



TO: Professional Practice Committee

FROM: Sarah S. Benson *Sarah S. Benson*

SUBJECT: Proposed Amendment of Section 70.4 of the Regulations of the Commissioner of Education Relating to Licensing Examinations in the Profession of Public Accountancy

DATE: November 2, 2023

AUTHORIZATION(S): *Jan M. Bell...*

SUMMARY

Issue for Decision

Should the Board of Regents adopt the proposed amendment of section 70.4 of the Regulations of the Commissioner of Education relating to licensing examinations in the profession of public accountancy?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed amendment will be presented to the Professional Practice Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at the November 2023 meeting. A copy of the proposed rule (Attachment A) and a statement of facts and circumstances justifying the emergency action (Attachment B) are attached.

Procedural History

A Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on November 29, 2023, for a 60-day public comment period. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Background Information

Section 70.4 of the Commissioner's regulations was amended in 2022 to conform to changes to the national examination and education requirements for the profession of

public accountancy. Currently, section 70.4 of the Commissioner's regulations identifies the rules for licensure examination requirements, which include provisions on retention of credit and the timeframe within which an applicant must pass all sections of the examination.

As the national licensing examination standards continue to evolve, updating these provisions are necessary to implement changes that will occur with the Uniform CPA Examination (CPA exam), which will align New York with other jurisdictions. The American Institute of Certified Public Accountants¹ (AICPA) and the National Association of State Boards of Accountancy² (NASBA) have adopted the model Uniform Accountancy Act (UAA).³

The Certified Public Accountant (CPA) Evolution, a joint effort, by the AICPA and NASBA, is currently in the process of transforming the CPA licensure model. This includes creating a new exam structure with a three-section core and one discipline. These changes are anticipated in or around January 2024.

The three sections of the core exam are devoted to financial accounting and reporting, audit, and taxation. Additionally, the candidate will choose one of the following disciplines: business analysis and reporting, information systems and controls, or tax compliance and planning. The three sections of the core exam and the discipline sections are four hours each and may be taken in any order.

Candidates must take and pass the three core sections and a discipline within a set period of time; this is known as the credit retention period. Currently, the credit retention period is calculated based on the date the candidate sat for the exam and allows the exam candidate 18 months to complete the remaining three sections of the examination. The UAA increased the credit retention period from 18 months to 30 months to provide CPA licensure candidates with more flexibility and opportunities to test. Additionally, the UAA changed the date from which the credit retention period begins from the date the candidate sat for the examination to the date the score is released.

This proposed amendment to section 70.4 of Commissioner's regulations conforms the Department's regulation to the national CPA licensing exam standards described above. This proposed amendment will enable the Department to effectively implement the forthcoming CPA Evolution changes.

The proposed rule also makes technical amendments to remove flexibilities concerning the 18-month retention period related to the COVID-19 pandemic and correcting cross-references.

¹ The AICPA, among other things, sets the ethical standards for certified public accountants (CPAs) and the United States auditing standards for private companies, non-profit organizations, federal, state, and local governments. It also develops and grades the Uniform CPA Examination.

² NASBA serves as a forum for the 55 State Boards of Public Accountancy, which administer the Uniform CPA Examination, license CPAs, and regulate the practice of public accountancy in their respective states.

³ In 1984, AICPA and NASBA established the Uniform Accountancy Act, which is an "evergreen" model licensing law developed to provide a uniform national approach to regulating the public accountancy profession.

Related Regents Items

September 2022: [Proposed Amendment of Sections 52.13, 70.2, 70.3 and 70.4 of the Regulations of the Commissioner of Education Relating to Education, Examinations, and Experience Requirements for Licensure in the Profession of Public Accountancy](https://www.regents.nysed.gov/sites/regents/files/922brca19.pdf) (<https://www.regents.nysed.gov/sites/regents/files/922brca19.pdf>)

September 2020: [Proposed Amendments to Sections 52.3, 52.21, 57-4.5, 70.4, 74.6, 75.2, 75.5, 76.2, 79-9.3, 79-10.3, 79-11.3, 79-12.3, 801.13, 80-1.5, 80-3.15, 80-4.3, 83.5, 87.2, 87.5, 100.2, 100.4, 100.5, 100.6, 100.10, 100.21, 119.1, 119.5, 125.1, 151-1.4, 1542.3, 175.5, 200.4, 200.5, 200.7, 200.20 and 275.8 and addition of Section 279.5 to the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](https://www.regents.nysed.gov/sites/regents/files/920bra6.pdf) (<https://www.regents.nysed.gov/sites/regents/files/920bra6.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 70.4 of the Regulations of the Commissioner of Education be added, as submitted, effective January 1, 2024, as an emergency action, upon a finding that such action is necessary for the preservation of the public health and general welfare to conform the Commissioners' regulations to the national CPA licensing exam standards that are anticipated in or around January 2024 and to remain consistent with other jurisdictions.

Timetable for Implementation

If adopted as an emergency rule at the November 2023 Regents meeting, the emergency rule will become effective January 1, 2024. It is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the March 2024 Regents meeting, after publication in the State Register and the expiration of the 60-day public comment period required under the State Administrative Procedure Act. Because the action will expire before the March 2024 meeting, it is anticipated that an additional emergency action will be presented for adoption at the January 2024 Regents meeting. If adopted at the March meeting, the proposed rule will become effective March 27, 2024.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6506, 6507, 7401, and 7404 of the Education Law.

1. Section 70.4 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 70.4 Licensing examinations.

(a) . . .

(b) . . .

(c) Retention of credit. [The] On or before December 31, 2023, the retention period on an examination approved pursuant to subdivision (a) of this section shall be for a period of 18-months. Such 18-month retention period shall be computed in a manner determined by the Department. On or after January 1, 2024, the retention period on an examination approved pursuant to subdivision (a) of this section shall be for a period of 30-months. Such 30-month retention period shall be computed in a manner determined by the Department.

(1) Extension requests. The Department may in its discretion provide an applicant with an extension to the retention period prescribed in [paragraph] subdivision (c) of this [subdivision] section. An extension may be granted upon a finding by the Department of extenuating circumstances outside the applicant's control. The length of an extension shall be determined by the Department as it relates to the length of the extenuating circumstances experienced by the applicant. The Department may consult with the State Board for Public Accountancy on the appropriateness of granting extension requests. [The Department may accept passing examination scores that are outside the 18-month

requirement where such examinations cannot be completed in the 18-month due to the COVID-19 crisis].

STATEMENT OF FACTS AND CIRCUMSTANCES
WHICH NECESSITATE EMERGENCY ACTION

Section 70.4 of the Commissioner’s regulations was amended in 2022 to conform to changes to the national examination and education requirements for the profession of public accountancy. Currently, section 70.4 of the Commissioner’s regulations identifies the rules for licensure examination requirements, which include provisions on retention of credit and the timeframe within which an applicant must pass all sections of the examination.

As the national licensing examination standards continue to evolve, updating these provisions are necessary to implement changes that will occur with the Uniform CPA Examination (CPA exam), which will align New York with other jurisdictions. The American Institute of Certified Public Accountants⁴ (AICPA) and the National Association of State Boards of Accountancy⁵ (NASBA) have adopted the model Uniform Accountancy Act (UAA).⁶

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This proposed amendment to section 70.4 of Commissioner's regulations conforms the Department's regulation to the national CPA licensing exam standards described above. This proposed amendment will enable the Department to effectively implement the forthcoming CPA Evolution changes.

The proposed rule also makes technical amendments to remove flexibilities concerning the 18-month retention period related to the COVID-19 pandemic and correcting cross-references.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the March 2024 Regents meeting.

Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the March 2024 meeting, would be March 27, 2024, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the November 2023 meeting, effective January 1, 2024, for the preservation of the general welfare in order to conform the Commissioners' regulations to the national CPA licensing exam standards which are anticipated in or around January 2024 and to remain consistent with other jurisdictions. This proposed amendment will enable the Department to effectively implement the impending CPA Evolution changes.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the March 2024 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making. However, since the emergency action will expire before the March 2024 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the January 2024 Regents meeting.