

RULE ADOPTIONS
VOLUME 43, ISSUE 9
ISSUE DATE: MAY 17, 2011
Law and Public Safety
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF ACCOUNTANCY

Readoption with Amendments: N.J.A.C. 13:29

Adopted New Rules: N.J.A.C. 13:29-4

Adopted Repeals: N.J.A.C. 13:29-1A.5 and 1A.6

New Jersey State Board of Accountancy Rules

Proposed: November 15, 2010 at 42 N.J.R. 2720(a).

Adopted: February 17, 2011 by the New Jersey State Board of Accountancy, Donald E. Jump, CPA, President.

Filed: April 11, 2011 as R.2011 d.132, without change.

Authority: N.J.S.A. 45:1-15.1, 45:2B-48, 45:2B-68 and 45:2B-73.

Effective Dates: April 11, 2011, Readoption;

May 16, 2011, Amendments, New Rules and Repeals.

Expiration Date: April 11, 2018.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments, new rules and repeals 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, the adopted amendments to N.J.A.C. 13:29-3.1 require licensees to comply with independence standards established by the U.S. Securities and Exchange Commission, the Government Accountability Office and the Public Company Accounting Oversight Board (PCAOB), as applicable. Adopted amendments to N.J.A.C. 13:29-3.5 require licensees to comply with generally accepted governmental auditing standards, as well as Statements on Auditing Standards issued by the PCAOB. In addition, 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 regulations, 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. 13:29.

Full text of the adopted amendments and new rules follows:

SUBCHAPTER 1A. EXAMINATION AND LICENSURE

13:29-1A.1 Applications for examination; applicant qualifications

(a) An applicant for licensure as a certified public accountant shall pass the computer-based Certified Public Accountant Examination, prepared by the Board of Examiners of the American Institute of Certified Public

Accountants. Applications to take the Certified Public Accountant Examination shall be made on a form approved by the Board and shall be filed with the Board or its designee.

(b)-(f) (No change.)

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

(a) (No change.)

(b) An applicant to take the Certified Public Accountant Examination shall satisfy the following educational requirements:

1. An applicant shall possess a baccalaureate degree, or its equivalent, based upon a curriculum that includes a minimum of 60 semester hours selected from courses in English, history, foreign languages, mathematics, general psychology, philosophy, biological sciences, physical sciences, economics, sociology, religion, government, political science, geography, fine arts and music; and a minimum of 60 semester hours in professional courses including: at least 24 semester hours in accounting including municipal and government accounting; at least six semester hours in business law; at least six semester hours in finance; at least six semester hours in economics; and at least 18 semester hours in related business subjects; or

2. An applicant shall have completed at least 150 hours of education, including a baccalaureate or higher degree. An applicant shall be deemed to have satisfied the educational requirement if, as part of the 150 semester-hours of education, the applicant has satisfied any one of the following four conditions:

i.-iv. (No change.)

(c) An applicant qualifying to take the Certified Public Accountant Examination pursuant to the provisions of (b)1 above 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.

(d) (No change.)

(e) An applicant who has passed all parts of the Certified Public Accountant Examination shall furnish evidence of one year of intensive and diversified experience in the practice of public accounting or its equivalent under the supervision of a Board licensee or an individual who is entitled to practice as a certified public accountant in this State as provided in N.J.A.C. 13:29-4. Experience shall be obtained in full-time regular employment based on a minimum of 1,750 hours per year. Part-time experience shall be considered equivalent if acquired within two consecutive years and in no less than the same amount of hours required for full-time experience. Experience shall be considered intensive and diversified if experience is acquired in the areas of auditing or accounting. Such evidence shall take the form of a notarized affidavit on the employer's letterhead indicating in detail the nature of the intensive and diversified experience in auditing or accounting.

(f) (No change in text.)

13:29-1A.5 (Reserved)

13:29-1A.6 (Reserved)

13:29-1A.7 Security and irregularities; cheating

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

(c) For purposes of this section, the following actions or attempted activities, among others, may be considered cheating:

1.-4. (No change.)

5. Violating the nondisclosure prohibitions of the examination, aiding or abetting another in doing so or otherwise participating in the collection of test items for use, redistribution or sale;

6. Retaking or attempting to retake a test section by an individual holding a valid license or by an applicant who has unexpired credit for having already passed the same test section, unless the individual or applicant has been expressly directed to retake the test section pursuant to a Board order or expressly authorized by the Board to retake the test section; or

7. Reference to crib sheets, textbooks or other material or electronic media, other than that provided to the applicant as part of the examination, inside or outside the test site while the examination is in progress.

(d) (No change.)

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

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

(c) Applicants shall appear upon request before the Board or any Committee appointed by the Board for the purpose of determining [page=1263] whether the applicant satisfies the requirements set forth at N.J.A.C. 13:29-1A.3, except that an applicant who holds a valid license issued by another jurisdiction prior to January 1, 2012 shall not be required to comply with the 150-hour education requirement set forth in N.J.A.C. 13:29-1A.3(c).

13:29-1A.9 Public School Accountant's license; renewal; suspended license; reinstatement; inactive status

(a)-(c) (No change.)

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

1.-3. (No change.)

4. Any outstanding penalties imposed by the Board;

5. Evidence of holding an active New Jersey Certified Public Accountant, Public Accountant or Registered Municipal Accountant license; and

6. (No change in text.)

(e) 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 during the period following license expiration, not to exceed the number of days short of 60 before the renewal was issued.

(f) A Public School Accountant holding an active Certified Public Accountant, Public Accountant or Registered Municipal Accountant license may, upon application to the Board, choose inactive Public School Accountant licensure status. A licensee electing inactive status shall be provided with the option of choosing either inactive paid or inactive unpaid status. A licensee electing inactive paid status shall pay the inactive renewal fee set forth in N.J.A.C. 13:29-1.5(d), which shall entitle the licensee to obtain all printed information disseminated by the Board to all active licensees. A licensee choosing inactive unpaid status shall not be required to pay the inactive renewal fee but shall not be entitled to obtain printed information disseminated by the Board to active licensees. A Public School Accountant holding an inactive Certified Public Accountant, Public Accountant or Registered Municipal Accountant license, consistent with N.J.A.C. 13:29-1A.10 or 2.3, shall elect inactive status. A Public School Accountant electing inactive paid or unpaid status shall not engage in active public school accounting practice in New Jersey for the entire triennial

registration period unless the licensee applies to the Board to resume active practice. A Public School Accountant on inactive status seeking to resume the practice of public school accounting in New Jersey shall apply to the Board and shall submit:

1.-3. (No change.)

4. Evidence of an active New Jersey Certified Public Accountant, Public Accountant or Registered Municipal Accountant license.

(g) (No change.)

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

(a)-(g) (No change.)

(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 during the period following license expiration, not to exceed the number of days short of 60 before the renewal was issued.

(i) A licensee may, upon application to the Board, choose inactive licensure status. A licensee electing inactive status shall be provided with the option of choosing either inactive paid or inactive unpaid status. A licensee electing inactive paid status shall pay the inactive renewal fee set forth in N.J.A.C. 13:29-1.5(a), which shall entitle the licensee to obtain all printed information disseminated by the Board to all active licensees. A licensee choosing inactive unpaid status shall not be required to pay the inactive renewal fee but shall not be entitled to obtain printed information disseminated by the Board to active licensees. A licensee electing inactive paid or unpaid 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.-3. (No change.)

(j) (No change.)

SUBCHAPTER 2. REGISTERED MUNICIPAL ACCOUNTANTS

13:29-2.1 Applications; requirements

Every applicant for the Registered Municipal Accountant Examination shall submit to the Board a written application on a form to be provided by the Board and a two-inch by two-inch, passport photograph, front view, without a hat, taken within 30 days prior to application, provided that the applicant holds an active New Jersey Certified Public Accountant or Public Accountant license.

13:29-2.2 Examination

(a)-(h) (No change.)

(i) The requirements in N.J.A.C. 13:29-1A.7 shall apply to the administration of, and candidates for, the Registered Municipal Accountant Examination.

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.-3. (No change.)

4. Any outstanding penalties imposed by the Board;

5. Evidence of holding an active New Jersey Certified Public Accountant or Public Accountant license; and

6. (No change in text.)

(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 5 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 during the period following license expiration, not to exceed the number of days short of 60 before the renewal was issued.

(h) A Registered Municipal Accountant holding an active New Jersey 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 licensee electing inactive status shall be provided with the option of choosing either inactive paid or inactive unpaid status. A licensee electing inactive paid status shall pay the inactive renewal fee set forth in N.J.A.C. 13:29-1.5(c), which shall entitle the licensee to obtain all printed information disseminated by the Board to all active licensees. A licensee choosing inactive unpaid status shall not be required to pay the inactive renewal fee but shall not be entitled to obtain printed information disseminated by the Board to active licensees. A Registered Municipal Accountant electing inactive paid or unpaid 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.-3. (No change.)

4. Evidence of an active New Jersey Certified Public Accountant or Public Accountant license.

(i) (No change.)

[page=1264] SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

13:29-3.1 Independence

(a) A licensee or a firm of which he or she is a partner, member or a shareholder shall not express an opinion on financial statements of an entity or organization in such a manner as to imply that he or she is acting as an independent public accountant with respect thereto unless he or she or his or her firm is independent with respect to such entity or organization.

(b) A person engaged in the practice of public accountancy, including a person who is not a member of the American Institute of Certified Public Accountants (AICPA), shall conform, in fact and appearance, to the independence standards established by the AICPA and the Board, and, where applicable, the U.S. Securities and Exchange Commission (SEC), the Government Accountability Office (GAO), the Public Company Accounting Oversight Board (PCAOB) and other national or international regulatory or professional standard setting bodies.

13:29-3.5 Auditing standards

A licensee of the licensee's firm shall not permit the licensee's name to be associated with financial statements in such a manner as to imply that the licensee is acting as an independent public accountant with respect to such financial statements unless the licensee has complied with applicable generally accepted auditing standards (GAAS) and, if applicable, generally accepted governmental auditing standards (GAGAS). Statements on Auditing Standards (SAS) issued by the American Institute of Certified Public Accountants (AICPA), and the Public Company Accounting Oversight Board (PCAOB), and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures therefrom shall be justified by those who do not follow them.

13:29-3.6 Accounting principles

(a) (No change.)

(b) For purposes of this rule, generally accepted accounting principles (GAAP) are considered to be defined by pronouncements issued by the Financial Accounting Standards Board (FASB) and its predecessor and successor entities and similar pronouncements issued by other entities having similar general recognized authority.

13:29-3.12 Commissions, performance fees and referral fees

(a)-(e) (No change.)

(f) All disclosures in (d) and (e) above shall:

1. (No change.)

2. Shall be signed and dated by the person or entity to whom the licensee makes the referral or recommendation and by the person or entity who was referred by the licensee.

(g) (No change.)

13:29-3.16 Records

(a) (No change.)

(b) A licensee or the licensee's firm shall not withhold client records for the non-payment of fees for services performed.

SUBCHAPTER 4. PRACTICE PRIVILEGE; INDIVIDUALS AND FIRMS WITHOUT A NEW JERSEY OFFICE

13:29-4.1 Individuals licensed in other states; practice without a New Jersey license

(a) An individual whose principal place of business is not in New Jersey shall be entitled to practice as a certified public accountant in the State, consistent with the requirements of this subchapter and N.J.S.A. 45:2B-50.1, without having to obtain a license, notify the Board or pay a fee, provided the individual:

1. Holds a valid license as a certified public accountant from any state that the National Association of State Boards of Accountancy's (NASBA) National Qualification Appraisal Service has verified to be in substantial equivalence with the certified public accountant licensure requirements of the American Institute of Certified Public Accountants AICPA/NASBA Uniform Accountancy Act; or

2. Holds a valid license as a certified public accountant from any state that NASBA's National Qualification Appraisal Service has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the AICPA/NASBA Uniform Accountancy Act, but that individual obtains from NASBA's National Qualification Appraisal Service verification that the individual's personal certified public accountant qualifications are substantially

equivalent to the certified public accountant licensure requirements of the AICPA/NASBA Uniform Accountancy Act.

(b) Notwithstanding (a) above, an individual granted the practice privilege under (a) above may perform the following attest services for any entity with its home office in this State, only through a firm, which has registered with the Board under N.J.A.C. 13:29-4.2(a):

1. A financial statement audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);
2. An examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); or
3. An engagement to be performed in accordance with the Public Company Accounting Oversight Board (PCAOB) Auditing Standards.

(c) In the event the license from the state of the individual's principal place of business is no longer valid, the individual practicing under the practice privilege shall cease offering or rendering professional services in this State individually and on behalf of a firm.

13:29-4.2 Registration of firms located in other states

(a) A firm that does not have an office in New Jersey shall register with the Board and pay the fee set forth in N.J.A.C. 13:29-1.5, if the firm performs the following attest services for a client having its home office in this State:

1. A financial statement audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);
2. An examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); or
3. An engagement to be performed in accordance with the Public Company Accounting Oversight Board (PCAOB) Auditing Standards.

(b) A firm that does not have an office in New Jersey may perform compilation services or review financial statements in accordance with the Statements on Standards for Accounting and Review Services (SSARS), and may practice public accountancy, consistent with the requirements of this section, for a client having its home office in New Jersey and may use the title "Certified Public Accountant," "CPA," "Certified Public Account firm" or "CPA firm," without registering with the Board if:

1. The firm meets the peer review requirements of N.J.S.A. 45:2B-67 and N.J.A.C. 13:29-5 and requirements applicable to firm ownership by non-licensed individuals in N.J.S.A. 45:2B-54.1a; and
2. The firm performs those services through an individual with practice privileges granted pursuant to N.J.A.C. 13:29-4.1.

(c) A firm that does not have an office in New Jersey and that is not subject to the requirements of (a) or (b) above may perform other professional services included in the practice of public accountancy while using the title "Certified Public Accountant," "CPA," "Certified Public Account firm" or "CPA firm" in this State without registering with the Board if:

1. The firm performs those services through an individual with practice privileges pursuant to N.J.A.C. 13:29-4.1; and
2. The firm can lawfully do so in the state where those individuals with practice privileges have their principal place of business.

(d) A firm that does not have an office in New Jersey and that is required to register with the Board pursuant to (a)

above shall meet the following requirements:

1. Services for which registration is required are performed through an individual who qualifies for the practice privilege under N.J.A.C. 13:29-4.1;

2. Each owner of the firm, other than a nonlicensee, shall be a certified public accountant of any state or possession of the United States or the District of Columbia in good standing, and licensed to practice public accountancy where licensed;

[page=1265] 3. There shall be a certified public accountant in the firm who has ultimate responsibility for each attest engagement. On all firm applications and renewal forms, an individual who qualifies for the practice privilege under N.J.A.C. 13:29-4.1 shall be designated as responsible and in charge of all professional matters relating to the practice of accountancy by the registered firm.

13:29-4.3 Definitions

For purposes of this subchapter, the following term shall have the following meaning, unless the context clearly indicates otherwise.

"Home office" means the location specified by the client as the address to which the services described above are directed.

SUBCHAPTER 6. CONTINUING PROFESSIONAL EDUCATION

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. All applicants shall complete a minimum of 20 hours of continuing professional education in each year of the triennial period. 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 licensees who are engaged in the practice of public accountancy. 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, 2009 and thereafter, a licensee shall obtain a minimum of 60 credit hours of continuing professional education through didactic instruction.

1. (No change.)

(b)-(f) (No change.)

13:29-6.5 Continuing professional education programs and other sources of continuing professional education credit

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

(c) In addition to the continuing professional education programs enumerated in (a) and (b) above, continuing professional education credit also shall be granted for the following if they involve subjects enumerated in N.J.A.C. 13:29-6.3 and 6.4.

1. (No change.)

2. Publications: Continuing professional education credit for publications shall be awarded in accordance with the

following:

i.-iv. (No change.)

v. Credit shall be given for each 50 minute period of technical review or peer review program committee participation, not to exceed 60 credit hours for the triennial period.