

ILLINOIS REGISTER

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

The Department of Financial and Professional Regulation is posting this proposed amendment in an effort to make the public aware of possible changes that may have an impact on the profession.

The general public may submit written comments to the Department during the first 45 day public comment period. Any suggested changes will be considered by the Department and the appropriate Board.

This proposed amendment was published in the October 22, 2010 Illinois Register. The 45 day comment period will end December 6, 2010.

Please submit written comments to Craig Cellini as stated in the attached notice.

THESE PROPOSED CHANGES ARE NOT IN EFFECT AT THIS TIME AND THE ADOPTED RULES MAY DIFFER FROM THOSE ORIGINALLY PUBLISHED.

- 1) Heading of the Part: Illinois Public Accounting Act
- 2) Code Citation: 68 Ill. Adm. Code 1420
- 3) Section Numbers: Proposed Action:
1420.75 New Section
- 4) Statutory Authority: Implementing the Illinois Public Accounting Act [225 ILCS 450/16(e)] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) A Complete Description of the Subjects and Issues Involved: Section 16(e) of the Act has been amended to require firms and sole practitioners, as a condition of renewal for all renewals after July 1, 2012, to satisfactorily complete a peer review in the preceding 3-year period; this proposed rulemaking adds Section 1420.75 to fully implement the peer review process.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace emergency rules currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/557-4451

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing public accounting services.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Public accounting skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

The full text of the Proposed Amendment begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1420
ILLINOIS PUBLIC ACCOUNTING ACT

Section

1420.10	Experience
1420.20	Application for Licensure as a Certified Public Accountant
1420.25	Application for Licensure as a Registered Certified Public Accountant
1420.30	Application for Licensure-Firm
1420.35	Temporary Practice
1420.40	Fees for the Administration of the Act
1420.50	Endorsement
1420.60	Restoration
1420.70	Continuing Professional Education
<u>1420.75</u>	<u>Peer Review</u>
1420.80	Renewals
1420.90	Annual Report of the Committee
1420.100	Conduct of Hearings (Repealed)
1420.110	Granting Variances

AUTHORITY: Implementing the Illinois Public Accounting Act [225 ILCS 450] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Public Accounting Act, effective June 30, 1975; codified at 5 Ill. Reg. 11058; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7748, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 14548, effective October 13, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6179, effective April 25, 1984; amended at 9 Ill. Reg. 5708, effective April 15, 1985; amended at 9 Ill. Reg. 8738, effective May 28, 1985; amended at 9 Ill. Reg. 13360, effective August 21, 1985; amended at 10 Ill. Reg. 20739, effective December 1, 1986; amended at 11 Ill. Reg. 18276, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 420 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1420 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2944; amended at 19 Ill. Reg. 16258, effective November 28, 1995; amended at 21 Ill. Reg. 15255, effective November 17, 1997; amended at

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24 Ill. Reg. 14005, effective August 31, 2000; amended at 29 Ill. Reg. 9853, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 16435, effective September 29, 2006; amended at 31 Ill. Reg. 3475, effective February 15, 2007; amended at 35 Ill. Reg. _____, effective _____.

Section 1420.75 Peer Review

- a) Establishment of Peer Review Program
 - 1) Pursuant to Section 16(e) of the Illinois Public Accounting Act (Act), the Division establishes a Peer Review Program to monitor a firm's and sole practitioner's compliance with applicable accounting, auditing and other attestation standards adopted by generally recognized standard-setting bodies. The program may include education, remediation, disciplinary sanctions or other corrective action in which performance does not comply with professional or regulatory standards.
 - 2) The Division shall not require any firm or sole practitioner to become a member of any Peer Review Administrator.

- b) Standards for Peer Reviews

The Division adopts the American Institute of Certified Public Accountants (AICPA) Standards for Performing and Reporting on Peer Reviews and related Interpretations, 1211 Avenue of the Americas, New York NY 10036, for reviews commencing on or after January 1, 2009, and for public company audit firms the firm inspection standards required under the Sarbanes-Oxley Act of 2002 (SOX), as its minimum standards for review.

- c) Peer Review Administrators
 - 1) The Division, upon recommendation of the Public Accountant Registration Committee (Committee), approves as a Qualified Peer Review Administrator the AICPA, AICPA National Peer Review Committee, the Illinois CPA Society, other state CPA societies and other organizations that are fully involved in the administration of the AICPA Peer Review Program, the National Conference of CPA Practitioners (NCCPAP) and the Public Company Accounting Oversight Board (PCAOB).

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- 2) A Peer Review Administrator not listed in subsection (c)(1) shall make an application to the Division, on forms prepared by the Division, to receive authorization to act as a Peer Review Administrator.
- 3) To qualify as a Peer Review Administrator, an entity must annually submit a peer review plan of administration to the Division for review and approval. The plan of administration must:
 - A) establish a Peer Review Report Committee (PRRC), and subcommittees as needed, and provide professional staff as needed for the operation of the peer review program;
 - B) establish a program to communicate to firms and sole practitioners participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the Peer Review Administrator;
 - C) establish procedures for resolving any disagreement that may arise out of the performance of a peer review;
 - D) establish procedures to resolve matters that may lead to the dismissal of a firm or sole practitioner from the peer review program;
 - E) establish procedures to evaluate and document the performance of each reviewer, which may lead to the disqualification of a reviewer who does not meet the AICPA standards;
 - F) require the maintenance of records of peer reviews conducted under the program in accordance with the record retention rules of the AICPA; and
 - G) provide reports on the results of the peer review program to the Division upon request.
- 4) A Peer Review Administrator shall submit its plan of administration on forms prepared by the Division. Peer Review Administrators listed in subsection (c)(1) are exempt from the plan of administration submission requirements.

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- 5) A Peer Review Administrator is subject to oversight for the purpose of carrying out the provisions of the Act.
- d) Enrollment and Participation
- 1) For renewals on or after July 1, 2012, satisfactory completion of a peer review is required as a condition for renewal of a license for each firm or sole practitioner who provides services requiring a license under Section 8 of the Act. For purposes of this Section, satisfactory completion shall be defined as follows:
- A) Peer reviews of firms and sole practitioners that are accepted by the PRRC without remedial or corrective actions shall be considered completed when accepted.
- B) Peer reviews of firms and sole practitioners that are accepted by the PRRC subject to certain remedial or correction actions shall be considered accepted on the date the firm or sole practitioner signs an acceptance letter from the PRRC agreeing to complete the remedial or corrective actions and shall be considered completed when the firm's or sole practitioner completes the remedial or corrective actions to the satisfaction of the PRRC. The Division may grant renewal of a firm or sole practitioner's license upon the acceptance of its peer review, rather than upon the completion of its peer review.
- C) Pursuant to Section 16(g) of the Act, the Division may hold a hearing for any firm or sole practitioner that fails to satisfactorily complete a peer review or comply with any remedial or corrective actions determined necessary by the PRRC.
- 2) Each firm or sole practitioner required to participate under Section 16(g) of the Act shall enroll in the program of an approved Peer Review Administrator and shall comply with the review due date assigned by an approved Peer Review Administrator. It is the responsibility of the firm or sole practitioner required to complete a peer review to schedule and satisfactorily complete a peer review prior to the expiration date set for renewal. Failure to schedule a peer review with an approved Peer Review Administrator in sufficient time to enable the Peer Review Administrator to accept the review, as determined by the Peer Review Administrator, by

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the renewal date shall not constitute an excuse for failure to satisfactorily complete the peer review required for renewal.

- 3) The Division may accept extensions granted by the Peer Review Administrator to complete a review, provided the Division is notified by the firm or sole practitioner within 20 days after the date that an extension is granted. Extensions exceeding 3 months beyond the original due date established by the Peer Review Administrator must be approved by the Division and only for reasonable cause. Reasonable cause shall be determined on an individual basis by the Division and be defined as an inability to fulfill the peer review requirements during the applicable prerenewal period due to:
 - A) full-time service by a sole practitioner in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) a temporary incapacitating illness of a sole practitioner documented by a statement from a currently licensed physician;
 - C) undue hardship (prolonged hospitalization, family illness, firm dissolution or reorganization); or
 - D) any other similar extenuating circumstances.
- 4) A firm or sole practitioner may choose from among the list of Qualified Peer Review Administrators in subsection (c) to administer its peer review; but must comply with all requirements of the Peer Review Administrator with which it is enrolled.
- 5) A firm or sole practitioner choosing to change to another Peer Review Administrator may do so provided that the firm or sole practitioner authorizes the previous Peer Review Administrator to communicate to the succeeding Peer Review Administrator any outstanding corrective actions related to the firm's or sole practitioner's most recent review. Any outstanding actions must be cleared and the peer review satisfactorily completed in accordance with subsections (d)(1)(A) and (B) prior to transfer between Peer Review Administrators.

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- 6) An out-of-state firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act must comply with the peer review program of the state in which the firm is licensed.
 - 7) An out-of-state firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act from a state without a peer review program must comply with the peer review requirements set forth in Section 16(e) of the Act.
 - 8) An out-of-state firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act must submit proof of satisfactory completion of a peer review (or equivalent) and the out-of-state firm shall submit documentation of the satisfactory completion of a peer review at the request of the Division.
 - 9) In the event a firm's or sole practitioner's practice is sold, dissolved or merged with the practice of one or more firms or sole practitioners, determination of successor or predecessor firms, peer review year-end and peer review due date, if any, will be determined by the Peer Review Administrator.
- e) Effect of Successive Substandard Reviews
- 1) A firm or sole practitioner, or its successor, may have an accelerated review as required by the Peer Review Administrator if it receives two consecutive system or engagement reviews with a peer review rating of pass with deficiencies (formerly "modified").
 - 2) A firm or sole practitioner, or its successor, shall have an accelerated review as required by the Peer Review Administrator if it receives two consecutive system or engagement reviews with a peer review rating of fail (formerly "adverse") or if it receives a rating of fail and a rating of pass with deficiencies within 2 consecutive system or engagement reviews.
 - 3) If any accelerated review results in a peer review rating of pass with deficiencies or fail:

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- A) the firm or sole practitioner may complete attest engagements for which field work has already begun only if it engages a third party reviewer acceptable to the Division; and
- B) the firm or sole practitioner shall not perform any other service requiring a license under Section 8 of the Act until given permission by the Division to resume practice. The Division may impose disciplinary or nondisciplinary guidelines and conditions for continued practice.
- 4) The Division in its discretion may require any firm or sole practitioner that has received a report with a peer review rating of pass with deficiencies or fail to be subject to remedial action as determined by the Division.
- f) Peer Review Report Committee Qualifications and Responsibilities
 - 1) Peer Review Report Committee members are subject to the qualifications and have the responsibilities outlined in the AICPA Standards for Performing and Reporting on Peer Reviews and related guidance.
 - 2) Each PRRC member must comply with the confidentiality requirements of Section 16(f)(2) of the Act. The Peer Review Administrator may annually require its PRRC members to sign a statement acknowledging their appointments and the responsibilities and obligations of their appointments.
- g) Division Access to Results of Firm's or Sole Practitioner's Peer Reviews
 - 1) The Division may request, from a firm or a sole practitioner, any of the following peer review documents:
 - A) peer review report;
 - B) letter of response, if applicable;
 - C) acceptance letter;
 - D) letter signed by the reviewed firm accepting the peer review documents with the understanding that the firm agrees to take certain actions, if applicable;

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- E) letter notifying the reviewed firm that certain required actions have been completed, if applicable.
- 2) To comply with the Division's request in subsection (g)(1), the firm or sole practitioner must submit the requested documents to the Division within 45 days after the request, either by mail or electronically, (e.g., by fax or email). In addition, the submission requirement may be met by allowing the documents to be made available to the Division via a state board access only website by the Peer Review Administrator (when that process is available).

(Source: Added at 35 Ill. Reg. _____, effective _____)