

NEW JERSEY REGISTER
VOLUME 37, ISSUE 22
ISSUE DATE: NOVEMBER 21, 2005
RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF ACCOUNTANCY

Readoption with Amendments: N.J.A.C. 13:29
Adopted Repeals: N.J.A.C. 13:29-3.9, 3.13 and 5.9

New Jersey State Board of Accountancy Rules

Proposed: May 2, 2005 at 37 N.J.R. 1408(a).

Adopted: July 28, 2005 by the New Jersey State Board of Accountancy, Andrew L. DuBoff, CPA, President.

Filed: October 27, 2005 as R.2005 d.410, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Effective Date: October 27, 2005, Readoption; November 21, 2005, Amendments and Repeal.

Expiration Date: October 27, 2010.

Summary of Public Comment and Agency Response:

The Board received no comments on the proposal.

Summary of Agency-Initiated Changes:

N.J.A.C. 13:29-1A.3(c) currently permits a person who holds a baccalaureate degree or its equivalent to sit for the Certified Public Accountant Examination if he or she applies to take the examination prior to July 1, 2005. The regulation provides further that the applicant may not be licensed, however, until he or she completes the required 150 hours of education. The regulation was promulgated consistent with the statutory provision set forth at N.J.S.A. 45:2B-49 of the Accountancy Act. During the pendency of this rulemaking, the Legislature enacted P.L. 2005, c.104, which amended N.J.S.A. 45:2B-49 by deleting the July 1, 2005 deadline by which applicants with only a baccalaureate degree would be eligible to take the examination. The statute now provides that applicants with 120 semester hours of education may sit for the examination without any limitation. P.L. 2005, c.104 continues to provide that such applicants may not be licensed, however, until they have completed 150 semester hours of education. In order to ensure that its regulation comports with this statutory change, the Board has amended N.J.A.C. 13:29-1A.3(c), on adoption, to delete the July 1, 2005 cut-off date by which applicants with a baccalaureate degree may sit for the examination. The regulation, as amended, provides that applicants with a baccalaureate degree or its equivalent may sit for the examination without any limitation, but that such applicants who pass the examination may not be licensed until they have completed 150 hours of education.

The Board is also amending N.J.A.C. 13:29-1A.10, 2.3 and 6.2, on adoption, in order to clarify the amount of continuing professional education required of licensees seeking to return to practice following a suspension or the election of inactive status. Certified Public Accountants and Registered Municipal Accountants seeking reinstatement within five years of a license suspension or seeking reinstatement from the election of inactive status must, pursuant to N.J.A.C. 13:29-1A.10(e) and (i), and N.J.A.C. 13:29-2.3(e) and (h), submit evidence of having completed all continuing professional education credit hours consistent with N.J.A.C. 13:29-6.2(f). N.J.A.C. 13:29-6.2(f), as proposed, provides that an inactive or suspended licensee seeking reinstatement shall have completed 120 credit hours of continuing professional education within the three year period prior to reinstatement. Subsection (f) of N.J.A.C. 13:29-6.2, however, goes on to provide that accountants inactive or suspended for more than one year, but less than two years, must complete 80 hours of continuing education, and that accountants inactive or suspended for one year or less must complete 40 hours of continuing education. The provisions requiring the completion of 80 or 40 hours of continuing professional education are inconsistent with the initial requirement of subsection (f) that all those seeking reinstatement complete 120 hours within the three year period prior to reinstatement. Therefore, the Board has

amended N.J.A.C. 13:29-6.2(f), on adoption, to delete the provisions relating to the 80 and 40 hours of continuing education. In addition, in order to provide greater clarity, the Board has amended N.J.A.C. 13:29-1A.10(e) and (i), and N.J.A.C. 13:29-2.3(e) and (h), on adoption, to delete the existing cross references to N.J.A.C. 13:29-6.2(f) in each subsection and has instead reiterated the requirement, set forth in N.J.A.C. 13:29-6.2(f), that licensees applying for reinstatement must show evidence of having completed 120 continuing professional education credits within the three-year period prior to reinstatement.

The Board is also amending N.J.A.C. 13:29-1A.10(f) and 2.3(f), on adoption, to clarify that Certified Public Accountants and Registered Municipal Accountants who must retake an examination in order to be reinstated following a license suspension of more than five years are not required to also submit evidence of continuing education. As the rules were proposed, licensees seeking reinstatement after more than five years out of practice are required to satisfy the requirements set forth in subsection (e) of their respective rules, which require the submission of a renewal application, past due renewal fees, a reinstatement fee, outstanding penalties imposed by the Board, and evidence of having completed continuing education requirements. The Board did not intend applicants applying for reinstatement following a suspension of five years or more who are required to retake the examination for initial licensure, to also provide proof of continuing professional education. The Board intended such applicants to satisfy all requirements in (c), except for the continuing education requirement. The cross-references to subsection (e) in N.J.A.C. 13:29-1A.10(f) and 2.3(f) should have been limited to the provisions in paragraphs (e)1 through 4, and not subsection (e) in its entirety. The Board has made this change to both N.J.A.C. 13:29-1A.10(f) and 2.3(f) on adoption. The Board notes that it has also corrected a typographical error in the citation provided in subsection (f) of N.J.A.C. 13:29-6.2. The current reference to N.J.A.C. 13:29-2.3(g) is incorrect and should have instead referred to N.J.A.C. 13:29-2.3(h).

Federal Standards Statement

A Federal standards analysis is not required because the readopted rules and amendments are governed by N.J.S.A. 45:2B-42 et seq., and are not subject to any Federal standards or requirements. Although the rules in N.J.A.C. 13:29 are not subject to any Federal requirements or standards, where deemed appropriate, the Board has incorporated Federal standards. Specifically, N.J.A.C. 13:29-3.8, concerning contingent fees, and N.J.A.C. 13:29-3.12, concerning commissions and performance fees, provide that any licensee who receives a contingent fee, a performance fee, or a commission must comply with all applicable Federal securities laws and the rules promulgated thereunder, as well as all applicable Federal registration requirements, including the Investment Advisors Act of 1940 (15 U.S.C. § § 80b-1 et seq.), the Uniform Securities Law (1997) and the Securities Act of 1933 (15 U.S.C. § § 77a et seq.), and the Securities Exchange Act of 1934 (15 U.S.C. § § 78a et seq.).

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:27.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

13:29-1.3 Notification of change of address; service of process

(a)A licensee of the Board of Accountancy shall notify the Board in writing of any change of his or her address of record. For purposes of this section, "address of record" means an address designated by a licensee which is part of the public record and which may be disclosed upon request. "Address of record" may be a licensee's home, business or mailing address, but shall not be a post office box unless the licensee also provides another address which includes a street, city, state and zip code. Notice shall be sent to the Board by mail or by electronic means, no later than 30 days following the change of address of record.

(b)Failure to notify the Board of any change in a licensee's address of record pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h) and the imposition of the penalties set forth in N.J.S.A. 45:1-25.

(c)Service of any administrative complaint or other Board-initiated process at a licensee's address of record shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and commencement of any disciplinary proceedings.

13:29-1.4 Filing constitutes agreement

The act of filing an application for examination, or an application for licensure by waiver of examination based upon licensure in another jurisdiction, shall constitute an agreement on the part of the applicant that the applicant will observe and conform to the requirements of this chapter.

13:29-1.5 Fees

(a) Fees for Certified Public Accountants, Public Accountants, and accounting firms, including sole proprietorships, partnerships, professional corporations, limited liability companies, or limited liability partnerships are as follows:

1. Application fee: \$ 75.00;
2. Initial license fee (for Certified Public Accountants and accounting firms only):
 - i. During the first year of a triennial registration period: \$ 90.00;
 - ii. During the second year of a triennial registration period: \$ 60.00;
 - iii. During the third year of a triennial registration period: \$ 30.00;
3. Triennial registration: \$ 90.00;
4. Reinstatement of license: \$ 150.00;
5. Late renewal fee: \$ 50.00;
6. Inactive status renewal: \$ 45.00;
7. Replacement wall certificate: \$ 40.00;
8. Replacement license: \$ 25.00.

(b) Fees for applicants seeking licensure by waiver of examination based upon licensure in another jurisdiction are as follows:

1. Application fee: \$ 75.00;
2. Waiver of examination fee: \$ 100.00.

(c) Fees for Registered Municipal Accountants are as follows:

1. Examination fee: \$ 225.00;
2. Reexamination fee: \$ 175.00;
3. Initial license fee:
 - i. During the first year of a triennial registration period: \$ 90.00;
 - ii. During the second year of a triennial registration period: \$ 60.00;
 - iii. During the third year of a triennial registration period: \$ 30.00;
4. Triennial registration: \$ 90.00;

5. Reinstatement of license: \$ 150.00;
6. Late renewal fee: \$ 50.00;
7. Inactive status renewal: \$ 45.00;
8. Replacement wall certificate: \$ 40.00;
9. Replacement license: \$ 25.00.

(d) Fees for Public School Accountants are as follows:

1. Triennial registration fee: \$ 50.00.

(e) (No change in text.)

13:29-1A.3 Applications for examination; education and experience requirements

(a)-(b) (No change.)

(c) Notwithstanding the provisions of (b)2 above, an applicant *[who applies prior to July 1, 2005,]* shall qualify for examination if the applicant has a baccalaureate degree or its equivalent from an institution of higher education accredited by a regional accrediting agency recognized by the Commission on Higher Education. Such applicant, however, shall not be issued a license until successful completion of at least 150 semester hours of education, as set forth in (b)2 above. The 150 semester hours of education requirement shall not apply to an applicant who obtained a baccalaureate degree or its equivalent prior to July 1, 2000 and was qualified for licensure prior to such date, as set forth in (b)1 above.

(d)-(h) (No change.)

13:29-1A.8 Licensure by waiver of examination for applicants licensed in another jurisdiction; application procedures

(a) Applications for licensure by waiver of examination based upon licensure in another jurisdiction shall be made on a form supplied by the Board that shall require applicants to provide the following information:

1.-4. (No change.)

(b) Applications for licensure by waiver of examination based upon licensure in another jurisdiction shall be accompanied by the following items:

1. The waiver of examination, initial license and application fees for Certified Public Accountants as set forth in N.J.A.C. 13:29-1.5;

2. (No change.)

(c) (No change.)

13:29-1A.10 Licensee requirements; renewal; suspended license; reinstatement; inactive status

(a)-(d) (No change.)

(e) A licensee who has had his or her license suspended pursuant to (c) above may apply to the Board for reinstatement within five years following the date of license expiration. A licensee applying for reinstatement shall submit:

1. A renewal application, including an affidavit of employment listing each job held during the period of license suspension, including the names, addresses, and telephone numbers of each employer;
2. All past due renewal fees set forth in N.J.A.C. 13:29-1.5;
3. The reinstatement fee set forth in N.J.A.C. 13:29-1.5;
4. Any outstanding penalties imposed by the Board; and
5. Evidence of having completed *[all]* *120* continuing professional education credit hours *[consistent with the requirements set forth at N.J.A.C. 13:296.2(f)]* *in the three-year period prior to reinstatement.*

(f) If a Certified Public Accountant has had his or her license suspended pursuant to (c) above for more than five years, and wishes to have the license reinstated, then he or she shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:29-1A.2 and shall submit the documents required by (e) *1 through 4* above.

(g) If a Public Accountant has had his or her license suspended pursuant to (c) above for more than five years, and wishes to have the license reinstated, then he or she shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while suspended may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

(h) The Board shall send a notice of renewal to each licensee at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall be imposed upon the licensee for failure to renew.

(i) A licensee may, upon application to the Board, choose inactive licensure status. A licensee electing inactive status shall not engage in the practice of accountancy in New Jersey for the entire triennial registration period unless the licensee applies to the Board to resume active practice. A licensee on inactive status seeking to resume the practice of accountancy in New Jersey shall apply to the Board and shall submit:

1. A renewal application, including an affidavit of employment listing each job held during the period of license inactivity, including the names, addresses, and telephone numbers of each employer;
2. The renewal fee for the current triennial registration period set forth in N.J.A.C. 13:29-1.5; and
3. Evidence of having completed *[all]* *120* continuing professional education credit hours *[consistent with the requirements set forth at N.J.A.C. 13:29-6.2(f)]* *in the three-year period prior to reinstatement*.

(j) A licensee who has elected inactive status shall not use, in any form, the title or designation of certified public accountant, public accountant, accountant or auditor, or any other title or designation that implies that the person holds a valid, active license from the Board. Inactive licensees may use such titles or designations provided the titles or designations contain the word inactive.

13:29-2.3 Licensee requirements; renewal; suspended license; reinstatement; inactive status

(a)-(d) (No change.)

(e) A licensee who has had his or her license suspended pursuant to (c) above may apply to the Board for reinstatement within five years following the date of license expiration. A licensee applying for reinstatement shall submit:

1. A renewal application, including an affidavit of employment listing each job held during the period of license suspension, including the names, addresses, and telephone numbers of each employer;

2. All past due renewal fees set forth in N.J.A.C. 13:29-1.5;
 3. The reinstatement fee set forth in N.J.A.C. 13:29-1.5;
 4. Any outstanding penalties imposed by the Board; and
 5. Evidence of having completed *[all]* *120* continuing professional education credit hours *[consistent with the requirements set forth at N.J.A.C. 13:29-6.2(f)]* *in the three-year period prior to reinstatement*.
- (f) If a Registered Municipal Accountant has had his or her license suspended pursuant to (c) above for more than five years, and wishes to have the license reinstated, then he or she shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:29-2.2 and shall submit the documents required by (e) *1 through 4* above.
- (g) The Board shall send a notice of renewal to each licensee at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall be imposed upon the licensee for failure to renew.
- (h) A Registered Municipal Accountant holding an active Certified Public Accountant or Public Accountant license may, upon application to the Board, choose inactive Registered Municipal Accountant licensure status. A Registered Municipal Accountant holding an inactive Certified Public Accountant or Public Accountant license, pursuant to N.J.A.C. 13:29-1A.10, shall elect inactive status. A Registered Municipal Accountant electing inactive status shall not engage in active registered municipal accounting practice in New Jersey for the entire triennial registration period unless the licensee applies to the Board to resume active practice. A Registered Municipal Accountant on inactive status seeking to resume the practice of registered municipal accounting in New Jersey shall apply to the Board and shall submit:

1. A renewal application, including an affidavit of employment listing each job held during the period of license inactivity, including the names, addresses, and telephone numbers of each employer;
2. The renewal fee for the current triennial registration period set forth in N.J.A.C. 13:29-1.5;
3. Evidence of having completed *[all]* *120* continuing professional education credit hours *[consistent with the requirements set forth at N.J.A.C. 13:29-6.2(f)]* *in the three-year period prior to reinstatement*^{*}; and
4. Evidence of an active Certified Public Accountant or Public Accountant license.

(i) A Registered Municipal Accountant who has elected inactive status shall not use, in any form, the title or designation of registered municipal accountant or any other title or designation that implies that the person holds a valid, active Registered Municipal Accountant license from the Board. Inactive Registered Municipal Accountant licensees may use such titles or designations provided the titles or designations contain the word inactive.

13:29-3.9 (Reserved)

13:29-3.13 (Reserved)

13:29-5.9 (Reserved)

13:29-6.2 Credit-hour requirements

(a) Each applicant for a triennial license renewal is required to complete, during the preceding triennial period, 120 hours of continuing professional education, except as provided in (c) through (f) below. The types of continuing professional education programs and other sources of continuing professional education for which credit hours may be obtained are set forth in N.J.A.C. 13:29-6.5. The 120 hours of continuing professional education shall include at least 24 credit hours in the areas of auditing, review and compilation for persons who are engaged in the practice of public

accounting or are involved with the attest function in issuing audit, review or compilation reports. All applicants shall complete at least 72 credit hours of the required 120 credit hours in the technical subjects set forth in N.J.A.C. 13:29-6.3. All applicants shall complete four credit hours of the required 120 credit hours in the New Jersey law and ethics course set forth in N.J.A.C. 13:29-6.3A. The remaining 44 credit hours of the required 120 credit hours may include subjects specified in N.J.A.C. 13:29-6.4. No licensee shall receive credit for any course offered by a Board-approved continuing professional education sponsor in subjects other than those enumerated in N.J.A.C. 13:29-6.3, 6.3A or 6.4. For the triennial period commencing January 1, 2003 only, a licensee who has completed an approved law and ethics course, in addition to the required 120 hours of continuing professional education in the preceding triennial period, may apply the four credit hours in the New Jersey law and ethics course toward satisfaction of the requirements of this subsection.

(b) Failure to meet triennial continuing professional education requirements may subject a licensee to disciplinary action by the Board.

(c) The Board may, in its discretion, waive requirements for continuing professional education on an individual basis for reasons of hardship such as health, military service, or other due cause. A waiver of continuing professional education requirements granted pursuant to this subsection shall be effective only for the triennial period in which such waiver is granted. If the condition(s) which necessitated the waiver persists into the next triennial period, a licensee shall apply to the Board for the renewal of such waiver for the new triennial period.

(d) A licensee shall be exempt from the requirements of (a) above for the triennial period during which he or she was initially licensed.

(e) Inactive licensees shall be exempt from continuing professional education requirements. Inactive licensees are those who do not practice accounting (public or private), or hold themselves out to the public as practicing accountants in any professional capacity, or use the title or designation of certified public accountant, public accountant, accountant or auditor without the word inactive, pursuant to N.J.A.C. 13:29-1A.10 and 2.3.

(f) A licensee who is inactive pursuant to N.J.A.C. 13:29-1A.10(i) or 2.3 *[(g)]* *(h)*, or a licensee who has had his or her license suspended pursuant to N.J.A.C. 13:29-1A.10(c) or 2.3(c), who seeks to return to the practice of accounting shall notify the Board prior thereto and shall meet the continuing professional education requirements by completing 120 credit hours of continuing professional education requirements prescribed by this subchapter within the three-year period prior to reinstatement. *[Accountants inactive or suspended for more than one year, but not exceeding two years, shall satisfy at least 80 credit hours of continuing professional education within the two-year period prior to reinstatement. Accountants inactive or suspended for one year or less shall satisfy continuing professional education requirements by completing at least 40 credit hours of continuing professional education in the year prior to reinstatement.]*

13:29-6.10 Continuing professional education requirements; reciprocity

An individual who holds a valid and unrevoked license issued by any state or other political subdivision of the United States and who receives a license to practice in New Jersey under the appropriate provisions of N.J.S.A. 45:2B-42 et seq. and pursuant to N.J.A.C. 13:29-1A.8 shall be required to comply with the continuing professional education requirements applicable to all other licensees.