

Clearinghouse Rule 19-049

STATE OF WISCONSIN
ACCOUNTING EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : ACCOUNTING EXAMINING BOARD
ACCOUNTING EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Accounting Examining Board to amend Accy 2.501 (1) (a) and (2) (a) and create subch. VII of ch. Accy 2, relating to continuing professional education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a) and (d) and 442.083 (2) (a), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 227.11 (2) (a), Stats., provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute”

Section 227.11 (2) (d), Stats., provides “[a]n agency may promulgate rules implementing or interpreting a statute that it will enforce or administer after publication of the statute but prior to the statute’s effective date. A rule promulgated under this paragraph may not take effect prior to the effective date of the statute that it implements or interprets.”

Section 442.083 (2) (a), Stats., as created by 2017 Wisconsin Act 88 effective December 15, 2019, provides the Accounting Examining Board “shall promulgate rules establishing continuing education requirements for renewal of licenses granted to individuals under this chapter. The rules promulgated under this paragraph may not require an individual to complete more than 80 continuing education credits during the 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a).”

A significant portion of the Board’s administrative responsibilities regarding 2017 Wisconsin Act 88 is, to the extent possible, provide advance guidance to stakeholders as to how the continuing education requirements will affect them. As the continuing

education requirements provided under 2017 Wisconsin Act 88 must be established by rule, effective administration of the Act requires the Board have a rule finalized and available to stakeholders prior to the December 15, 2019 effective date of the requirements. Beginning the rules promulgation after the statute's effective date of December 15, 2019, will lead to uncertainty about the continuing education requirement for the majority of the renewal period in which the continuing education requirement is in effect. Stakeholders will not know which courses fulfill the continuing education requirement until rules are promulgated. Under the authority provided in ss. 15.08 (5) (b) and 227.11 (2) (a) and (d), Stats., and as explicitly required by 2017 Wisconsin Act 88, the Board will promulgate rules with an effective date of December 15, 2019, to establish continuing education requirements for renewal of a license to practice as a certified public accountant in Wisconsin.

Related statute or rule:

None.

Plain language analysis:

As required under s. 442.083 (2) (a), Stats., as created by 2017 Wisconsin Act 88 effective December 15, 2019, the proposed rules establish continuing education requirements for renewal of a license granted to individuals under ch. 442, Stats., to practice as a certified public accountant. The requirements will be effective beginning December 15, 2019, for the license renewal date occurring on December 15, 2021.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation address continuing education requirements for CPAs (68 Ill. Adm. Code 1420.70 and 1420.72). To renew a license, a CPA must complete 120 hours of approved continuing professional education (CPE) every 3-year renewal period. Of the 120 hours, at least 4 hours must be courses covering the subject of professional ethics. The CPE requirements do not apply for the first renewal following the original issuance of the license.

Approved CPE is professional development activities that are formal and informal learning opportunities contributing directly to a CPA's knowledge, ability or competence to perform professional responsibilities. The CPE must also include subject matter in one or more fields of study that address a licensee's current and future work environment, current knowledge and skills level, and desired or needed additional competencies to meet future opportunities or professional responsibilities.

CPE may be earned for verified attendance at or participation in any course or program given or approved by one of the following:

- The American Institute of Certified Public Accountants

- The Illinois CPA Society
- The Illinois CPA Foundation
- A university or college approved by its governing board in the State of Illinois, or equivalent public authority governing board if in another jurisdiction, to award accounting degrees.
- CPE sponsored by, or approved by, other states or other state CPA societies.
- A person, CPA firm, association, corporation or any other group that has been licensed and authorized by the Department to coordinate and present CPE.
- NASBA and persons, CPA firms, associations, corporations or other groups that are members of NASBA's National Registry of CPE Sponsors or Quality Assurance Service Program.

Licensees who both reside and are licensed as a CPA in another state may satisfy the CPE requirements by complying with the CPE renewal requirements of their state of residence, provided at least 120 hours of CPE have been completed during the Illinois renewal cycle.

Licensees must maintain CPE records for at least 6 years. The Department may periodically audit CPE course information submitted by licensees, and it is the responsibility of each renewal applicant to retain or otherwise produce evidence of CPE compliance.

A licensee may request a waiver of the CPE requirements. A request for waiver must be made prior to the renewal date. A waiver will be granted if the Department finds from the evidence submitted that extreme hardship has been shown.

Iowa:

Rules of the Iowa Accountancy Examining Board address continuing education requirements for CPAs (193A IAC, Chapter 10). An applicant for renewal must complete 120 hours of qualifying continuing professional education (CPE) during the three years preceding the renewal date. Of the 120 hours, 4 hours must be devoted to ethics and rules of professional conduct. In addition, every applicant who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on behalf of a firm must devote a minimum of 8 hours of CPE to financial statement presentation. The CPE requirements do not apply for the first renewal date that is less than 12 months from the date of filing of the initial application for the certificate or license.

The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning that contributes directly to the professional competence of an individual certified or licensed in Iowa. A program of learning must meet all of the following requirements:

- The program must be based on clearly defined, relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants.
- The program must be developed in a manner consistent with the prerequisite education, experience, and advanced preparation of the participants.
- Activities, materials, and delivery systems of the program must be current, technically accurate, and effectively designed. Providers, sponsors, or contractors must be competent in the subject matter. Competence may be demonstrated through practical experience or education.
- The program must be reviewed by qualified persons other than those who develop the program to ensure that the program is technically accurate and current and addresses the stated learning objectives. This requirement is waived for single presentations such as lectures that are given once.

A licensee complies with the CPE requirements if, for the period the licensee is a resident of another state or district having a continuing professional education requirement, the licensee met the resident state's or district's mandatory requirement.

The Board may make exceptions to the CPE requirements for reasons of individual hardship. No exceptions shall be made solely because of age. Applicants entitled to a full or partial exception under the Iowa Code for active military service or government service outside of the United States may request an exception by submitting acceptable documentation. Applicants seeking an exception on other grounds of undue hardship must apply for waiver or variance.

The Board may request an applicant for renewal to provide a signed statement setting forth the CPE in which the licensee has participated. The board will verify, on a test basis, information submitted by licensees. The licensee is responsible for documenting the requirements, and documentation must be retained for a period of three years after submission of the report claiming the credit.

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs address continuing education requirements for CPAs (Mich Admin Code, R 338.5210 to R 338.5255). A licensee must earn 40 qualifying hours of continuing education within each continuing education period (all or part of a year beginning July 1 and ending June 30). At least 8 of the 40 hours must be in auditing and accounting and 2 of the 40 hours must be in ethics.

Continuing education may be earned by attending a group program, performing classroom work as a teacher, instructor, speaker, or lecturer at an educational institution, or participating in a self-study program. Credit for performing classroom work is limited to 20 hours in any given continuing education period, as is credit for participating in a self-study program. Continuing education credit is based on the length of a qualifying program, with 50 minutes of continuous instruction equaling one qualifying hour. One-

half credit is earned for each additional 25 minutes of instruction, after the first hour of credit is earned.

To qualify for continuing education credit, a group program must meet all of the following qualifications:

- The subject matter of the program contributes to the professional competency of a licensee.
- The taking of attendance is required.
- The program is not less than 50 minutes in duration.
- The program is conducted by an instructor or discussion leader whose background, training, education, or experience is appropriate for leading a discussion on the subject matter.
- The sponsor of the program maintains written records of individual attendance at each session and the program outline for a period of 4 years.
- Written certification of hours of attendance, exclusive of any study or preparation time, and a program outline are issued by the sponsor to each attendee at the request of the attendee.

To qualify for continuing education credit, a self-study program must meet all of the following qualifications:

- The program consists of an educational course designed for self-study and requires evidence of satisfactory completion.
- The subject matter of the program contributes to the professional competency of a licensee.
- Written certification of completion and a program outline and recommended qualifying hours are issued by the sponsor upon request.
- The sponsor maintains written records of the program outline and completion of the program for a period of 4 years.

Hours in excess of the required 40 hours for each continuing education period may be carried over to the following continuing education period. A maximum of 40 hours may be carried over, including no more than 8 hours in accounting and auditing and no more than 2 hours in ethics.

Each licensee must attest to compliance with the continuing education requirements biennially. The licensee is solely responsible for documenting fulfillment of the requirements under and must retain documentation for a period of 4 years after submission of an attestation. A licensee is subject to audit by the Department for compliance with the continuing education requirements.

Minnesota:

Rules of the Minnesota Board of Accountancy address continuing education requirements for CPAs (Minnesota Rules, parts 1105.3000 to 1105.3350). A licensee holding a certificate with an active status must do all of the following:

- Complete a minimum of 20 hours of qualifying continuing professional education (CPE) each year (July 1 to June 30). A licensee is exempt from this requirement for the year in which an initial certificate with an active status is granted.
- In a rolling three-year period, complete a minimum of 120 hours of qualifying CPE, including at least 8 hours in regulatory ethics or behavioral ethics. For purposes of this requirement, all of the following apply:
 - A maximum of 60 hours may be claimed for presenting or instructing qualifying courses or seminars.
 - A maximum of 60 hours may be claimed for authoring articles, books, or CPE courses for publication.
 - At least 24 hours must be obtained from attending group or blended learning activities.
 - A minimum of 60 hours must be obtained from technical learning activities as defined in the NASBA Fields of Study, July 2016 revision.
 - At least 72 hours must be obtained through programs whose sponsor is a member of NASBA's CPE registry.
- Report the required CPE to the Board on a form provided by the Board by December 31 of each year.

A carryforward of CPE from one period to the next is not allowed. However, a licensee may carryback CPE hours to satisfy the requirements of a prior CPE period provided that a late processing fee is paid.

Generally, a program qualifies as acceptable continuing professional education if it meets all of the following requirements:

- The program contributes to the growth in the professional knowledge and professional competence of a licensee.
- The program meets the minimum standards of quality of development, presentation, measurement, and reporting of credits in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by NASBA and AICPA or other standards acceptable to the Board.
- The program sponsor is a member of NASBA's CPE registry.

The Board will approve a program that, in the determination of the Board, contributes to the growth of the professional knowledge and competence of a licensee even if the program does not meet the above requirements.

A nonresident licensee holding a certificate with an active status issued by Minnesota meets the CPE requirements by meeting the CPE requirements for renewal of a certificate in the state in which the licensee's principal place of business is located. If the state in

which a nonresident licensee's principal place of business is located has no CPE requirements for renewal of a certificate, the nonresident licensee must comply with all Minnesota CPE requirements.

The Board may make exceptions to the continuing education requirements for reasons of individual hardship including health, military service, foreign residence, or other good cause, or for a licensee who is retired or who does not perform or offer to perform for the public services involving the use of accounting or auditing skills.

Each licensee is responsible for documenting the acceptability CPE programs and the validity of the credits claimed. Documentation must be retained for five years following completion of each program. The Board conducts audits to verify information regarding hours of CPE attendance in order to determine compliance with the continuing education requirements.

Summary of factual data and analytical methodologies:

The proposed rules were developed by obtaining input and feedback from the Accounting Examining Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:00 a.m. on June 7, 2019, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Accy 2.501 (1) (a) and (2) (a) are amended to read:

Accy 2.501 (1) (a) An application for renewal on a form prescribed by the department that includes the applicant's representation under penalties of perjury that, during the 2-year period immediately preceding the date of application, the applicant has completed at least 80 continuing professional development credits meeting the requirements under s. Accy 2.602.

(2) (a) An application for renewal on a form prescribed by the department that includes the applicant's representation under penalties of perjury that, during the one-year period immediately preceding the date of application, the applicant has completed at least 120 continuing professional development credits meeting the requirements under s. Accy 2.602.

SECTION 2. Subchapter VII of ch. Accy 2 is created to read:

SUBCHAPTER VII

CONTINUING PROFESSIONAL DEVELOPMENT

Accy 2.601 Definitions. In this subchapter:

(1) "Compliance period" means the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 1., Stats.

(2) "CPD" means continuing professional development.

Accy 2.602 CPD requirements for certified public accountants.

(1) COMPLETION OF CPD CREDITS. During each compliance period, a licensee shall complete at least 80 CPD credits that contribute to growth in professional knowledge and professional competence. At least 20 CPD credits shall be completed during each 12-month period of each compliance period. The 80 CPD credits shall include not less than 40 CPD credits from formal learning activities meeting the requirements under s. Accy 2.603 (1) and (2).

(2) CPD RELATED TO ETHICS. Four of the 40 CPD credits from formal learning activities required under sub. (1) shall be on the subject of ethics.

(3) CREDIT FOR FORMAL AND INFORMAL LEARNING ACTIVITIES. Fifty minutes of participation in a formal or informal learning activity is equal to one CPD credit. CPD credits may be claimed in increments of one-tenth of a credit, which is equal to 5 minutes of participation in a formal or informal learning activity.

(4) CREDIT FOR CPD FROM ANOTHER JURISDICTION. A licensee holding a current unrevoked CPA license issued by any other United States CPA licensing jurisdiction shall meet the requirements under subs. (1) and (2) if the licensee is in compliance with the continuing professional education or continuing professional development CPA licensing requirements of the jurisdiction in which the other license is held.

(5) EXEMPTION FOR NEW LICENSEES AND INACTIVE CERTIFICATE HOLDERS. (a) The requirements under sub. (1) do not apply to the compliance period that includes the

date on which an individual certified public accountant first obtains a license under ch. 442, Stats.

(b) The requirements under sub. (1) do not apply to an inactive certificate holder to whom all of the following apply:

1. The certificate holder does not practice as a certified public accountant within the meaning of s. 442.02 (1m), Stats.

2. The certificate holder does not use the title or designation of “certified public accountant” without the word “inactive.”

(c) In this subsection, “inactive certificate holder” means an individual who holds an unrevoked certificate as a certified public accountant granted under s. 442.04 (1), Stats., and who does not hold a current license to practice as a certified public accountant issued under s. 442.08 (1), Stats.

(6) CERTIFICATION STATEMENT. At the time of each renewal, an applicant shall sign a statement certifying the CPD credit hours required under sub. (1) have been completed.

(7) CARRYFORWARD OF CPD CREDITS. A licensee may carry forward from one compliance period to the next consecutive compliance period a maximum of 40 CPD credits that exceed the minimum number of credits required to satisfy requirements in the earlier compliance period, which credits may represent any combination of formal and informal learning activities and shall retain their character as formal or informal learning activity credits.

(8) CARRYBACK OF CPD CREDITS. A licensee may carry back CPD credits earned during the first 12 months of a compliance period to the immediately preceding compliance period to the extent necessary to allow the individual to satisfy the CPD requirements for such preceding period, provided the individual does not count such carry back credits to satisfy CPD requirements for more than one compliance period.

(9) FAILURE TO COMPLETE CPD CREDITS. A licensee who fails to complete the requirements under sub. (1) may not practice in this state as a certified public accountant until the license is renewed or reinstated under s. Accy 2.501.

(10) LIMITATIONS ON CLAIMING CPD CREDITS.

(a) CPD credits for teaching a course shall be limited to preparing for and giving the initial presentation. CPD credits may not be claimed for any activity related to subsequent presentations of the same course.

(b) CPD credits for participating in a specific learning activity may not be claimed in more than one compliance period.

(11) RECORDKEEPING. A licensee shall retain documentation of each activity for which CPD credits are claimed for at least 5 years from the date on which the activity was completed.

(12) WAIVER OF CPD CREDITS. The board may waive all or a portion of the CPD credits required under sub. (1) if it finds exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a licensee from meeting the requirements.

(13) BOARD AUTHORITY. The board has the authority to determine whether CPD learning activities claimed by a CPA satisfy the requirements under this section.

Accy 2.603 Criteria for acceptance of learning activities.

(1) QUALIFYING LEARNING ACTIVITIES. Acceptable format for formal and informal learning activities include all of the following:

- (a) Attending lectures.
- (b) Participating in online webinars and webcasts.
- (c) Completing self-study courses developed by vendors.
- (d) Teaching a course.
- (e) Performing independent research.
- (f) Listening to podcasts.
- (g) Watching videos.
- (h) Reading books and articles.
- (i) Attending meetings.

(j) Engaging in learning activities similar to those under pars. (a) to (i) that enhance a participant's professional growth and competence.

(2) REQUIREMENTS FOR APPROVAL OF FORMAL LEARNING ACTIVITIES. The board shall accept a formal learning activity that meets all of the following requirements:

(a) An individual's participation can be objectively confirmed by a program sponsor.

(b) Materials describing the activity specify all of the following:

1. The subject matter of the activity.
2. Any prerequisites to enrollment.
3. Any required advance preparation.
4. The format of the activity.

5. The number of CPD credits awarded by the program sponsor for participating in the activity.

(c) The program sponsor and any individual presenting or supervising the activity have education and experience qualifications appropriate for the activity to enhance the competency of learning activity participants.

(3) REQUIREMENTS FOR APPROVAL OF INFORMAL LEARNING ACTIVITIES. The board shall accept an informal learning activity for which the participant has documented all of the following:

- (a) The format of the activity.

(b) The date or dates on which the learning activity was performed and completed.

(c) The subject matter of the activity.

(d) The number of CPD credits claimed for participating in the activity.

(e) The materials prepared or used by the participant in connection with the learning activity. Documentation the board may accept includes all of the following:

1. The title and author of a book the participant has read.

2. A copy of an article the participant has read, or the title of the article and the name of the publication in which the article appeared.

3. Minutes from a meeting attended by the participant.

4. A program outline or handouts from a learning activity attended by the participant.

5. A link to reading, video, audio, or other online learning materials or activities performed and completed by the participant.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on December 15, 2019, pursuant to s. 227.22 (2) (b), Stats.

(END OF TEXT OF RULE)
