word 'inactive' or 'retired'. An applicant for reactivation of
8 an 'inactive' or 'retired' license shall be required to identify and complete a program
9 of learning designed to demonstrate the currency of the licensee's competency
10 directly related to his or her area of service.

11 **(e) Programs qualifying for continuing professional education credit.**

12 (1) Standards – A program qualifies as acceptable continuing professional
13 education for purposes of §35106(d) of the Act and these Rules if it is a program of
14 learning which contributes to the growth in the professional knowledge and
15 professional competence of a licensee. The program must meet the minimum
16 standards of quality of development, presentation, measurement, and reporting of
17 credits set forth in the Statement on Standards for Continuing Professional
18 Education Programs jointly approved by NASBA and AICPA or such other
19 standards acceptable to the Board.

20 (2) Subject Areas – The Board will accept programs meeting the standards
21 set forth in the Statement on Standards for Continuing Professional Education
22 Programs jointly approved by NASBA and AICPA or standards deemed by the
23 Board to be comparable thereto. The minimum one hundred twenty (120) hours of
24 CPE required for renewal, reactivation or reinstatement of any license shall consist
25 of at least thirty (30) hours of CPE in accounting and auditing subjects, no more
26 than thirty (30) hours of CPE in personal development subjects, and no less than
27 six (6) hours of CPE in ethics subjects.

1 (3) A non-resident licensee seeking renewal of a license in Guam shall be
2 determined to have met the CPE requirement (including the requirements of 25
3 GAR 2105(d)(1)) of this rule by meeting the CPE requirements for renewal of a
4 certificate, or license, in the state in which the licensee's principal place of
5 business is located.

6 (A) Non-resident applicants for renewal shall demonstrate compliance
7 with the CPE renewal requirements of the state in which the licensee's
8 principal place of business is located by signing a statement to that effect on
9 the renewal application of Guam.

10 (B) If a non-resident licensee's principal place of business state has no
11 CPE requirements for renewal of a certificate, or license, the non-resident
12 licensee must comply with all CPE requirements for renewal of a license in
13 Guam.

14 **(f) Continuing professional education records.**

15 (1) Applicants for renewal of active status licenses pursuant to the Act shall
16 file a signed CPE Report form provided by the Board, including a statement
17 indicating they have met the requirements for participation in a program of
18 continuous learning as set forth by the Board or contained in the Statement on
19 Standards for Continuing Professional Education (CPE) Programs jointly approved
20 by the NASBA and the AICPA. Applicants' CPE Reports are due annually no later
21 than January 15th, covering the three year period ending the preceding December
22 31st. Any CPE reporting form received after January 15th, but on or before June 30th
23 will be assessed the delinquency fee for late filing. Applicants who do not meet the
24 CPE requirements for renewal of an active status license by December 31st will be
25 granted an automatic extension until June 1st provided the applicant completes an
26 additional sixteen (16) hours of CPE in accounting and auditing subjects (one
27 hundred thirty-six (136) hours total CPE). Applicants utilizing this automatic

1 extension must ensure the Board receives all required information, forms and fees
2 by June 1st. Responsibility for documenting the acceptability of the program and
3 the validity of the credits rests with the applicant who should retain such
4 documentation for a period of five (5) years following completion of each learning
5 activity.

6 (2) The Board will verify, on a test basis, information submitted by
7 applicants for renewal of licenses. In cases where the Board determines that the
8 requirement is not met, the Board may grant an additional period of time in which
9 the deficiencies can be cured. Fraudulent reporting is a basis for disciplinary
10 action.

11 **(g) Exceptions.**

12 (1) The Board may make an exception to the requirement set out in
13 §2105(d)(1) for a licensee who is retired or who does *not* perform, or offer to
14 perform, for the public one or more kinds of services involving the use of
15 accounting or auditing skills, including the issuance of reports on financial
16 statements or other compilation communication, or of one or more kinds of
17 management advisory, financial advisory or consulting services, or the preparation
18 of tax returns or the furnishing of advice on tax matters.

19 (2) The Board may in particular cases make exceptions to the requirements
20 set out in Rule §2105(d)(1) for reasons of individual hardship including health,
21 military service, foreign residence, or other good cause.

22 (3) Licensees granted such an exception by the Board must place the word
23 ‘inactive’ adjacent to their CPA title on any business card, letterhead or any other
24 document or device, with the exception of their CPA certificate, on which their
25 CPA title appears, unless such exception was granted as a result of licensee’s
26 request for retired status, in which event the licensee must substitute the word
27 ‘retired’ for the word ‘inactive’.

1 (4) Licensees granted an exception by the Board must comply with a
2 reactivation competency requirement defined by the Board as set out in
3 §2105(d)(3) before they may discontinue use of the word ‘inactive’ or ‘retired’ in
4 association with their CPA title.

5 **(h) Interstate practice.**

6 (1) These regulations provide two distinct routes for an individual already
7 licensed in another state to be authorized to practice in Guam. The applicable route
8 depends upon whether the individual will establish a principal place of business in
9 Guam. Individuals establishing a principal place of business in Guam may qualify
10 for a reciprocal license as described in §35106(c)(2) of the Act (substantial
11 equivalence) or as described in §35106(c)(1) of the Act and Rule 25 GAR
12 §2105(h)(2) below. Individuals with a principal place of business in another state
13 may offer or render services in Guam pursuant to substantial equivalence (see
14 §35122(a)(1) or §35122(a)(2) of the Act).

15 (2) Regarding an individual establishing a principal place of business in
16 Guam, if the substantial equivalency standard set out in §35122 of the Act is not
17 applicable, the Board shall issue a reciprocal certificate or license to the holder of a
18 certificate or license issued by another state provided that the applicant meets each
19 of the following requirements:

20 (A) Has successfully completed the CPA examination. Successful
21 completion of the examination means that the applicant passed the
22 examination in accordance with the rules of the other state at the time it
23 granted the applicant’s initial certificate or license.

24 (B) Has satisfied the 4-in-10 experience requirement set out in
25 §35106(c)(1)(B) of the Act.

26 (C) Has experience of the type required under the Act and these Rules
27 for issuance of the initial certificate and license.

1 (D) Has met the CPE requirement pursuant to §35106 (c)(1)(C) of the
2 Act, if applicable.

3 **(i) International reciprocity.**

4 (1) The Board may designate a professional accounting credential issued in a
5 foreign country as substantially equivalent to a CPA license.

6 (A) The Board may rely on the International Qualifications Appraisal
7 Board for evaluation of foreign credential equivalency and may presume that
8 an applicant with a foreign accounting credential that is covered by a
9 currently valid Mutual Recognition Agreement (MRA) is substantially
10 equivalent (subject to other qualifying requirements as provided in the
11 MRA).

12 (B) The Board may accept a foreign accounting credential in partial
13 satisfaction of its domestic credentialing requirements if:

14 (i) the holder of the foreign accounting credential met the
15 issuing body's education requirement and passed the issuing body's
16 examination used to qualify its own domestic candidates; and

17 (ii) the foreign credential is valid and in good standing at the
18 time of application for a domestic credential.

19 (2) The Board may satisfy itself through qualifying examination(s) that the
20 holder of a foreign credential deemed by the Board to be substantially equivalent to
21 a CPA certificate possesses adequate knowledge of United States practice
22 standards and the Board's regulations. The Board may rely on the National
23 Association of State Boards of Accountancy, the American Institute of Certified
24 Public Accountants, or other professional bodies to develop, administer, and grade
25 such qualifying examination(s). The Board will specify the qualifying
26 examination(s) and process by resolution.

27 (3) An applicant for renewal of a CPA license originally issued in reliance

1 on a foreign accounting credential shall:

2 (A) make application for renewal at the time and in the manner
3 prescribed by the Board for all other license renewals;

4 (B) pay such fees as are prescribed for all other license renewals;

5 (C) if the applicant has a foreign credential in effect at the time of the
6 application for renewal of the CPA certification, present documentation
7 from the foreign accounting credential issuing body that the applicant's
8 foreign credential has not been suspended, or revoked, and the applicant is
9 not the subject of a current investigation. If the applicant for renewal no
10 longer has a foreign credential, the applicant must present proof from the
11 foreign credentialing body that the applicant for renewal was not the subject
12 of any disciplinary proceedings, or investigations, at the time that the foreign
13 credential lapsed; and

14 (D) either show completion of continuing professional education
15 substantially equivalent to that required under 25 GAR §2105(d) within the
16 three year period preceding renewal application, or petition the Board for
17 complete or partial waiver of the CPE requirement based on the ratio of
18 foreign practice to practice in Guam.

19 (4) The holder of a CPA license or practice privilege issued or granted by
20 this Board in reliance on a foreign accounting credential or license shall report any
21 investigations undertaken, or sanctions imposed, by a foreign credentialing body
22 against the CPA's foreign credential or license, or any discipline ordered by any
23 other regulatory authority having jurisdiction over the holder's conduct in the
24 practice of accountancy.

25 (5) Suspension or revocation of, or refusal to renew, the CPA's foreign
26 accounting credential by the foreign credentialing body may be evidence of
27 conduct reflecting adversely upon the CPA's fitness to retain the license and may

1 be a prima facie basis for Board action, subject to the following.

2 (6) The Board may presume procedural due process and fairness if the
3 foreign jurisdiction is a party to a current MRA that NASBA, the AICPA and
4 Guam have adopted.

5 (7) Conviction of a felony or any crime involving dishonesty or fraud under
6 the laws of a foreign country is evidence of conduct reflecting adversely on the
7 CPA's fitness to retain the license and is a basis for Board action.

8 (8) The Board shall notify the appropriate foreign credentialing authorities
9 of any sanctions imposed against a CPA.

10 (9)The Board may participate in joint investigations with foreign
11 credentialing bodies and may rely on evidence supplied by such bodies in
12 disciplinary hearings.

13 (j) **Peer review for license holders who do not practice in a**
14 **licensed firm.**

15 A license holder who issues compilation reports as defined in the Act other
16 than through a CPA firm that holds a permit under §35107 of the Act must undergo
17 a peer review as required under 25 GAR §2106(c) and (d).

18 **§2106. Permits to Practice – Firms.**

19 **(a) Applications.**

20 (1) Applications by firms for initial issuance ~~permits to practice~~ and for
21 renewal of permits pursuant to §35107 ~~Section 54006~~ of the Act shall be made on a
22 form provided by the Board. Applications ~~and, in the case of applications for~~
23 renewal of permits are due annually no later than June 30th, ~~shall be filed in~~
24 ~~November for the succeeding calendar year.~~ Applications will not be considered
25 filed until the applicable fee and all required documents prescribed in these Rules
26 are ~~Rule 3-4(e)(2) or 3-4(e)(4)~~ is received by the Board. *If* an application for
27 permit renewal is filed late, it shall also be accompanied by the delinquency fee

1 prescribed in these Rules ~~Rule 3-4(f)~~.

2 (2) A sole proprietor may apply simultaneously ~~applying for a firm permit,~~
3 ~~whether initial or renewal, may join such application with his application~~ for an
4 individual license or a renewal of an individual license and permit, ~~on a Firm~~
5 Permit to Practice and will pay only the form provided ~~for that purpose by the~~
6 ~~Board. The renewal fee for the individual license or renewal thereof firm permit in~~
7 ~~such a case shall be that prescribed in Rule 3-4(e)(3).~~

8 (3) Applications shall include the firm name, addresses and telephone
9 numbers of the main office and of any branch offices of the firm in Guam ~~this~~
10 ~~State,~~ the name of the person in charge ~~manager~~ of each such branch office, and
11 the names of the partners ~~or, in the case of corporations,~~ members,
12 managers, directors and officers whose principal place practicing in this State, ~~and~~
13 ~~in the case of business is in Guam corporations a certified copy of the articles of~~
14 ~~incorporation and the bylaws.~~

15 **(b) Notification of changes by firms.**

16 (1) A firm registered pursuant to §35107 of the Act shall file with the Board
17 a written notification of any of the following events concerning the practice of
18 public accountancy within Guam within thirty (30) days after its occurrence:

19 (A) formation ~~Formation~~ of a new firm

20 (B) addition ~~Admission~~ of a partner, member, manager or shareholder;

21 (C) retirement, withdrawal ~~Retirement~~ or death of a partner, member,
22 manager or shareholder;

23 (D) any ~~Any~~ change in the name of the firm;

24 (E) termination ~~Termination~~ of the firm;

25 (F) change ~~Change~~ in the management of any branch office in Guam;

26 (G) establishment ~~Establishment~~ of a new branch office or the closing or
27 change of address of a branch office in Guam; and

1 (H) Issuance of the firm’s first issued financial statements and accountant’s
2 reports for each level of service described in 25 GAR §2106(c); or

3 (I) ~~the~~ The occurrence of any event or events which would cause such firm
4 partnership or corporation not to be in conformity with the provisions of the Act or
5 these Rules rules.

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

10 (c) **Successful completion of an approved Compliance Assurance**
11 **Program (Peer Review) as a condition for renewal of permit.**

12 (1) In furtherance of its duty to protect the public regarding attest services,
13 the Board requires all CPA firms offering or rendering such services to be enrolled
14 in, and undergo, a transparent compliance assurance program approved by the
15 Board and to comply with the applicable compliance assurance standards of that
16 program. As used herein, the term “Compliance Assurance Program” includes, but
17 is not limited to, “peer review” programs or other comparable programs which
18 have been approved by the Board in accordance with the requirements set forth
19 below.

20 (2) The Compliance Assurance functions may be performed by the Board, a
21 committee established by the Board, qualified contractors approved by the Board
22 or substantially equivalent programs [such as the peer review program
23 administered by the AICPA] acceptable to the Board. The Board may establish
24 procedures to perform the following functions:

25 ~~Quality reviews.~~ Quality reviews as defined in 22 GCA §35103 and
26 references in §35110(b)(1) shall be conducted by the Board from time to time as
27 prescribed by §35110 and §35111 or as required by rules or regulations for

1 membership in the American Institute of CPA's. Fulfillment of any such AICPA
2 requirements will fulfill the Board's quality review requirements under this
3 Chapter.

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

12 Upon undertaking a quality review:

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

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

17 (B) improvement ~~Improvement~~ of reporting practices of licensees
18 through education ~~educational~~ and remediation ~~rehabilitative measures~~;

19 (C) referrals ~~Referrals~~ to the Board of cases requiring further
20 investigation by the Board, or its designees;

21 (D) verification that individuals in the firm responsible for supervising
22 compilation or attest services and signing the accountants' report on behalf
23 of the firm meet the competency requirements set out in applicable
24 professional standards;

25 (E) verification that a licensee who issues compilation reports for the
26 public other than through a CPA firm, who supervises such services and/or
27 signs the compilation report on such financial statements, meets the

1 competency requirements set out in applicable professional standards; and

2 (F) such ~~Such~~ other functions as the Board may assign to its designees
3 ~~the Committee.~~

4 ~~(2)~~ (3) Each applicant for renewal of a license under §35106 of the Act in
5 the case of a licensee who issues compilation reports to the public other than
6 through a CPA firm, and each applicant for renewal of a Firm Permit to Practice
7 under §35107 of the Act shall furnish in connection with their application ~~Each~~
8 ~~reviewee shall furnish in connection with the review,~~ with respect to each office
9 maintained by the applicant in Guam, one copy of each of the following kinds of
10 reports, together with their accompanying financial statements, issued by the
11 license holder or that office during the twelve month period next preceding the date
12 of application, *if* any report of such kind was issued during such period:

13 (A) a ~~A~~ compilation report;

14 (B) a ~~A~~ review report;

15 (C) an ~~An~~ audit report; and

16 (D) a report of the examination of prospective financial information.

17 ~~(3)~~ (4) The Board ~~Committee~~ may also solicit for review reports of licensees
18 and related financial statements from clients, public agencies, banks, and other
19 users of financial statements.

20 ~~(4)~~ (5) Any documents submitted in accordance with 25 GAR §2106(c)(3)
21 ~~subsection (b)~~ may have the name of the client, the client's address and other
22 identifying facts omitted, provided that the omission does not render the type or
23 nature of the enterprise undeterminable. The identities of ~~or~~ the sources of
24 financial statements and reports received by the Board ~~or the Committee~~ from
25 other than the licensees who issued the reports shall be preserved in confidence.
26 Reports submitted to the Board ~~Committee~~ pursuant to 25 GAR §2106(c)(3)
27 ~~subsection (b)~~, and comments of reviewers and of the Board on such reports or

1 ~~workpapers work papers~~ relating thereto, also shall be preserved in confidence
2 except that they may be communicated by the Board ~~to~~ of the licensees who issued
3 the reports.

4 ~~(5)~~ (6) The ~~Committee's~~ review of financial statements and reports of the
5 licensees thereon shall be directed toward the following:

6 (A) ~~presentation~~ Presentation of financial statements in conformity
7 with generally accepted accounting principles;

8 (B) ~~compliance~~ Compliance by licensees with generally accepted
9 auditing standards;

10 (C) ~~compliance~~ Compliance by licensees with other professional
11 standards; and

12 (D) ~~compliance~~ Compliance by licensees with the Rules of the Board
13 and other regulations relating to the performance of compilation and attest
14 services as herein defined relating to the practice of public accounting.

15 ~~(6) In gathering information about the professional work of licens-ees, the~~
16 ~~Committee may make use of investigators, either paid or unpaid, who are not~~
17 ~~members of the Committee.~~

18 (7) The reviews of the financial statements and the reports of the licensees
19 shall be conducted as follows:

20 (A) Compilation level services will be subject to a desk review;

21 (B) Review level services will be subject to a field review in the
22 offices of the licensee;

23 (C) Audit level services and reports of examination of prospective
24 financial information will be subject to a field review in the offices of the
25 licensee;

26 (D) Additional reports and financial statements may be selected
27 during the performance of a desk review or an on-premise field review based

1 upon the size and complexity of the reviewed firm as judged by the Board or
2 its designee to adequately assess the quality of the reviewed firm's
3 professional attest practice.

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

11 A firm's review shall result in one of three findings:

12 (A) Pass;

13 (B) Pass with deficiencies; or

14 (C) Fail.

15 ~~(9) (7) In any instance where the Board Committee finds a deficiency in the~~
16 ~~professional work of a licensee, it shall advise the board which shall advise the~~
17 ~~licensee in writing of the deficiency. The Board may request the licensee to meet~~
18 ~~with it to discuss deficiencies. If the Committee reports to the Board determines~~
19 ~~that a report is substandard or seriously questionable, the Board may direct that a~~
20 ~~review of the workpapers work papers be conducted by a reviewer designated by~~
21 ~~the Committee. The review of the work papers shall be conducted by an~~
22 ~~independent reviewer a person other than the person who performed the review of~~
23 ~~the report. The findings of any such review of the workpapers work papers shall~~
24 ~~be transmitted by the reviewer to the Committee; and, with such changes or~~
25 ~~additions as the committee may deem appropriate, by the committee to the Board.~~

26 (10) In gathering information about the professional work of licensees, the
27 Board may make use of investigators, either paid or unpaid, who are not members

1 of the Board. Except for investigation of non-technical matters, all investigators
2 and consultants hired by the Board who undertake the investigation of Guam CPAs
3 shall be actively licensed certified public accountants with a minimum of five (5)
4 years of active licensure in the area of public accountancy. Non-technical matters
5 are matters not encompassing the technical proficiency of a licensee in the practice
6 of public accountancy.

7 (11) The results of the reviews will be transmitted to the Board within 45
8 days after completion of any review report.

9 **(d) Equivalent reviews as a condition for renewal of a permit.**

10 (1) The requirements of 25 GAR §2106(c) shall not apply with respect to
11 any firm or licensee which within the three years immediately preceding the
12 application had been subjected to a comprehensive and appropriately administered
13 compliance assurance program as determined and approved by the Board.

14 (2) The Board, or an Oversight Committee appointed by the Board, shall
15 monitor the compliance assurance programs to determine that the programs meet
16 the requirements set out in the Act and these Rules. The Board, or the Oversight
17 Committee appointed by the Board, shall:

18 (A) have full access to the peer review process which is subject to
19 oversight and may be required to sign a confidentiality agreement to have
20 this access;

21 (B) be provided with the names of those licensees and firms which
22 have undergone and have had accepted an equivalent review as well as
23 whether such licensees and firms are meeting the terms, conditions, and
24 remedial actions, if any, required by the reviewing organization;

25 (C) establish procedures designed to ensure confidentiality of
26 documents furnished or generated in the course of the review; and

27 (D) coordinate oversight functions conducted within Guam with

1 national oversight objectives and procedures adopted by the NASBA
2 Compliance Assurance Review Board (CARB).

3 (3) The Board shall establish procedures and take all action necessary to
4 ensure that the above materials remain privileged as to any third parties, except
5 those materials subject to public disclosure as provided herein.

6 **(e) Submission of compliance assurance reports to the Board.**

7 (1) Firms qualifying for exemption from compliance assurance review as
8 provided by the provisions of 25 GAR §2106(d) shall notify and affirmatively
9 request the administering entity performing the qualifying satisfactorily equivalent
10 compliance assurance reviews [such as those conducted by AICPA peer review
11 programs and the entities administering those reviews] to provide Board access to
12 the reports within 45 days after the administering entity's acceptance of any review
13 report.

14 (2) Regarding any report required to be submitted to the Board pursuant to
15 this rule, the reviewed firm must retain, for a period of seven (7) years from the
16 date of the report acceptance, all of the following: compliance assurance report (or
17 "peer review report"), letter of comments, letter of response, acceptance letter
18 signed by the reviewed firm agreeing to take corrective actions, and letter of
19 completion indicating that the firm's compliance assurance review is complete.
20 Upon request of the Board, the reviewed firm or individual shall timely submit
21 such documentation to the Board;

22 (3) The objective of this reporting rule is primarily to reinforce the Board's
23 efforts to ensure that only appropriately qualified CPA firms are engaged in the
24 offering and rendering of services subject to compliance assurance. Based upon its
25 review of the reports submitted pursuant to this rule, the Board may consider,
26 pursuant to hearing or by consent, additional corrective actions such as probation,
27 practice limits, additional continuing education, pre-issuance reviews, more

1 frequent peer reviews, and other measures, including, in severe cases, discipline
2 against the reviewed firm and any individual licensees employed or contracted by
3 the reviewed firm.

4 (4) For good cause shown the Board may grant or renew applications for a
5 reasonable period of time pending completion.

6 (f) **Internet practice.** A CPA firm offering or rendering professional
7 services via a Web site shall provide in the Web site's homepage, a name, an
8 address, and principal state of licensure as a means for regulators and the public to
9 contact a responsible licensee in charge at the firm regarding complaints,
10 questions, or regulatory compliance.

11 (g) **Documentation and Retention.** Licensees and CPA firms shall
12 comply with all professional standards applicable to particular engagements,
13 including, but not limited to, standards adopted by recognized standards setting
14 bodies such as the Public Company Accounting Oversight Board (PCAOB), the
15 Comptroller General of the United States, and the Auditing Standards Board.
16 Accordingly, the retention period for Attest Documentation shall be seven (7)
17 years and shall be measured from the report date. Any Attest Documentation
18 involved in a pending investigation or disciplinary action shall not be destroyed
19 until the licensee has been notified in writing of the closure of such investigation or
20 disciplinary proceeding.

21 **§2107. Enforcement Actions against Against Licensees.**

22 **(a) Grounds for enforcement actions against licensees.**

23 The grounds for revocation and suspension of licenses certificates and
24 permits, and other disciplinary action against licensees and individuals with
25 privileges under §35122 of the Act, are set out in §35109 Section 54009 of the Act
26 Code in both specific and general terms. The general terms of that provision of the
27 Act include the following particular grounds for such disciplinary action:

1 (1) Any deferred prosecution agreement involving an admission of
2 wrongdoing, or any criminal conviction, including conviction following a guilty
3 plea or plea of *nolo contendere*, for any felony or any crime, an essential element of
4 which is fraud, dishonesty, or deceit, or any other crime which evidences an
5 unfitness of the applicant to practice public accountancy in a competent manner
6 and consistent with public protection.

7 (2) Active or stayed revocation or suspension of any occupational license or
8 other privilege to practice any licensed occupation by or before any state, federal,
9 foreign or other licensing or regulatory authority, provided the grounds for the
10 revocation or suspension include wrongful conduct such as fraud, dishonesty, or
11 deceit or any other conduct which evidences any unfitness of the applicant to
12 practice public accountancy.

13 (3) Dishonesty, fraud ~~Fraud~~ or deceit in obtaining a license certificate or
14 permit within the meaning of §35109 of 22 GCA § 35110, includes the Act,
15 including the knowing submission to the Board of any knowingly false or forged
16 evidence in, or in support of, an application for a license certificate or permit, and
17 cheating on an examination, as defined in these Rules ~~Rule 4-8.~~

18 (4) ~~(2)~~ Dishonesty, fraud, deceit or gross negligence in the practice of public
19 accountancy, within the meaning of §35109(a)(5) of the Act 22 GCA
20 §35110(a)(5), include knowingly, or through gross negligence, making misleading,
21 deceptive or untrue representations in the performance of services ~~practice of~~
22 public accountancy.

23 (5) ~~(3)~~ Commission of any of the following acts by an applicant or licensee:
24 Violations of the Act or of Rules promulgated under the Act, within the meaning of
25 §35109(a)(6) of the Act, including:

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

1 providing attest or compilation services in Guam without a license issued
2 under §35106 and 35107 of the Act or without properly qualifying to
3 practice across state lines under the substantial equivalency provision of the
4 Act;

5 (B) Using ~~Knowingly using~~ or attempting to use a license certificate
6 ~~or permit~~ which has been suspended or revoked;

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

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

15 (E) Failure to satisfy the continuing professional education
16 requirements set out in §35106(d) of the Act and/or failure to comply with
17 the continuing education requirements of these Rules;

18 (F) Failure to comply with professional standards as to the attest
19 and/or compilation competency requirement for those who supervise attest
20 and/or compilation engagements and sign reports on financial statements or
21 other compilation communications with respect to financial statements; or

22 (G) Failure to comply with the applicable peer review requirements
23 set out in §35106(e) and §35107(i) and these Rules.

24 (6) ~~(4)~~ Conduct reflecting adversely upon the licensee's fitness to perform
25 services engage in the practice of public accountancy, within the meaning of
26 §35109(a)(10) of the Act, including: 22-GCA §35110(a)(10) includes:

27 (A) Adjudication as mentally incompetent;

1 (B) ~~Fiscal dishonesty of any kind;~~

2 Incompetence, including but not limited to:

3 (i) Gross negligence, recklessness, or repeated acts of
4 negligence in the licensee's record of professional practice; or

5 (ii) Any condition, whether physical or mental, that endangers
6 the public by impairing skill and care in providing professional
7 services;

8 (C) Presenting ~~Knowingly~~ presenting as one's own a license
9 ~~certificate or permit~~ issued to another;

10 (D) Concealment ~~Knowing~~ concealment of information regarding
11 violations by other licensees of the Act or the Rules thereunder when
12 questioned or requested by the Board; and

13 (E) Willfully failing to file a report or record required by state or
14 federal law; willfully impeding or obstructing the filing of such a report or
15 record, or inducing another person to impede or obstruct such filing by
16 another; and the making or filing of such a report or record which one knows
17 to be false. A finding, adjudication, consent order or conviction by a federal
18 or state court, agency or regulatory authority or the PCAOB that a licensee
19 has willfully failed to file a required report or record shall be prima facie
20 evidence of a violation of this rule.

21 (F) ~~Violations of the Rules of Professional Conduct as de~~ scribed in
22 ~~Article 14.~~

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

26 (c) **Applicable standards.**

27 A licensee shall follow the standards, as applicable under the circumstances

1 and at the time of the services, set forth in this section in providing professional
2 services. In addition to the applicable standards set forth below, a licensee shall
3 follow standards issued by other professional or governmental bodies including
4 international standards setting bodies with which a licensee is required by law,
5 regulation or the terms of engagement to comply. A licensee shall comply with all
6 applicable standards, including but not limited to the following:

7 (1) A licensee shall not render services subject to the authority of the
8 Securities and Exchange Commission (SEC) or PCAOB unless the licensee has
9 complied with the applicable standards and rules adopted and approved by the
10 PCAOB and SEC.

11 (2) A licensee shall not render auditing services unless the licensee has
12 complied with the applicable generally accepted auditing standards.

13 (3) A licensee shall not render accounting and review services unless the
14 licensee has complied with the standards for accounting and review services issued
15 by the AICPA, including subsequent amendments and editions.

16 (4) A licensee shall not permit the licensee's name to be associated with
17 governmental financial statements for a client unless the licensee has complied
18 with the standards for governmental accounting issued by the Governmental
19 Accounting Standards Board (GASB), including subsequent amendments and
20 editions.

21 (5) A licensee shall not render attestation services unless the licensee has
22 complied with the Statements on Standards for Attestation Engagements issued by
23 the AICPA, including subsequent amendments and editions.

24 (6) A licensee shall not render management consulting services unless the
25 licensee has complied with the standards for management consulting services
26 (including the definition of such services) issued by the AICPA, including
27 subsequent amendments and editions.

1 (7) A licensee shall not render services in the area of taxation unless the
2 licensee has complied with the standards for tax services issued by the AICPA,
3 including subsequent amendments and editions.

4 (8) A licensee shall not permit the licensee's name to be used in conjunction
5 with any forecast of future transactions in a manner which may lead to the belief
6 that the licensee vouches for the achievability of the forecast, and shall not render
7 services associated with prospective financial statements unless the licensee has
8 complied with the standards for accountants' services on prospective financial
9 information issued by the AICPA, including subsequent amendments and editions.

10 (9) A licensee shall not express an opinion on financial statements unless the
11 licensee complies with the Statements of Financial Accounting Standards, together
12 with those Accounting Research Bulletins and Accounting Principles Board
13 Opinions which are not superseded by action of the Financial Accounting
14 Standards Board (FASB), including subsequent amendments and editions.

15 **§2108. Enforcement Procedures – Investigations.**

16 **(a) Review of professional work product.**

17 The Board may solicit and receive publicly available reports of licensees and
18 individuals with privileges under §35122 of the Act and related financial
19 statements from clients, public agencies, banks, and other users of financial
20 statements on a general and random basis without regard to whether an application
21 for renewal of the particular licensee is then pending or whether there is any formal
22 complaint or suspicion of impropriety on the part of any particular licensee or an
23 individual with privileges under §35122 of the Act; and it may review such reports
24 and otherwise proceed with respect to the results of any such review in the fashion
25 prescribed in 25 GAR §2106(c). For purposes of this Rule, such reports may
26 include publicly available inspection reports prepared by the PCAOB.

27 **(b) Reporting convictions, judgments, and administrative proceedings.**

1 (1) Subject to §35104(j) of the Act, licensees shall notify the Board, on a
2 form and in the manner prescribed by the Board, within thirty (30) days of:

3 (A) Receipt of a failed peer review report pursuant to 25 GAR
4 §2106(c)(8)(C), or a PCAOB firm inspection report containing criticisms of or
5 identifying potential defects in the quality control systems.

6 (B) Receipt of a second consecutive peer review report that is deficient
7 pursuant to 25 GAR §2106(c)(8)(B); or

8 (C) Imposition upon the licensee of discipline, including, but not limited to,
9 censure, reprimand, sanction, probation, civil penalty, fine, consent decree or
10 order, suspension, revocation, or modification of a license or practice rights by:

11 (i) the SEC, PCAOB, Internal Revenue Service (IRS) (actions by the
12 Director of Practice); or

13 (ii) another state board of accountancy for any cause other than failure to pay
14 a professional license fee by the due date or failure to meet the continuing
15 professional education requirements of another state board of accountancy; or

16 (iii) any other federal or state agency regarding the licensee's conduct while
17 rendering professional services; or

18 (iv) any foreign authority or credentialing body that regulates the practice of
19 accountancy.

20 (D) Occurrence of any matter reportable that must be reported by the
21 licensee to the PCAOB pursuant to the Sarbanes-Oxley Act Section 102(b)(2)(f)
22 and PCAOB Rules and forms adopted pursuant thereto;

23 (E) Notice of disciplinary charges filed by the SEC, PCAOB, IRS, or
24 another state board of accountancy, or a federal or state taxing, insurance or
25 securities regulatory authority, or foreign authority or credentialing body that
26 regulates the practice of accountancy;

27 (F) Any judgment, award or settlement of a civil action or arbitration

1 proceeding of \$150,000 or more in which the licensee was a party if the matter
2 included allegations of gross negligence, violation of specific standards of practice,
3 fraud, or misappropriation of funds in the practice of accounting; provided,
4 however, licensed firms shall only notify the Board regarding civil judgments,
5 settlements or arbitration awards directly involving the firm's practice of public
6 accounting in Guam; or

7 (G) Criminal charges, deferred prosecution or conviction or plea of no
8 contest to which the licensee is a defendant if the crime is:

9 (i) any felony under the laws of the United States or of any state of the
10 United States or any foreign jurisdiction; or

11 (ii) a misdemeanor if an essential element of the offense is dishonesty,
12 deceit, or fraud.

13 (2) The licensee designated by each CPA firm pursuant to §35107(d)(2)(A)
14 of the Act (as responsible for the proper registration of the firm) shall report any
15 matter reportable under this rule to which a non-licensee owner with a principal
16 place of business in this state is a party.

17 **(c) Participation in multistate enforcement compacts.**

18 Notwithstanding any other provision of law or regulation to the contrary, the
19 Board may participate in any enforcement agreement or compact with other state
20 boards of accountancy to facilitate public protection through the enforcement of
21 the act and cooperate with others in the enforcement of accountancy statutes and
22 rules of Guam and other states.

23 **§2109. 2108. Enforcement Procedures – Hearings by the Board.**

24 **(a) Complaints and notices of hearing.**

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

1 ~~5 and the applicant to have the rights accorded by Rule 11-2.~~

2 (2) A complaint issued by the Board pursuant to §35111(a) of the Act Code
3 will include:

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

5 (B) References to any particular sections of the Act Code or of the Rules
6 which are asserted to have been involved in unlawful conduct ~~the conduct~~
7 ~~complained of.~~

8 (2) ~~(3)~~ When the complaint and notice of hearing are served pursuant to
9 §35111(a) of the Act ~~22-GCA §35112~~, they will be accompanied by:

10 (A) A copy of the Board's Rules under this 25 GAR §2109 Article 11;

11 (B) A copy of §35111 of the Act ~~22-GCA §35112~~;

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

14 (D) A brief statement calling attention to the rights of the licensee or
15 an individual with privileges, under §35122 of the Act, under this Act Code
16 and the Rules, to examine reports and evidence in advance of the hearing; to
17 appear by counsel at the hearing to present evidence; and to appeal an
18 adverse decision.

19 **(b) Examination and copying of documents.**

20 Under §35111(b) ~~Section 54011-(b)~~ of the Act, a licensee respondent has the
21 right in advance of the hearing to examine and copy any report of investigation and
22 documentary or testimonial evidence and summaries of evidence in the Board's
23 possession relating to the subject matter of the complaint. The right of
24 examination may be exercised by the respondent or the respondent's ~~his~~ attorney
25 or agent at the Board's office where the records in question are kept, during regular
26 business hours, on four ~~three~~ days' advance notice in writing. Copies will be
27 promptly furnished of any documents or other materials designated for copying,

1 but the Board may charge a fee for such copying pursuant to these Rules ~~Rule 3-~~
2 ~~4(g)~~.

3 **(c) Conduct of hearing.**

4 (1) A hearing under §35111 of the Act ~~22-GCA-§35113~~ shall be conducted
5 by and shall be under the control of a presiding officer appointed by the Board.
6 ~~Such presiding officer may be either the Chairman of the Board, or an attorney at~~
7 ~~law licensed to practice law in the Territory of Guam appointed by a majority of~~
8 ~~the members of the Board. The Board shall appoint one of its members to present~~
9 ~~the case by the Board, which person may be assisted by legal counsel selected by~~
10 ~~such Board member, at the cost of the Board.~~

11 (2) The order of proceedings shall be as follows:

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

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

18 (C) Rebuttal evidence in support of the complaint.

19 (D) Surrebuttal evidence of the respondent licensee.

20 (E) Closing statements.

21 (F) Board decision, which pursuant to §35111(h) ~~22-GCA-35112(h)~~ of
22 the Act must be by written vote of a majority of the Board excluding
23 members disqualified under §35111(d) of the Act to sustain any charge and
24 impose any penalty.

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

1 (4) The burden of proof ~~presenting evidence~~ to support a violation of the Act
2 ~~fact or Rules position~~ rests with the Board ~~on the proponent of the fact or position.~~

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

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

8 (6) The presiding officer may set reasonable time limits for oral
9 presentation.

10 (7) Exhibits shall be marked, and preserved along with the record of the
11 hearing.

12 **(d) Evidentiary rules.**

13 (1) Under §35111(f) of the Act, 22-GCA §35113(f) the Board is not bound
14 by technical rules of evidence, and in its discretion may consider any evidence of a
15 kind commonly relied upon by reasonably prudent persons in the conduct of their
16 affairs.

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

20 (3) Evidence may be received provisionally, subject to a later ruling by the
21 presiding officer as to its admissibility; but any such ruling must be made *before*
22 closing statements are heard pursuant to 25 GAR §2109(c)(2)(E) Rule 11-3(b)(5).

23 **(e) Publication of decisions.**

24 Decisions by the Board following hearings under §35111 of the Act 22-GCA
25 §35112 will, if they sustain any charge, be made public. Decisions that do not
26 sustain a charge may ~~will not~~ be made public at, ~~unless the respondent licensee~~
27 ~~requests that this be done or~~ the Board's discretion. ~~Board determines that the~~

1 ~~pendency of the charges had itself been the subject of substantial publicity.~~

2 ~~**(f) Appeal.**~~

3 ~~Any person adversely affected by an order of the Board rendered pursuant to~~
4 ~~the procedures herein contained, shall have the right to have such decision~~
5 ~~reviewed by the Superior Court of the Territory of Guam as provided by the~~
6 ~~Administrative Adjudication Law for Judicial review of adjudication decisions as~~
7 ~~therein contained.~~

8 ~~**§ 2110. 2109 Reinstatement.**~~

9 ~~**(a) Applications for relief from disciplinary penalties.**~~

10 (1) A person or firm whose license certificate or permit to practice has been
11 revoked or suspended or an individual whose privileges under §35122 of the Act
12 have been revoked or limited, or a person or firm that who has been put on
13 probation pursuant to §35109 of the Act 22-GCA §35110 may apply to the Board
14 for modification of the suspension, revocation or probation after completion of all
15 requirements contained in ~~at any time after one year has elapsed from the effective~~
16 ~~date of the Board's decision imposing it; except that if any previous application has~~
17 ~~been made with respect to the Board's original order same penalty, no additional~~
18 ~~application will be entertained before the lapse of an additional year following the~~
19 ~~Board's decision on the last such previous application.~~

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

25 ~~**(b) Action by the Board.**~~

26 (1) An application pursuant to 25 GAR §2110(a) ~~Rule 12-1~~ will ordinarily
27 be processed ~~disposed of~~ by the Board upon the basis of the materials submitted in

1 support thereof, supplemented by such additional inquiries as the Board may
2 require ~~deem~~ fit. At the Board's discretion, a hearing may be held on an
3 application, following such procedures the Board may find ~~deem~~ suitable for the
4 particular case.

5 (2) The Board may impose appropriate terms and conditions, ~~as a condition~~
6 for reinstatement of a license certificate or privileges under §35122 of the Act
7 ~~permit~~ or modification of a suspension, revocation or probation, ~~such terms and~~
8 ~~conditions as it deems suitable.~~

9 (3) In considering an application under 25 GAR §2110(a), ~~Rule 12-1~~, the
10 Board may consider all activities of the applicant since the disciplinary penalty
11 from which relief is sought was imposed, the offense for which the applicant was
12 disciplined, the applicant's activities during the time the license certificate or
13 privileges under §35122 of the Act ~~permit~~ was in good standing, the applicant's
14 rehabilitative efforts, restitution to damaged parties in the matter for which the
15 penalty was imposed, and the applicant's general reputation for truth and
16 professional probity.

17 (4) No application for reinstatement will be considered while the applicant is
18 under sentence for any criminal offense, including any period during which the
19 applicant is on court-imposed probation or parole.

20 **§2111. §2110. Unlawful Acts.**

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

23 (1) ~~The firm name implies the existence of a corporation when the firm is~~
24 ~~not a corporation;~~

25 (2) ~~The firm name implies existence of a partnership when there is not a~~
26 ~~partnership (as in "Smith & Jones, C.P.A.'s"); or~~

27 (3) ~~The firm name includes the name of a person who is neither a present nor~~

1 a past partner or shareholder of the firm.

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

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

9 (1) ~~By display, in an office or other place of business, of the original of a~~
10 ~~currently valid certificate;~~

11 (2) ~~For identification as a faculty member in an educational institution, for~~
12 ~~purposes of functioning in the capacity as such a faculty member;~~

13 (3) ~~For identification as the author of a book, article or other publication,~~
14 ~~provided that such publication does not offer the performance of services, or the~~
15 ~~sale of products (other than a book, article or other publication) of any kind.~~

16 (4) ~~Their certification is published in certification or society membership~~
17 ~~directories, or is included in the sale of mailing labels, or when certification or~~
18 ~~membership status is confirmed.~~

19 (5) ~~Use of the title in the form of a disclosure, when a certificate holder is~~
20 ~~required by law to disclose the fact of certification as a CPA, is not "holding out"~~
21 ~~for the purposes of this Rule.~~

22 (6) ~~Displaying membership in CPA association.~~

23 (7) ~~Displaying certificates of other jurisdictions.~~

24 (8) ~~This Rule would not prevent a licensee in private accounting or in the~~
25 ~~teaching profession from identifying himself as a CPA as long as he is not offering~~
26 ~~accounting services to the public. For example, a controller of a company could~~
27 ~~affix CPA after his name; but a trust officer in a bank, or an individual selling~~

1 ~~securities or tax shelters could not do so, since these activities would represent~~
2 ~~offering accounting skills to the public while "holding out".~~

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

5 **(a) CPA firm names.**

6 A CPA Firm name may not be used unless such name has been registered
7 with and approved by the Board.

8 (1) A misleading CPA Firm name is one which:

9 (A) Contains any representation that would be likely to cause a
10 reasonable person to misunderstand or be confused about the legal form of
11 the firm, or about who are the owners or members of the firm, such as a
12 reference to a type of organization or an abbreviation thereof which does not
13 accurately reflect the form under which the firm is organized, for example:

14 (i) Implies the existence of a corporation when the firm is not a
15 corporation such as through the use of the words "corporation",
16 "incorporated", "Ltd.", "professional corporation", or an abbreviation
17 thereof as part of the firm name if the firm is not incorporated or is not
18 a professional corporation;

19 (ii) Implies the existence of a partnership when there is not a
20 partnership such as by use of the term "partnership" or "limited
21 liability partnership" or the abbreviation "LLP" if the firm is not such
22 an entity;

23 (iii) Includes the name of an individual who is not a CPA if the
24 title "CPAs" is included in the firm name;

25 (iv) Includes information about or indicates an association with
26 persons who are not members of the firm, except as permitted
27 pursuant to §35113(h) of the Act; or

1 (v) Includes the terms "& Company", "& Associate", or
2 "Group", but the firm does not include, in addition to the named
3 partner, shareholder, owner, or member, at least one other unnamed
4 partner, shareholder, owner, member, or staff employee.

5 (B) Contains any representation that would be likely to cause a
6 reasonable person to have a false or unjustified expectation of favorable
7 results or capabilities, through the use of a false or unjustified statement of
8 fact as to any material matter;

9 (C) Claims or implies the ability to influence a regulatory body or
10 official;

11 (D) Includes the name of an owner whose license has been revoked
12 for disciplinary reasons by the Board, whereby the licensee has been
13 prohibited from practicing public accountancy or prohibited from using the
14 title CPA or holding himself out as a Certified Public Accountant.

15 (2) The following types of CPA Firm names are not in and of themselves
16 misleading and are permissible so long as they do not violate the provisions of 25
17 GAR 2111(a)(1):

18 (A) A firm name that includes the names of one or more former or
19 present owners;

20 (B) A firm name that excludes the names of one or more former or
21 present owners;

22 (C) A firm name that uses the "CPA" title as part of the firm name
23 when all named individuals are owners of the firm who hold such title or are
24 former owners who held such title at the time they ceased to be owners of
25 the firm;

26 (D) A firm name that includes the name of a non-CPA owner if the
27 "CPA" title is not a part of the firm name;

1 (3) A Network firm as defined in the AICPA Code of Professional Conduct
2 (“Code”) in effect December 15, 2014 may use a common brand name, or share
3 common initials, as part of the firm name;

4 (4) A Network firm as defined in the AICPA Code of Professional Conduct
5 (“Code”) in effect December 15, 2014 may use the Network name as the firm’s
6 name, provided it also shares one or more of the following characteristics with
7 other firms in the network:

8 (A) Common control, as defined by generally accepted accounting
9 principles in the United States, among the firms through ownership,
10 management, or other means;

11 (B) Profits or costs, excluding costs of operating the association, costs
12 of developing audit methodologies, manuals and training courses, and other
13 costs that are immaterial to the firm;

14 (C) Common business strategy that involves ongoing collaboration
15 amongst the firms whereby the firms are responsible for implementing the
16 association’s strategy and are held accountable for performance pursuant to
17 that strategy;

18 (D) Significant part of professional resources;

19 (E) Common quality control policies and procedures that participating
20 firms are required to implement and that are monitored by the association.

21 **(b) Safe harbor language.**

22 Non-licensees may use the following disclaimer language in connection with
23 financial statements to not be in violation of the Act:

24 ‘I (we) have prepared the accompanying (financial statements) of (name of
25 entity) as of (time period) for the (period) then ended. This presentation is limited
26 to preparing in the form of financial statements information that is the
27 representation of management (owners).

1 I (we) have not audited or reviewed the accompanying financial statements
2 and accordingly do not express an opinion or any other form of assurance on
3 them.'

4 **§2112. Substantial Equivalency**

5 **(a) Substantial Equivalency and Internet Practice.**

6 An individual entering into an engagement to provide professional services
7 via a Web site pursuant to §35122 of the Act shall disclose, via any such Web site,
8 the state of the individual's principal place of business, license number and an
9 address as a means for regulators and the public to contact the individual regarding
10 complaints, questions or regulatory compliance.

11 **(b) Practice in other states through substantial equivalency.**

12 As a pre-condition for the use of practice privileges in another jurisdiction,
13 any licensee of Guam offering or rendering services in or to another jurisdiction
14 pursuant to practice privileges based upon their license from Guam is deemed to
15 have consented to the administrative jurisdiction of the other state board of
16 accountancy, and is deemed to have consented to the requirements of the Act. The
17 failure by a licensee of Guam to cooperate in another state's board of
18 accountancy's investigation shall be grounds for discipline by this Board.

19 **(c) Reporting moral character violations.**

20 (1) Any individual using practice privileges in Guam, shall notify this Board
21 within thirty (30) days of any occurrence described in 25 GAR §2107(a)(1) or
22 §2107(a)(2).

23 (2) Any licensee of Guam using practice privileges in another state shall
24 notify this Board and the state board of any other state in which said licensee uses
25 practice privileges within thirty (30) days of any occurrence described in 25 GAR
26 §2107(a)(1) or §2107(a)(2).

27 **(d) Continuing professional education requirements for practice**

1 **privileges.**

2 Any individual using practice privileges in Guam who complies with the
3 CPE requirements applicable in the state where their principal place of business is
4 located, shall be deemed to have complied with the CPE requirements of Guam.

5 **§ ~~2113~~ 2111. Code of Professional Conduct.**

6 (a) **Ethical Rules.** In the case of licensees ~~CPA's~~, the Code of Professional
7 Conduct of this Board are those published separately for purposes of
8 convenience and are those published by the American Institute of CPA's
9 entitled AICPA Code of Professional Conduct, as adopted, and any
10 revisions ~~amendments~~ made thereto ~~to the same thereafter~~. These Rules
11 shall be known as the Code of Professional Conduct and by reference
12 thereto are included herein and shall have the full force and effect of a
13 regulation of this Board. These Rules are promulgated for the purpose of
14 maintaining high standards of professional conduct by licensees ~~these~~
15 ~~licensed and registered as Certified Public Accountants.~~”

16 **Section 46.** Section 45 of this Act is considered part of the Guam
17 Administrative Rules and may be amended through the Administrative
18 Adjudication process.

19 **Section 47. Severability.** *If* any provision of this law or its application to
20 any person or circumstance is found to be invalid or contrary to law, such
21 invalidity shall *not* affect other provisions or applications of this law which can be
22 given effect without the invalid provisions or application, and to this end the
23 provisions of this law are severable.