

# Department of Business and Professional Regulation

## Division of Certified Public Accounting

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## LAWS AND RULES

CHAPTER 455 and CHAPTER 473

FLORIDA STATUTES

*And*

RULE CHAPTER 61H1,

FLORIDA ADMINISTRATIVE CODE

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Ron DeSantis, Governor

Melanie S. Griffin, Secretary

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## **CHAPTER 455: BUSINESS AND PROFESSIONAL REGULATION: GENERAL PROVISIONS**

### **455.01 Definitions.**

As used in this chapter, the term:

- (1) “Board” means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the department, including the Florida Real Estate Commission; except that, for ss. 455.201-455.245, “board” means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Certified Public Accounting, the Division of Professions, or the Division of Real Estate.
- (2) “Consumer member” means a person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been, a member or practitioner of the profession, or of any closely related profession, regulated by such board.
- (3) “Department” means the Department of Business and Professional Regulation.
- (4) “License” means any permit, registration, certificate, or license issued by the department.
- (5) “Licensee” means any person issued a permit, registration, certificate, or license by the department.
- (6) “Profession” means any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

**History.**—s. 1, ch. 21885, 1943; s. 1, ch. 28215, 1953; s. 12, ch. 63-195; s. 2, ch. 65-170; s. 27, ch. 67-248; s. 3, ch. 67-409; s. 1, ch. 67-596; s. 121, ch. 71-355; s. 122, ch. 73-333; s. 5, ch. 79-36; s. 123, ch. 79-164; s. 2, ch. 84-70; s. 9, ch. 91-220; s. 4, ch. 92-149; s. 5, ch. 93-220; s. 1, ch. 96-291; s. 3, ch. 97-261; s. 109, ch. 2000-153; s. 23, ch. 2000-160.

**Note.**—Former s. 485.01.

### **455.017 Applicability of this chapter.**

This chapter applies only to the regulation of professions by the department.

**History.**—s. 60, ch. 94-218; s. 4, ch. 2010-106.

### **455.02 Licensure of members of the Armed Forces in good standing and their spouses or surviving spouses with administrative boards or programs.**

- (1) Any member of the United States Armed Forces now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any of the boards or programs listed in s. 20.165 and was entitled to practice or engage in his or her profession or occupation in the state shall be kept in good standing by the applicable board or program, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the United States Armed Forces on active duty and for a period of 2 years after discharge from active duty. A member, during active duty and for a period of 2 years after discharge from active duty, engaged in his or her licensed profession or occupation in the private sector for profit in this state

must complete all license renewal provisions except remitting the license renewal fee, which shall be waived by the department.

(2) A spouse of a member of the United States Armed Forces who is married to a member during a period of active duty, or a surviving spouse of a member who at the time of death was serving on active duty, who is in good standing with any of the boards or programs listed in s. 20.165 shall be kept in good standing by the applicable board or program as described in subsection (1) and shall be exempt from licensure renewal provisions, but only in cases of his or her absence from the state because of his or her spouse's duties with the United States Armed Forces. The department or the appropriate board or program shall waive any license renewal fee for such spouse when he or she is present in this state because of such member's active duty and for a surviving spouse of a member who at the time of death was serving on active duty and died within the 2 years preceding the date of renewal.

(3)(a) The department shall issue a professional license to an applicant who is or was an active duty member of the Armed Forces of the United States, or who is a spouse or surviving spouse of such member, upon application to the department in a format prescribed by the department. An application must include proof that:

1. The applicant is or was an active duty member of the Armed Forces of the United States or is married to a member of the Armed Forces of the United States and was married to the member during any period of active duty or was married to such a member who at the time of the member's death was serving on active duty. An applicant who was an active duty member of the Armed Forces of the United States must have received an honorable discharge upon separation or discharge from the Armed Forces of the United States.

2. The applicant holds a valid license for the profession issued by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction.

3. The applicant, where required by the specific practice act, has complied with insurance or bonding requirements.

4.a. A complete set of the applicant's fingerprints is submitted to the Department of Law Enforcement for a statewide criminal history check.

b. The Department of Law Enforcement shall forward the fingerprints submitted pursuant to sub-subparagraph a. to the Federal Bureau of Investigation for a national criminal history check. The department shall, and the board may, review the results of the criminal history checks according to the level 2 screening standards in s. 435.04 and determine whether the applicant meets the licensure requirements. The costs of fingerprint processing shall be borne by the applicant. If the applicant's fingerprints are submitted through an authorized agency or vendor, the agency or vendor shall collect the required processing fees and remit the fees to the Department of Law Enforcement.

(b) The department shall waive the applicant's initial licensure application fee.

(c) An applicant who is issued a license under this section may renew such license upon completion of the conditions for renewal required of licenseholders under the applicable practice act, including, without limitation, continuing education requirements. This paragraph does not limit waiver of initial licensure requirements under this subsection.

(d) The department shall expedite all applications submitted by a spouse of an active duty member of the Armed Forces of the United States pursuant to this subsection and shall issue a license within 7 days after receipt of a complete application that includes all required documentation under subparagraphs (a)1.-4.

**History.**—s. 2, ch. 21885, 1943; s. 5, ch. 79-36; s. 95, ch. 83-329; s. 1, ch. 84-15; s. 71, ch. 85-81; s. 6, ch. 93-220; s. 186, ch. 97-103; s. 5, ch. 2010-106; s. 4, ch. 2010-182; s. 2, ch. 2017-135; s. 7, ch. 2018-7; s. 1, ch. 2022-185.

**Note.**—Former s. 485.02.

#### **455.10 Restriction on requirement of citizenship.**

No person shall be disqualified from practicing an occupation or profession regulated by the state solely because he or she is not a United States citizen.

**History.**—ss. 1, 2, 3, ch. 72-125; s. 1, ch. 74-37; s. 1, ch. 77-174; s. 5, ch. 79-36; s. 187, ch. 97-103.

**Note.**—Former s. 455.012.

#### **455.11 Qualification of immigrants for examination to practice a licensed profession or occupation.**

(1) It is the declared purpose of this section to encourage the use of foreign-speaking Florida residents duly qualified to become actively qualified in their professions so that all Florida citizens may receive better services.

(2) Any person who has successfully completed, or is currently enrolled in, an approved course of study created pursuant to chapters 74-105 and 75-177, Laws of Florida, shall be deemed qualified for examination and reexaminations for a professional or occupational license which shall be administered in the English language unless 15 or more such applicants request that said reexamination be administered in their native language. In the event that such reexamination is administered in a foreign language, the full cost to the board of preparing and administering same shall be borne by said applicants.

(3) Each board within the department shall adopt and implement programs designed to qualify for examination all persons who were resident nationals of the Republic of Cuba and who, on July 1, 1977, were residents of this state.

**History.**—ss. 1, 3, ch. 77-255; s. 5, ch. 79-36; s. 194, ch. 79-400; s. 5, ch. 92-149; s. 61, ch. 94-218.

**Note.**—Former s. 455.016.

#### **455.116 Regulation trust funds.**

The following trust funds shall be placed in the department:

- (1) Administrative Trust Fund.
- (2) Alcoholic Beverage and Tobacco Trust Fund.
- (3) Cigarette Tax Collection Trust Fund.
- (4) Hotel and Restaurant Trust Fund.
- (5) Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.

(6) Professional Regulation Trust Fund.

**History.**—s. 8, ch. 93-220; s. 44, ch. 96-418; s. 22, ch. 2008-240; s. 1, ch. 2011-30; s. 2, ch. 2012-143; s. 4, ch. 2022-179.

**455.1165 Federal Grants Trust Fund.**

(1) The Federal Grants Trust Fund is created within the Department of Business and Professional Regulation.

(2) The trust fund is established for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. Moneys to be credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds. Funds shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216.

**History.**—s. 1, ch. 2011-60; s. 2, ch. 2014-44.

**455.117 Sale of services and information by department.**

The department may provide, directly or by contract, services and information to other levels of government and private entities.

**History.**—s. 9, ch. 93-220.

**455.201 Professions and occupations regulated by department; legislative intent; requirements.**

(1) It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified.

(2) The Legislature further believes that such professions shall be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

(a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

(b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c) Less restrictive means of regulation are not available.

(3) It is further legislative intent that the use of the term "profession" with respect to those activities licensed and regulated by the department shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(4)(a) Neither the department nor any board may create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. Neither the department nor any board may take

any action that tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(b) Neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention in the state or that places unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment.

(c) The Legislature shall evaluate proposals to increase regulation of already regulated professions or occupations to determine their effect on job creation or retention and employment opportunities.

(5) Policies adopted by the department shall ensure that all expenditures are made in the most cost-effective manner to maximize competition, minimize licensure costs, and maximize public access to meetings conducted for the purpose of professional regulation. The long-range planning function of the department shall be implemented to facilitate effective operations and to eliminate inefficiencies.

**History.**—s. 1, ch. 76-28; s. 5, ch. 79-36; s. 122, ch. 79-164; s. 3, ch. 82-1; s. 79, ch. 83-218; s. 36, ch. 92-33; s. 6, ch. 92-149; s. 20, ch. 93-129; s. 62, ch. 94-218; s. 134, ch. 99-251.

**Note.**—Former s. 455.001.

#### **455.203 Department; powers and duties.**

The department, for the boards under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of each board, subject to the approval of the board.

(3) Submit an annual budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the appropriate profession and with the structure of the department.

(5) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

(6) Establish by rule procedures by which the department shall use the expert or technical advice of the appropriate board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(7) Require all proceedings of any board or panel thereof and all formal or informal proceedings conducted by the department, an administrative law judge, or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the respective boards.



(9) Work cooperatively with the Department of Revenue to implement an automated method for periodically disclosing information relating to current licensees to the Department of Revenue. The purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. The department shall, when directed by the court or the Department of Revenue pursuant to s. 409.2598, suspend or deny the license of any licensee found not to be in compliance with a support order, subpoena, order to show cause, or written agreement entered into by the licensee with the Department of Revenue. The department shall issue or reinstate the license without additional charge to the licensee when notified by the court or the Department of Revenue that the licensee has complied with the terms of the support order. The department shall not be held liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

(10) Have authority to:

(a) Close and terminate deficient license application files 2 years after the board or the department notifies the applicant of the deficiency; and

(b) Approve applications for professional licenses that meet all statutory and rule requirements for licensure.

**History.**—s. 5, ch. 79-36; s. 27, ch. 81-302; s. 7, ch. 83-329; s. 15, ch. 86-285; s. 15, ch. 89-162; s. 1, ch. 90-228; s. 37, ch. 92-33; s. 7, ch. 92-149; s. 23, ch. 93-129; s. 10, ch. 93-208; s. 10, ch. 93-262; ss. 63, 64, ch. 94-218; s. 206, ch. 96-410; s. 4, ch. 97-261; s. 117, ch. 98-200; s. 24, ch. 2000-160; s. 51, ch. 2001-158; s. 38, ch. 2005-39; s. 21, ch. 2008-240.

#### **455.2035 Rulemaking authority for professions not under a board.**

The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the regulatory requirements of any profession within the department's jurisdiction which does not have a statutorily authorized regulatory board.

**History.**—s. 136, ch. 99-251.

#### **455.204 Long-range policy planning; plans, reports, and recommendations.**

To facilitate efficient and cost-effective regulation, the department and the board, where appropriate, shall develop and implement a long-range policy planning and monitoring process to include recommendations specific to each profession. Such process shall include estimates of revenues, expenditures, cash balances, and performance statistics for each profession. The period covered shall not be less than 5 years. The department, with input from the boards, shall develop the long-range plan and must obtain the approval of the secretary. The department shall monitor compliance with the approved long-range plan and, with input from the boards, shall annually update the plans for approval by the secretary. The department shall provide concise management reports to the boards quarterly. As part of the review process, the department shall evaluate:

(1) Whether the department, including the boards and the various functions performed by the department, is operating efficiently and effectively and if there is a need for a board or council to assist in cost-effective regulation.

(2) How and why the various professions are regulated.

(3) Whether there is a need to continue regulation, and to what degree.

- (4) Whether or not consumer protection is adequate, and how it can be improved.
- (5) Whether there is consistency between the various practice acts.
- (6) Whether unlicensed activity is adequately enforced.

Such plans should include conclusions and recommendations on these and other issues as appropriate. Such plans shall be provided to the Governor and the Legislature by November 1 of each year.

**History.**—s. 8, ch. 92-149.

#### **455.205 Contacting boards through department.**

Each board under the jurisdiction of the department may be contacted through the headquarters of the department in the City of Tallahassee or at any regional office of the department.

**History.**—s. 30, ch. 69-106; s. 2, ch. 77-115; s. 5, ch. 79-36; s. 38, ch. 92-33; s. 23, ch. 93-129; ss. 65, 66, ch. 94-218; s. 5, ch. 97-261.

**Note.**—Former s. 455.004.

#### **455.207 Boards; organization; meetings; compensation and travel expenses.**

- (1) Each board within the department shall comply with the provisions of this section.
- (2) The board shall annually elect from among its number a chairperson and vice chairperson.
- (3) The board shall meet at least once annually and may meet as often as is necessary. The chairperson or a quorum of the board shall have the authority to call other meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this chapter or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

- (4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated \$50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the secretary.

- (5) When two or more boards have differences between them, the boards may elect to, or the secretary may request that the boards, establish a special committee to settle those differences. The special committee shall consist of three members designated by each board, who may be members of the designating board or other experts

designated by the board, and of one additional person designated and agreed to by the members of the special committee. In the event the special committee cannot agree on the additional designee, upon request of the special committee, the secretary may select the designee. The committee shall recommend rules necessary to resolve the differences. If a rule adopted pursuant to this provision is challenged, the participating boards shall share the costs associated with defending the rule or rules. The department shall provide legal representation for any special committee established pursuant to this section.

**History.**—s. 5, ch. 79-36; s. 28, ch. 81-302; s. 8, ch. 83-329; s. 72, ch. 85-81; s. 4, ch. 88-392; s. 39, ch. 92-33; s. 9, ch. 92-149; s. 23, ch. 93-129; s. 3, ch. 94-119; s. 6, ch. 97-261; s. 25, ch. 2000-160.

#### **455.208 Publication of information.**

The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the boards shall publish a summary of final orders resulting in fines, suspensions, or revocations, and any other information the department or the board determines is of interest to the public.

**History.**—s. 5, ch. 88-392; s. 40, ch. 92-33; s. 10, ch. 92-149; s. 23, ch. 93-129; s. 67, ch. 94-218; s. 7, ch. 97-261.

#### **455.209 Accountability and liability of board members.**

(1) Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the actions of the board or its individual members. The Governor may suspend from office any board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform the member's official duties, or commission of a felony.

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department may defend the member's company or business in any action against the company or business if the department determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department may employ or utilize the legal services of the Department of Legal Affairs or outside counsel retained pursuant to s. 287.059. Fees and costs of providing legal services provided under this subsection shall be paid from the Professional Regulation Trust Fund, subject to the provisions of ss. 215.37 and 455.219.

**History.**—s. 5, ch. 79-36; ss. 13, 15, 25, 30, 34, 57, 62, ch. 80-406; s. 6, ch. 88-392; s. 2, ch. 90-228; s. 41, ch. 92-33; s. 11, ch. 92-149; s. 23, ch. 93-129; s. 68, ch. 94-218; s. 188, ch. 97-103; s. 8, ch. 97-261; s. 1, ch. 98-166; s. 151, ch. 99-251.

**455.211 Board rules; final agency action; challenges.**

(1) The secretary of the department shall have standing to challenge any rule or proposed rule of a board under its jurisdiction pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the secretary, may declare all or part of a rule or proposed rule invalid if it:

- (a) Does not protect the public from any significant and discernible harm or damages;
- (b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or
- (c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(2) In addition, either the secretary or the board shall be a substantially interested party for purposes of s. 120.54(7). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging the final agency action.

(3) No board created within the department shall have standing to challenge a rule or proposed rule of another board. However, if there is a dispute between boards concerning a rule or proposed rule, the boards may avail themselves of the provisions of s. 455.207(5).

(4) Any proposed board rule that has not been modified to remove proposed committee objections of the Administrative Procedures Committee must receive approval from the department prior to filing the rule with the Department of State for final adoption. The department may repeal any rule enacted by the board which has taken effect without having met proposed committee objections of the Administrative Procedures Committee.

**History.**—s. 5, ch. 79-36; s. 42, ch. 92-33; s. 12, ch. 92-149; s. 23, ch. 93-129; s. 69, ch. 94-218; s. 207, ch. 96-410; s. 9, ch. 97-261; s. 5, ch. 2000-356.

**455.212 Education; substituting demonstration of competency for clock-hour requirements.**

Any board, or the department when there is no board, that requires student completion of a specific number of clock hours of classroom instruction for initial licensure purposes shall establish the minimal competencies that such students must demonstrate in order to be licensed. The demonstration of such competencies may be substituted for specific classroom clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. Student demonstration of the established minimum competencies shall be certified by the educational institution. The provisions of this section shall not apply to boards for which federal licensure standards are more restrictive or stringent than the standards prescribed in statute.

**History.**—s. 63, ch. 92-136; s. 30, ch. 92-321.

**455.2121 Education; accreditation.**

Notwithstanding any other provision of law, educational programs and institutions which are required by statute to be accredited, but which were accredited by an agency that has since ceased to perform an accrediting function, shall be recognized until such programs and institutions are accredited by a qualified successor to the original accrediting agency, an accrediting agency recognized by the United States Department of Education, or an accrediting agency recognized by the board, or the department when there is no board.

**History.**—s. 4, ch. 94-119.

**455.2122 Education.**

A board, or the department where there is no board, shall approve distance learning courses as an alternative to classroom courses to satisfy prelicensure or postlicensure education requirements provided for in part VIII of chapter 468 or part I of chapter 475. A board, or the department when there is no board, may not require centralized examinations for completion of prelicensure or postlicensure education requirements for those professions licensed under part VIII of chapter 468 or part I of chapter 475.

**History.**—s. 6, ch. 2010-106; s. 4, ch. 2010-176.

**455.2123 Continuing education.**

A board, or the department when there is no board, shall allow by rule that distance learning may be used to satisfy continuing education requirements. A board, or the department when there is no board, shall approve distance learning courses as an alternative to classroom courses to satisfy continuing education requirements. A board, or the department when there is no board, may not require centralized examinations for completion of continuing education requirements for the professions licensed under part VIII, part XV, or part XVI of chapter 468 or part I or part II of chapter 475.

**History.**—s. 137, ch. 99-251; s. 7, ch. 2010-106; s. 5, ch. 2010-176; s. 1, ch. 2024-189.

**455.2124 Proration of or not requiring continuing education.**

(1) A board, or the department when there is no board, may:

- (a) Prorate continuing education for new licensees by requiring half of the required continuing education for any applicant who becomes licensed with more than half the renewal period remaining and no continuing education for any applicant who becomes licensed with half or less than half of the renewal period remaining; or
- (b) Require no continuing education until the first full renewal cycle of the licensee.

These options shall also apply when continuing education is first required or the number of hours required is increased by law or the board, or the department when there is no board.

(2)(a) A board, or the department when there is no board, shall exempt an individual from completing the continuing education required for renewal of a license for a renewal period if:

- 1. The individual holds an active license issued by the board or department to practice the profession;

2. The individual has continuously held the license for at least 10 years; and
3. No disciplinary action is imposed on the individual's license.

(b) This subsection does not apply to engineers regulated pursuant to chapter 471; to certified public accountants regulated pursuant to chapter 473; to brokers, broker associates, and sales associates regulated pursuant to part I of chapter 475; to appraisers regulated pursuant to part II of chapter 475; to architects, interior designers, or landscape architects regulated pursuant to chapter 481; or to contractors regulated pursuant to chapter 489.

(3) The department and each affected board shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

**History.**—s. 138, ch. 99-251; s. 2, ch. 2024-189.

**Note.**—Section 3, ch. 2024-189, provides:“(1) The Department of Business and Professional Regulation is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 455.2124, Florida Statutes, including establishing procedures to facilitate the exemption for eligible individuals from completing continuing education.”“(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.”“(3) This section expires January 1, 2026.”

#### **455.2125 Consultation with postsecondary education boards prior to adoption of changes to training requirements.**

Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the Commission for Independent Education, the Board of Governors of the State University System, and the State Board of Education prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

**History.**—s. 23, ch. 95-243; s. 34, ch. 98-421; s. 71, ch. 2004-5; s. 13, ch. 2004-41; s. 53, ch. 2007-217.

#### **455.213 General licensing provisions.**

(1) Any person desiring to be licensed shall apply to the department in writing. The application for licensure shall be submitted on a form prescribed by the department and must include the applicant's social security number. Notwithstanding any other provision of law, the department is the sole authority for determining the contents of any documents to be submitted for initial licensure and licensure renewal. Such documents may contain information including, as appropriate: demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements,

fingerprint requirements, continuing education requirements, and ongoing education monitoring. The application shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department. In cases where a person applies or schedules directly with a national examination organization or examination vendor to take an examination required for licensure, any organization- or vendor-related fees associated with the examination may be paid directly to the organization or vendor. An application is received for purposes of s. 120.60 upon the department's receipt of the application submitted in the format prescribed by the department; the application fee set by the board or, if there is no board, set by the department; and any other fee required by law or rule to be remitted with the application.

(2) Before the issuance of any license, the department may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, except as provided in subsection (4), the department shall issue a license to any person certified by the appropriate board, or its designee, or the department when there is no board, as having met the applicable requirements imposed by law or rule. However, an applicant who is not otherwise qualified for licensure is not entitled to licensure solely based on a passing score on a required examination. Upon a determination by the department that it erroneously issued a license, or upon the revocation of a license by the applicable board, or by the department when there is no board, the licensee must surrender his or her license to the department.

(3)(a) Notwithstanding any other law, the applicable board shall use the process in this subsection for review of an applicant's criminal record to determine his or her eligibility for licensure as:

1. A barber under chapter 476;
2. A cosmetologist or cosmetology specialist under chapter 477;
3. Any of the following construction professions under chapter 489:
  - a. Air-conditioning contractor;
  - b. Electrical contractor;
  - c. Mechanical contractor;
  - d. Plumbing contractor;
  - e. Pollutant storage systems contractor;
  - f. Roofing contractor;
  - g. Sheet metal contractor;
  - h. Solar contractor;
  - i. Swimming pool and spa contractor;

j. Underground utility and excavation contractor; or

k. Other specialty contractors; or

4. Any other profession for which the department issues a license, provided the profession is offered to inmates in any correctional institution or correctional facility as vocational training or through an industry certification program.

(b)1. A conviction, or any other adjudication, for a crime more than 5 years before the date the application is received by the applicable board may not be grounds for denial of a license specified in paragraph (a). For purposes of this paragraph, the term “conviction” means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. This paragraph does not limit the applicable board from considering an applicant’s criminal history that includes a crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but only if such criminal history has been found to relate to the practice of the applicable profession.

2. The applicable board may consider the criminal history of an applicant for licensure under subparagraph (a)3. if such criminal history has been found to relate to good moral character.

(c)1. A person may apply for a license before his or her lawful release from confinement or supervision. The department may not charge an applicant an additional fee for being confined or under supervision. The applicable board may not deny an application for a license solely on the basis of the applicant’s current confinement or supervision.

2. After a license application is approved, the applicable board may stay the issuance of a license until the applicant is lawfully released from confinement or supervision and the applicant notifies the applicable board of such release. The applicable board must verify the applicant’s release with the Department of Corrections before it issues a license.

3. If an applicant is unable to appear in person due to his or her confinement or supervision, the applicable board must permit the applicant to appear by teleconference or video conference, as appropriate, at any meeting of the applicable board or other hearing by the agency concerning his or her application.

4. If an applicant is confined or under supervision, the Department of Corrections and the applicable board shall cooperate and coordinate to facilitate the appearance of the applicant at a board meeting or agency hearing in person, by teleconference, or by video conference, as appropriate.

(d) Each applicable board shall compile a list of crimes that, if committed and regardless of adjudication, do not relate to the practice of the profession or the ability to practice the profession and do not constitute grounds for denial of a license. This list must be made available on the department’s website and updated annually. Beginning October 1, 2019, each applicable board shall compile a list of crimes that although reported by an applicant for licensure, were not used as a basis for denial. The list must identify for each such license application the crime reported and the date of conviction and whether there was a finding of guilt, a plea, or an adjudication entered or the date of sentencing.

(e) Each applicable board shall compile a list of crimes that have been used as a basis for denial of a license in the past 2 years and shall make the list available on the department’s website. Starting October 1, 2019, and updated



quarterly thereafter, the applicable board shall compile a list indicating each crime used as a basis for denial. For each crime listed, the applicable board must identify the date of conviction, finding of guilt, plea, or adjudication entered, or date of sentencing. Such denials must be made available to the public upon request.

(4) The board, or the department when there is no board, may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete.

(5) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the department, the administrative law judge shall submit his or her recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for a license may appeal the final order of the board in accordance with the provisions of chapter 120.

(6) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

(7) Any board that currently requires continuing education for renewal of a license shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board, or the department when there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this section. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department when there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department when there is no board, may make rules to define underserved and critical need areas. The department shall adopt rules for the administration of continuing education requirements adopted by the boards or the department when there is no board.

(8) Notwithstanding anything to the contrary, any elected official who is licensed pursuant to any practice act within the purview of this chapter may hold employment for compensation with any public agency concurrent with such public service. Such dual service shall be disclosed according to any disclosure required by applicable law.

(9) In any instance in which a licensee or applicant to the department is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, then the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day which is not a Saturday, Sunday, or legal holiday.

(10) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-

D program for child support enforcement and use by the Department of Business and Professional Regulation, and as otherwise provided by law.

(11) For any profession requiring fingerprints as part of the registration, certification, or licensure process or for any profession requiring a criminal history record check to determine good moral character, the fingerprints of the applicant must accompany all applications for registration, certification, or licensure. The fingerprints shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for processing to determine whether the applicant has a criminal history record. The fingerprints shall also be forwarded to the Federal Bureau of Investigation to determine whether the applicant has a criminal history record. The information obtained by the processing of the fingerprints by the Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department to determine whether the applicant is statutorily qualified for registration, certification, or licensure.

(12) Any submission required to be in writing may otherwise be required by the department to be made by electronic means. The department is authorized to contract with private vendors, or enter into interagency agreements, to collect electronic fingerprints where fingerprints are required for registration, certification, or the licensure process or where criminal history record checks are required.

(13) The department shall waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran or his or her spouse at the time of discharge, if he or she applies to the department for a license, in a format prescribed by the department, within 60 months after the veteran is discharged from any branch of the United States Armed Forces. To qualify for this waiver, the veteran must have been honorably discharged.

(14) The department or a board must enter into a reciprocal licensing agreement with other states if the practice act within the purview of this chapter permits such agreement. If a reciprocal licensing agreement exists or if the department or board has determined another state's licensing requirements or examinations to be substantially equivalent or more stringent to those under the practice act, the department or board must post on its website which jurisdictions have such reciprocal licensing agreements or substantially similar licenses.

(15)(a) Before the board, or the department if there is no board, may deny an application for licensure by reciprocity or by endorsement, the board, or the department if there is no board, must make a finding that the basis license in another jurisdiction is or is not substantially equivalent to or is otherwise insufficient for a license in this state.

(b) If the board, or the department if there is no board, finds that the basis license in another jurisdiction is not substantially equivalent to or is otherwise insufficient for a license in this state and there are no other grounds to deny the application for licensure, within 7 business days after being notified of such finding, the applicant may request that the finding be submitted to the secretary for review. Within 7 business days after receiving such request, the secretary must review the finding and either agree or disagree with the finding. If the secretary agrees with the finding, the application for licensure may be denied. If the secretary disagrees with the finding, the application for

licensure must be approved unless other grounds for denial exist. The decision must be entered according to the secretary's finding, unless other grounds for denial exist.

(c) If the secretary finds that the requirements of a basis license in another jurisdiction are substantially equivalent to or are otherwise sufficient for a license in this state, the board, or the department if there is no board, must make the same finding for similar applicants from the same jurisdiction, unless the requirements of the basis license change.

(d) As used in this subsection, the term "basis license" means the license or the licensure requirements of another jurisdiction which are used to meet the requirements for a license in this state.

(16) For the 2023-2024 and 2024-2025 fiscal years, the department shall waive 50 percent of the initial licensing fee for an applicant applying for an initial license for a profession under this chapter, with such waiver limited to a maximum of \$200 per year per license. The department shall waive 50 percent of a licensee's license renewal fee for a profession under this chapter, with such waiver limited to a maximum of \$200 per year per license. Such fee waivers shall not include any applicable unlicensed activity or background check fees. This subsection expires July 1, 2025.

**History.**—s. 5, ch. 79-36; s. 29, ch. 81-302; s. 9, ch. 83-329; s. 7, ch. 84-203; s. 30, ch. 85-175; s. 3, ch. 86-287; s. 1, ch. 89-162; s. 67, ch. 89-374; s. 1, ch. 91-137; s. 10, ch. 91-220; s. 43, ch. 92-33; ss. 13, 76, ch. 92-149; s. 23, ch. 93-129; ss. 1, 4, ch. 96-309; s. 208, ch. 96-410; s. 1078, ch. 97-103; s. 63, ch. 97-170; s. 1, ch. 97-228; s. 10, ch. 97-261; s. 53, ch. 97-278; s. 2, ch. 98-166; s. 37, ch. 98-397; s. 139, ch. 99-251; s. 26, ch. 2000-160; s. 1, ch. 2001-269; s. 9, ch. 2001-278; s. 1, ch. 2007-86; s. 1, ch. 2009-195; s. 8, ch. 2010-106; s. 2, ch. 2012-61; s. 3, ch. 2012-72; s. 40, ch. 2013-116; s. 26, ch. 2014-1; s. 17, ch. 2019-167; s. 13, ch. 2020-160; s. 1, ch. 2023-68; s. 16, ch. 2024-71; s. 1, ch. 2024-274.

#### **455.2135 Interstate mobility.**

(1) When endorsement based upon years of licensure or endorsement based upon satisfaction or completion of multiple criteria that include passage of a licensure or registration examination, completion of internship requirements, or the holding of a valid certificate issued by a national accrediting agency board along with holding a valid license, registration, or certification issued in another jurisdiction is not otherwise provided by law in the practice act for a profession, the board, or the department if there is no board, shall allow licensure by endorsement for any individual applying who:

(a) Has held a valid, current license to practice the profession issued by another state or territory of the United States for at least 5 years before the date of application and is applying for the same or similar license in this state;

(b) Submits an application either when the license in another state or territory is active or within 2 years after such license was last active;

(c) Has passed the recognized national licensing exam, if such exam is established as a requirement for licensure in the profession;

(d) Has no pending disciplinary actions and all sanctions of any prior disciplinary actions have been satisfied;

- (e) Shows proof of compliance with any federal regulation, training, or certification, if the board or the department requires such proof, regarding licensure in the profession;
  - (f) Completes Florida-specific continuing education courses or passes a jurisprudential examination specific to the state laws and rules for the applicable profession as established by the board or department; and
  - (g) Complies with any insurance or bonding requirements as required for the profession.
- (2) If the practice act for a profession requires the submission of fingerprints, the applicant must submit a complete set of fingerprints to the Department of Law Enforcement for a statewide criminal history check. The Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The department shall, and the board may, review the results of the criminal history checks according to the level 2 screening standards in s. 435.04 and determine whether the applicant meets the licensure requirements. The costs of fingerprint processing are borne by the applicant. If the applicant's fingerprints are submitted through an authorized agency or vendor, the agency or vendor must collect the required processing fees and remit the fees to the Department of Law Enforcement.
- (3) This section does not apply to harbor pilots licensed under chapter 310.

**History.**—s. 2, ch. 2024-274.

#### **455.214 Limited licenses.**

- (1) It is the intent of the Legislature that, absent a threat to the health, safety, and welfare of the public, the use of retired professionals in good standing to serve the indigent, underserved, or critical need populations of this state should be encouraged. To that end, the board, or the department when there is no board, may adopt rules to permit practice by retired professionals as limited licensees under this section.
- (2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the board, or the department when there is no board, an application and fee, not to exceed \$300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of his or her profession, the application and all licensure fees shall be waived.
- (3) The board, or the department when there is no board, may deny limited licensure to an applicant who has committed, or is under investigation or prosecution for, any act which would constitute the basis for discipline pursuant to the provisions of this chapter or the applicable practice act.
- (4) The recipient of a limited license may practice only in the employ of public agencies or institutions or nonprofit agencies or institutions which meet the requirements of s. 501(c)(3) of the Internal Revenue Code, and which provide professional liability coverage for acts or omissions of the limited licensee. A limited licensee may provide services only to the indigent, underserved, or critical need populations within the state. The standard for

determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The board, or the department when there is no board, may adopt rules to define underserved and critical need areas and to ensure implementation of this section.

(5) A board, or the department when there is no board, may provide by rule for supervision of limited licensees to protect the health, safety, and welfare of the public.

(6) Each applicant granted a limited license is subject to all the provisions of this chapter and the respective practice act under which the limited license is issued which are not in conflict with this section.

(7) This section does not apply to chapter 458 or chapter 459.

**History.**—s. 14, ch. 92-149; s. 189, ch. 97-103; s. 11, ch. 97-261; s. 27, ch. 2000-160.

#### **455.217 Examinations.**

This section shall be read in conjunction with the appropriate practice act associated with each regulated profession under this chapter.

(1) The Division of Professions of the Department of Business and Professional Regulation shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations. The division shall seek the advice of the appropriate board in providing such services.

(a) The department, acting in conjunction with the Division of Service Operations, the Division of Professions, and the Division of Real Estate, as appropriate, shall ensure that examinations adequately and reliably measure an applicant's ability to practice the profession regulated by the department. After an examination developed or approved by the department has been administered, the board or department may reject any question which does not reliably measure the general areas of competency specified in the rules of the board or department, when there is no board. The department shall use qualified outside testing vendors for the development, preparation, and evaluation of examinations, when such services are economically and viably available and approved by the department.

(b) For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board or the department when there is no board, shall by rule specify the general areas of competency to be covered by the examination, the relative weight to be assigned in grading each area tested, the score necessary to achieve a passing grade, and the fees, where applicable, to cover the actual cost for any purchase, development, and administration of the required examination. However, statutory fee caps in each practice act shall apply. This subsection does not apply to national examinations approved and administered pursuant to paragraph (d).

(c) If a practical examination is deemed to be necessary, rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board may conduct such exercise. Therefore, board members may serve as examiners at a practical examination with the consent of the board.

(d) A board, or the department when there is no board, may approve by rule the use of any national examination which the department has certified as meeting requirements of national examinations and generally accepted testing standards pursuant to department rules. Providers of examinations, which may be either profit or nonprofit entities, seeking certification by the department shall pay the actual costs incurred by the department in making a determination regarding the certification. The department shall use any national examination which is available, certified by the department, and approved by the board. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination. The department may delegate to the board the duty to provide and administer the examination. Any national examination approved by a board, or the department when there is no board, prior to October 1, 1997, is deemed certified under this paragraph. Any licensing or certification examination that is not developed or administered by the department in-house or provided as a national examination shall be competitively bid.

(e) The department shall adopt rules regarding the security and monitoring of examinations. In order to maintain the security of examinations, the department may employ the procedures set forth in s. 455.228 to seek fines and injunctive relief against an examinee who violates the provisions of s. 455.2175 or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules.

(f) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority an examination developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this chapter. All fees paid by the user for professions not regulated by this chapter shall be applied to offset the fees for the development and administration of that profession's examination. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination for which he or she failed to achieve a passing grade, if he or she successfully passes that portion within a reasonable time of his or her passing the other portion.

(2) For each examination developed by the department or a contracted vendor, the board or the department when there is no board, shall make rules providing for reexamination of any applicants who fail an examination developed by the department or a contracted vendor. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination for which he or she failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or department when there is no board, of his or her passing the other portion.

(3) Except for national examinations approved and administered pursuant to paragraph (1)(d), the department shall provide procedures for applicants who have taken and failed an examination developed by the department or a contracted vendor to review their most recently administered examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of his or her examination grades.

(4) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to paragraph (1)(d).

(5) Meetings and records of meetings of any member of the department or of any board or commission within the department held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are confidential and exempt from ss. 119.07(1) and 286.011. However, this exemption shall not affect the right of any person to review an examination as provided in subsection (3).

(6) For examinations developed by the department or a contracted vendor, each board, or the department when there is no board, may provide licensure examinations in an applicant's native language. Applicants for examination or reexamination pursuant to this subsection shall bear the full cost for the department's development, preparation, administration, grading, and evaluation of any examination in a language other than English or Spanish. Requests for translated examinations, except for those in Spanish, must be on file in the board office, or with the department when there is no board, at least 6 months prior to the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English or Spanish, the board, or the department when there is no board, shall consider the percentage of the population who speak the applicant's native language.

(7) In addition to meeting other requirements for licensure by examination or by endorsement, an applicant may be required by a board, or by the department, if there is no board, to pass an examination pertaining to state laws and rules applicable to the practice of the profession regulated by that board or by the department. This subsection does not apply to persons regulated under chapter 473.

**History.**—s. 30, ch. 69-106; s. 1, ch. 73-97; s. 3, ch. 77-115; s. 5, ch. 79-36; s. 286, ch. 81-259; s. 30, ch. 81-302; s. 4, ch. 82-1; s. 39, ch. 82-179; s. 80, ch. 83-218; s. 10, ch. 83-329; s. 1, ch. 88-49; s. 2, ch. 89-162; s. 2, ch. 91-137; s. 1, ch. 91-140; s. 11, ch. 91-220; s. 15, ch. 92-149; s. 5, ch. 94-119; s. 70, ch. 94-218; s. 303, ch. 96-406; s. 1080, ch. 97-103; s. 2, ch. 97-228; s. 12, ch. 97-261; s. 18, ch. 99-7; s. 28, ch. 2000-160; s. 6, ch. 2000-356; s. 23, ch. 2008-240; s. 1, ch. 2009-54; s. 1, ch. 2009-69; s. 63, ch. 2009-195; s. 9, ch. 2010-106.

**Note.**—Former s. 455.007(2).

**455.2171 Use of professional testing services.**

Notwithstanding any other provision of law to the contrary, the department may use a professional testing service to prepare, administer, grade, and evaluate any computerized examination, when that service is available and approved by the board, or the department when there is no board.

**History.**—s. 6, ch. 94-119.

**455.2175 Penalty for theft or reproduction of an examination.**

In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. An examinee whose examination materials are confiscated is not permitted to take another examination until the criminal investigation reveals that the examinee did not violate this section.

**History.**—s. 3, ch. 90-228; s. 3, ch. 91-137; s. 47, ch. 92-33; s. 23, ch. 93-129; s. 71, ch. 94-218; s. 13, ch. 97-261; s. 10, ch. 2010-106.

**455.2177 Monitoring of compliance with continuing education requirements.**

(1) The department shall establish a system to monitor licensee compliance with applicable continuing education requirements and to determine each licensee's continuing education status. As used in this section, the term "monitor" means the act of determining, for each licensee, whether the licensee was in full compliance with applicable continuing education requirements as of the time of the licensee's license renewal.

(2) The department may refuse renewal of a licensee's license until the licensee has satisfied all applicable continuing education requirements. This subsection does not preclude the department or boards from imposing additional penalties pursuant to the applicable practice act or rules adopted pursuant thereto.

(3) The department may waive the continuing education monitoring requirements of this section for any profession that demonstrates to the department that the monitoring system places an undue burden on the profession. The department shall waive the continuing education monitoring requirements of this section for any profession that has a program in place which measures compliance with continuing education requirements through statistical sampling techniques or other methods and can indicate that at least 95 percent of its licensees are in compliance.

(4) The department may adopt rules under ss. 120.536(1) and 120.54 to implement this section.

**History.**—s. 157, ch. 99-251; s. 17, ch. 2001-278; s. 43, ch. 2002-207; s. 2, ch. 2004-292; s. 82, ch. 2005-2.

**455.2178 Continuing education providers.**

(1) Each continuing education provider shall provide to the department such information regarding the continuing education status of licensees as the department determines is necessary to carry out its duties under s. 455.2177, in an electronic format determined by the department. After a licensee's completion of a course, the



information must be submitted to the department electronically no later than 30 calendar days thereafter. However, the continuing education provider shall electronically report to the department completion of a licensee's course within 10 business days beginning on the 30th day before the renewal deadline or prior to the renewal date, whichever occurs sooner. The foregoing applies only if the profession has not been granted a waiver from the monitoring requirements under s. 455.2177. Upon the request of a licensee, the provider must also furnish to the department information regarding courses completed by the licensee.

(2) Each continuing education provider shall retain all records relating to a licensee's completion of continuing education courses for at least 4 years after completion of a course.

(3) A continuing education provider may not be approved, and the approval may not be renewed, unless the provider agrees in writing to provide such cooperation under this section and s. 455.2177 as the department deems necessary or appropriate.

(4) The department may fine, suspend, or revoke approval of any continuing education provider that fails to comply with its duties under this section. Such fine may not exceed \$500 per violation. Investigations and prosecutions of a provider's failure to comply with its duties under this section shall be conducted pursuant to s. 455.225.

(5) For the purpose of determining which persons or entities must meet the reporting, recordkeeping, and access provisions of this section, the board of any profession subject to this section, or the department if there is no board, shall, by rule, adopt a definition of the term "continuing education provider" applicable to the profession's continuing education requirements. The intent of the rule shall be to ensure that all records and information necessary to carry out the requirements of this section and s. 455.2177 are maintained and transmitted accordingly and to minimize disputes as to what person or entity is responsible for maintaining and reporting such records and information.

(6) The department may adopt rules under ss. 120.536(1) and 120.54 to implement this section.

**History.**—s. 158, ch. 99-251; s. 3, ch. 2004-292; s. 2, ch. 2007-86.

#### **455.2179 Continuing education provider and course approval; cease and desist orders.**

(1) If a board, or the department if there is no board, requires completion of continuing education as a requirement for renewal of a license, the board, or the department if there is no board, shall approve the providers and courses for the continuing education. Notwithstanding this subsection or any other provision of law, the department may approve continuing education providers or courses even if there is a board. If the department determines that an application for a continuing education provider or course requires expert review or should be denied, the department shall forward the application to the appropriate board for review and approval or denial. The approval of continuing education providers and courses must be for a specified period of time, not to exceed 4 years. An approval that does not include such a time limitation may remain in effect pursuant to the applicable practice act or the rules adopted under the applicable practice act. Notwithstanding this subsection or any other provision of law,

only the department may determine the contents of any documents submitted for approval of a continuing education provider or course.

(2) The board, or the department if there is no board, shall issue an order requiring a person or entity to cease and desist from offering any continuing education programs for licensees, and fining, suspending, or revoking any approval of the provider previously granted by the board, or the department if there is no board, if the board, or the department if there is no board, determines that the person or entity failed to provide appropriate continuing education services that conform to approved course material. Such fine may not exceed \$500 per violation. Investigations and prosecutions of a provider's failure to comply with its duties under this section shall be conducted under s. 455.225.

(3) Each board authorized to approve continuing education providers, or the department if there is no board, may establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of providership of such courses. The Florida Real Estate Commission, authorized under the provisions of chapter 475 to approve prelicensure, precertification, and postlicensure education providers, may establish, by rule, an application fee not to exceed \$250 for anyone seeking approval to offer prelicensure, precertification, or postlicensure education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of such courses. Such postlicensure education courses are subject to the reporting, monitoring, and compliance provisions of this section and ss. 455.2177 and 455.2178.

(4) The department and each affected board may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

**History.**—s. 159, ch. 99-251; s. 7, ch. 2000-356; s. 4, ch. 2004-292; s. 4, ch. 2012-72.

#### **455.218 Foreign-trained professionals; special examination and license provisions.**

(1) When not otherwise provided by law, the department shall by rule provide procedures under which exiled professionals may be examined within each practice act. A person shall be eligible for such examination if the person:

- (a) Immigrated to the United States after leaving the person's home country because of political reasons, provided such country is located in the Western Hemisphere and lacks diplomatic relations with the United States;
- (b) Applies to the department and submits a fee;
- (c) Was a Florida resident immediately preceding the person's application;
- (d) Demonstrates to the department, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university; however, the department may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;
- (e) Lawfully practiced the profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department shall develop rules for the approval of such programs for its boards.

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the department, for its boards, shall provide a written practical examination that tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. Evidence of meeting the requirements of subsection (1) shall be treated by the department as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant shall not be examined by the department on such fundamentals.

(3) The fees charged for the examinations offered under subsection (2) shall be established by the department, for its boards, by rule and shall be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4) The department shall examine any applicant who meets the requirements of subsections (1) and (2). Upon passing the examination and the issuance of the license, a licensee is subject to the administrative requirements of this chapter and the respective practice act under which the license is issued. Each applicant so licensed is subject to all provisions of this chapter and the respective practice act under which the license was issued.

(5) Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language, provided that any translation costs are borne by the applicant.

(6) The department, for its boards, shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action which would constitute a violation of this chapter or the professional practice acts administered by the department and the boards until such time as the investigation or prosecution is complete, at which time the provisions of the professional practice acts shall apply.

**History.**—s. 1, ch. 86-90; s. 7, ch. 88-205; s. 7, ch. 88-392; s. 48, ch. 92-33; s. 16, ch. 92-149; s. 23, ch. 93-129; s. 312, ch. 94-119; s. 72, ch. 94-218; s. 14, ch. 97-261; s. 3, ch. 98-166; s. 29, ch. 2000-160.

#### **455.2185 Exemption for certain out-of-state or foreign professionals; limited practice permitted.**

(1) A professional of any other state or of any territory or other jurisdiction of the United States or of any other nation or foreign jurisdiction is exempt from the requirements of licensure under this chapter and the applicable professional practice act under the agency with regulatory jurisdiction over the profession if that profession is regulated in this state under the agency with regulatory jurisdiction over the profession and if that person:

(a) Holds, if so required in the jurisdiction in which that person practices, an active license to practice that profession.

(b) Engages in the active practice of that profession outside the state.

(c) Is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event.

(2) A professional's practice under this section is limited to the members, coaches, and staff of the team for which that professional is employed or designated and to any animals used if the sporting event for which that professional is employed or designated involves animals. A professional practicing under authority of this section shall not have practice privileges in any licensed veterinary facility without the approval of that facility.

**History.**—s. 1, ch. 94-96; s. 15, ch. 97-261; s. 30, ch. 2000-160.

**455.219 Fees; receipts; disposition; periodic management reports.**

(1) Each board within the department shall determine by rule the amount of license fees for its profession, based upon department-prepared long-range estimates of the revenue required to implement all provisions of law relating to the regulation of professions by the department and any board; however, when the department has determined, based on the long-range estimates of such revenue, that a profession's trust fund moneys are in excess of the amount required to cover the necessary functions of the board, or the department when there is no board, the department may adopt rules to implement a waiver of license renewal fees for that profession for a period not to exceed 2 years, as determined by the department. Each board, or the department when there is no board, shall ensure license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the department, with advice of the applicable board. If sufficient action is not taken by a board within 1 year of notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for the advancement of sufficient funds to any profession or the Florida Athletic Commission operating with a negative cash balance. Such advancement may be for a period not to exceed 2 consecutive years and shall require interest to be paid by the regulated profession. Interest shall be calculated at the current rate earned on Professional Regulation Trust Fund investments. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(2) Each board, or the department if there is no board, may, by rule, assess and collect a one-time fee from each active and each voluntary inactive licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of such professions as required in this section. No more than one such assessment may be made in any 4-year period without specific legislative authorization.

(3) All moneys collected by the department from fees or fines or from costs awarded to the department by a court shall be paid into the Professional Regulation Trust Fund, which fund is created in the department. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The Legislature shall appropriate funds from this trust fund sufficient to carry out the provisions of this chapter and the

provisions of law with respect to professions regulated by the department and any board within the department. The department shall maintain separate accounts in the Professional Regulation Trust Fund for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses shall include, but not be limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The department shall not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession. The department shall maintain adequate records to support its allocation of department expenses. The department shall provide any board with reasonable access to these records upon request. Each board shall be provided an annual report of revenue and direct and allocated expenses related to the operation of that profession. These reports and the department's adopted long-range plan shall be used by the board to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared pursuant to s. 455.2285.

(4) A condensed management report of budgets, finances, performance statistics, and recommendations shall be provided to each board at least once a quarter. The department shall identify and include in such presentations any changes, or projected changes, made to the board's budget since the last presentation.

(5) If a duplicate license is required or requested by the licensee, the board or, if there is no board, the department may charge a fee as determined by rule not to exceed \$25 before issuance of the duplicate license.

(6) The department or the appropriate board shall charge a fee not to exceed \$25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the appropriate board shall assess a fee for duplication of a public record as provided in s. 119.07(4).

(7)(a) The department, or a board thereunder, shall waive the initial licensing fee for a member of the Armed Services of the United States who has served on active duty, the spouse of a member of the Armed Services of the United States who was married to the member during a period of active duty, the surviving spouse of a member of the Armed Services of the United States who at the time of death was serving on active duty, or a low-income individual upon application by the individual in a format prescribed by the department. The application format must include the applicant's signature, under penalty of perjury, and supporting documentation as required by the department. For purposes of this subsection, the term "low-income individual" means a person whose household income, before taxes, is at or below 130 percent of the federal poverty guidelines prescribed for the family's household size by the United States Department of Health and Human Services, proof of which may be shown through enrollment in a state or federal public assistance program that requires participants to be at or below 130 percent of the federal poverty guidelines to qualify.

(b) The department, or a board thereunder, shall process an application for a fee waiver within 30 days of receiving it from the applicant.

(c) The department shall adopt rules necessary to implement the provisions of this subsection.

**History.**—s. 5, ch. 79-36; s. 287, ch. 81-259; s. 2, ch. 84-271; s. 82, ch. 90-132; s. 4, ch. 90-228; s. 4, ch. 91-137; s. 17, ch. 92-149; s. 73, ch. 94-218; s. 8, ch. 2000-356; s. 44, ch. 2004-335; s. 3, ch. 2017-135; s. 59, ch. 2018-110; s. 25, ch. 2021-135.

**455.221 Legal and investigative services.**

(1) The department shall provide board counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel. The primary responsibility of board counsel shall be to represent the interests of the citizens of the state. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. Fees and costs of such counsel shall be paid from the Professional Regulation Trust Fund, subject to the provisions of ss. 215.37 and 455.219. All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided.

(2) The Department of Business and Professional Regulation may employ or utilize the legal services of outside counsel and the investigative services of outside personnel. However, no attorney employed or used by the department shall prosecute a matter and provide legal services to the board with respect to the same matter.

(3) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to a profession under the jurisdiction of the department shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

**History.**—s. 30, ch. 69-106; s. 1, ch. 73-97; s. 3, ch. 77-115; s. 5, ch. 79-36; s. 288, ch. 81-259; s. 31, ch. 81-302; s. 51, ch. 92-33; s. 23, ch. 93-129; s. 7, ch. 94-119; ss. 74, 75, ch. 94-218; s. 16, ch. 97-261; s. 152, ch. 99-251.

**Note.**—Former s. 455.007(3), (4).

**455.2228 Barbers and cosmetologists; instruction on HIV and AIDS.**

(1) The board, or the department where there is no board, shall require each person licensed or certified under chapter 476 or chapter 477 to complete a continuing educational course approved by the board, or the department where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome, with an emphasis on appropriate behavior and attitude change.

(2) When filing fees for each biennial renewal, each licensee shall submit confirmation of having completed said course, on a form provided by the board or by the department if there is no board. At the time of the subsequent biennial renewal when coursework is to be completed, if the licensee has not submitted confirmation which has been received and recorded by the board, or department if there is no board, the department shall not renew the license.

(3) The board, or the department where there is no board, shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1).

(4) As of December 31, 1992, the board, or the department where there is no board, shall require, as a condition of granting a license under any of the chapters or parts thereof specified in subsection (1), that an applicant making initial application for licensure complete an educational course acceptable to the board, or the department where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(5) The board, or the department where there is no board, shall have the authority to adopt rules to carry out the provisions of this section.

(6) Any professional holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course, or one department-approved course where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses.

**History.**—s. 11, ch. 89-350; ss. 73, 74, ch. 91-297; s. 16, ch. 95-388; s. 18, ch. 97-261; s. 147, ch. 2010-102.

#### **455.223 Power to administer oaths, take depositions, and issue subpoenas.**

For the purpose of any investigation or proceeding conducted by the department, the department shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas which shall be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.569.

**History.**—s. 5, ch. 79-36; s. 32, ch. 81-302; s. 4, ch. 86-90; s. 5, ch. 91-137; s. 52, ch. 92-33; s. 23, ch. 93-129; s. 77, ch. 94-218; s. 210, ch. 96-410; s. 19, ch. 97-261.

#### **455.2235 Mediation.**

(1) Notwithstanding the provisions of s. 455.225, the board, or the department when there is no board, shall adopt rules to designate which violations of the applicable professional practice act are appropriate for mediation. The board, or the department when there is no board, may designate as mediation offenses those complaints where harm caused by the licensee is economic in nature or can be remedied by the licensee.

(2) After the department determines a complaint is legally sufficient and the alleged violations are defined as mediation offenses, the department or any agent of the department may conduct informal mediation to resolve the complaint. If the complainant and the subject of the complaint agree to a resolution of a complaint within 14 days after contact by the mediator, the mediator shall notify the department of the terms of the resolution. The department or board shall take no further action unless the complainant and the subject each fail to record with the department an acknowledgment of satisfaction of the terms of mediation within 60 days of the mediator's notification to the department. In the event the complainant and subject fail to reach settlement terms or to record the required acknowledgment, the department shall process the complaint according to the provisions of s. 455.225.

(3) Conduct or statements made during mediation are inadmissible in any proceeding pursuant to s. 455.225. Further, any information relating to the mediation of a case shall be subject to the confidentiality provisions of s. 455.225.

(4) No licensee shall go through the mediation process more than three times without approval of the department. The department may consider the subject and dates of the earlier complaints in rendering its decision. Such decision shall not be considered a final agency action for purposes of chapter 120.

(5) If any board fails to adopt rules designating which violations are appropriate for resolution by mediation by January 1, 1995, the department shall have exclusive authority to, and shall, adopt rules to designate the violations which are appropriate for mediation. Any board created on or after January 1, 1995, shall have 6 months to adopt rules designating which violations are appropriate for mediation, after which time the department shall have exclusive authority to adopt rules pursuant to this section. A board shall have continuing authority to amend its rules adopted pursuant to this section.

**History.**—s. 19, ch. 92-149; s. 8, ch. 94-119.

#### **455.224 Authority to issue citations.**

(1) Notwithstanding s. 455.225, the board or the department shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department when there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board or department rule, as part of the penalty levied pursuant to the citation.

(4) A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6) Within its jurisdiction, the department has exclusive authority to, and shall adopt rules to, designate those violations for which the licensee is subject to the issuance of a citation and designate the penalties for those violations if any board fails to incorporate this section into rules by January 1, 1992. A board created on or after January 1, 1992, has 6 months in which to enact rules designating violations and penalties appropriate for citation



offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

**History.**—s. 6, ch. 91-137; s. 53, ch. 92-33; s. 20, ch. 92-149; s. 23, ch. 93-129; s. 313, ch. 94-119; s. 78, ch. 94-218; s. 20, ch. 97-261; s. 161, ch. 99-251.

#### **455.225 Disciplinary proceedings.**

Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1)(a) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board.

(b) When an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. At any time after legal sufficiency

is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3)(a) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. A violation is a minor violation if it does not demonstrate a serious inability to practice the profession, result in economic or physical harm to a person, or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Each board, or the department if there is no board, shall establish by rule those violations which are minor violations under this provision. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(b) The department may issue a notice of noncompliance for an initial offense of a minor violation, notwithstanding a board's failure to designate a particular minor violation by rule as provided in paragraph (a).

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department

when there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department, for disciplinary cases under its jurisdiction, must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the Professional Regulation Trust Fund. All proceedings of the probable cause panel are exempt from s. 120.525.

(5) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The administrative law judge shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed settlement shall be subject to the approval of the department.

(7) The department shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Secretary of Business and Professional Regulation or his or her designee, who shall issue the final summary order.

(9) The department shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any civil action or administrative proceeding or appeal.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. However, this exemption does not apply to actions against unlicensed persons pursuant to s. 455.228 or the applicable practice act. Upon completion of the investigation and pursuant to a written request by the subject, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

**History.**—s. 1, ch. 74-57; s. 5, ch. 79-36; s. 289, ch. 81-259; s. 33, ch. 81-302; s. 12, ch. 83-329; s. 8, ch. 84-203; s. 3, ch. 85-311; s. 5, ch. 86-90; s. 8, ch. 88-1; s. 5, ch. 88-277; s. 1, ch. 88-279; s. 3, ch. 89-162; s. 1, ch. 90-44; s. 5, ch. 90-228; s. 7, ch. 91-137; s. 2, ch. 91-140; s. 54, ch. 92-33; s. 21, ch. 92-149; s. 132, ch. 92-279; s. 55, ch. 92-326; s. 23, ch. 93-129; s. 314, ch. 94-119; s. 79, ch. 94-218; s. 305, ch. 96-406; s. 211, ch. 96-410; s. 1082, ch. 97-103; s. 2, ch. 97-209; s. 3, ch. 97-228; s. 142, ch. 97-237; s. 21, ch. 97-261; s. 4, ch. 97-264; s. 18, ch. 97-273; s. 4, ch. 98-166; s. 31, ch. 2000-160.

**Note.**—Former s. 455.013.

#### **455.2255 Classification of disciplinary actions.**

(1) A licensee may petition the department to review a disciplinary incident to determine whether the specific violation meets the standard of a minor violation as set forth in s. 455.225(3). If the circumstances of the violation meet that standard and 2 years have passed since the issuance of a final order imposing discipline, the department shall reclassify that violation as inactive if the licensee has not been disciplined for any subsequent minor violation of the same nature. After the department has reclassified the violation as inactive, it is no longer considered to be part of the licensee's disciplinary record, and the licensee may lawfully deny or fail to acknowledge the incident as a disciplinary action.

(2) The department may establish a schedule classifying violations according to the severity of the violation. After the expiration of set periods of time, the department may provide for such disciplinary records to become inactive, according to their classification. After the disciplinary record has become inactive, the department may clear the violation from the disciplinary record and the subject person or business may lawfully deny or fail to acknowledge such disciplinary actions.

(3) Notwithstanding s. 455.017, this section applies to the disciplinary records of all persons or businesses licensed by the department.

**History.**—s. 143, ch. 99-251; s. 71, ch. 2013-18.

**455.227 Grounds for discipline; penalties; enforcement.**

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted pursuant to s. 501.122(2) governing the registration of such devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating any provision of this chapter, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(t) Failing to report in writing to the board or, if there is no board, to the department within 30 days after the licensee is convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction. A licensee must report a conviction, finding of guilt, plea, or adjudication entered before the effective date of this paragraph within 30 days after the effective date of this paragraph.

(u) Termination from an impaired practitioner program as described in s. 456.076 for failure to comply, without good cause, with the terms of the monitoring or participant contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g) Corrective action.

(3)(a) In addition to any other discipline imposed pursuant to this section or discipline imposed for a violation of any practice act, the board, or the department when there is no board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time.

(b) In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(c) The department shall not issue or renew a license to any person against whom or business against which the board has assessed a fine, interest, or costs associated with investigation and prosecution until the person or business has paid in full such fine, interest, or costs associated with investigation and prosecution or until the person or business complies with or satisfies all terms and conditions of the final order.

(4) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

(5) In the event the board, or the department when there is no board, determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish, by rule, requirements for reapplication by applicants whose licenses have been permanently revoked. Such requirements may include, but shall not be limited to, satisfying current requirements for an initial license.

**History.**—s. 5, ch. 79-36; s. 13, ch. 83-329; s. 5, ch. 88-380; s. 8, ch. 91-137; s. 55, ch. 92-33; s. 22, ch. 92-149; s. 23, ch. 93-129; s. 9, ch. 94-119; s. 80, ch. 94-218; s. 5, ch. 95-187; s. 22, ch. 97-261; s. 144, ch. 99-251; s. 32, ch. 2000-160; s. 2, ch. 2009-195; s. 12, ch. 2010-106; s. 5, ch. 2017-41.

#### **455.2273 Disciplinary guidelines.**

(1) Each board, or the department when there is no board, shall adopt, by rule, and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department when there is no board, pursuant to this chapter, the respective practice acts, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department when there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

(6) Notwithstanding s. 455.017, this section applies to disciplinary guidelines adopted by all boards or divisions within the department.

**History.**—s. 2, ch. 86-90; s. 56, ch. 92-33; s. 23, ch. 92-149; s. 23, ch. 93-129; s. 81, ch. 94-218; s. 212, ch. 96-410; s. 23, ch. 97-261; s. 33, ch. 2000-160; s. 24, ch. 2008-240.

#### **455.2274 Criminal proceedings against licensees; appearances by department representatives.**

A representative of the department may voluntarily appear in a criminal proceeding brought against a person licensed by the department to practice a profession regulated by the state. The department's representative is authorized to furnish pertinent information, make recommendations regarding specific conditions of probation, and provide other assistance to the court necessary to promote justice or protect the public. The court may order a representative of the department to appear in a criminal proceeding if the crime charged is substantially related to the qualifications, functions, or duties of a licensee regulated by the department.

**History.**—s. 3, ch. 2009-195; s. 115, ch. 2014-17.

#### **455.2275 Penalty for giving false information.**

In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the act of knowingly giving false information in the course of applying for or obtaining a license from the department, or any board thereunder, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license from either the department, or any board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**—s. 31, ch. 85-175; s. 12, ch. 89-124; s. 9, ch. 91-137; s. 57, ch. 92-33; s. 24, ch. 92-149; s. 23, ch. 93-129; s. 82, ch. 94-218; s. 190, ch. 97-103; s. 24, ch. 97-261.

#### **455.2277 Prosecution of criminal violations.—**

The department or the appropriate board shall report any criminal violation of any statute relating to the practice of a profession regulated by the department or appropriate board to the proper prosecuting authority for prompt prosecution.

**History.**—s. 25, ch. 92-149.



**455.2278 Restriction on disciplinary action for student loan default.**

(1) DEFINITIONS.—As used in this section, the term:

(a) “Default” means the failure to repay a student loan according to the terms agreed to in the promissory note.

(b) “Delinquency” means the failure to make a student loan payment when it is due.

(c) “Student loan” means a federal-guaranteed or state-guaranteed loan for the purposes of postsecondary education.

(d) “Work-conditional scholarship” means an award of financial aid for a student to further his or her education which imposes an obligation on the student to complete certain work-related requirements to receive or to continue receiving the scholarship.

(2) STUDENT LOAN DEFAULT; DELINQUENCY.—The department or a board may not suspend or revoke a license that it has issued to any person who is in default on or delinquent in the payment of his or her student loans solely on the basis of such default or delinquency.

(3) WORK-CONDITIONAL SCHOLARSHIP DEFAULT.—The department or a board may not suspend or revoke a license that it has issued to any person who is in default on the satisfaction of the requirements of his or her work-conditional scholarship solely on the basis of such default.

**History.**—s. 14, ch. 2020-160.

**455.228 Unlicensed practice of a profession; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected.**

(1) When the department has probable cause to believe that any person not licensed by the department, or the appropriate regulatory board within the department, has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department, or any rule adopted pursuant thereto, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing such unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such notice. In addition to the foregoing remedies, the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120 or may issue a citation pursuant to the provisions of subsection (3). If the department is required to seek enforcement of the notice for a penalty pursuant to s. 120.569, it shall be entitled to collect its attorney’s fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than \$500 and no more than \$5,000 for each offense.

The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation.

(3)(a) Notwithstanding the provisions of s. 455.225, the department shall adopt rules to permit the issuance of citations for unlicensed practice of a profession. The citation shall be issued to the subject and shall contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The penalty shall be a fine of not less than \$500 or more than \$5,000 or other conditions as established by rule.

(b) Each day that the unlicensed practice continues after issuance of a citation constitutes a separate violation.

(c) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to department rule as part of the penalty levied pursuant to the citation.

(d) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(4) All fines, fees, and costs collected through the procedures set forth in this section shall be allocated to the professions in the manner provided for in s. 455.2281 for the allocation of the fees assessed and collected to combat unlicensed practice of a profession.

(5) The provisions of this section apply only to the provisions of s. 455.217 and the professional practice acts administered by the department.

**History.**—s. 3, ch. 84-271; s. 6, ch. 90-228; s. 58, ch. 92-33; s. 26, ch. 92-149; s. 23, ch. 93-129; s. 11, ch. 94-119; ss. 83, 84, ch. 94-218; s. 213, ch. 96-410; s. 25, ch. 97-261; s. 34, ch. 2000-160; s. 13, ch. 2010-106.

#### **455.2281    Unlicensed activities; fees; disposition.**

In order to protect the public and to ensure a consumer-oriented department, it is the intent of the Legislature that vigorous enforcement of regulation for all professional activities is a state priority. All enforcement costs should be covered by professions regulated by the department. Therefore, the department shall impose, upon initial licensure and each subsequent renewal, a special fee of \$5 per licensee, in addition to all other fees imposed, to fund efforts to combat unlicensed activity. However, the department may not impose this special fee on a license renewal for any profession whose unlicensed activity account balance, at the beginning of the fiscal year before the renewal, totals more than twice the total of the expenditures for unlicensed activity enforcement efforts in the preceding 2 fiscal years. This waiver applies to all licensees within the profession, and assessment of the special fee may not begin or resume until the renewal cycle subject to the waiver has ended for all of the licensees in that profession. This waiver does not apply to a profession that has a deficit in its operating account or that is projected to have such a deficit in the next 5 fiscal years. Any profession regulated by the department which offers services that are not subject to

regulation when provided by an unlicensed person may use funds in its unlicensed activity account to inform the public of such situation. The board with concurrence of the department, or the department when there is no board, may earmark \$5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash balance. A board or profession regulated by the department may authorize the transfer of funds from the operating fund account to the unlicensed activity account of that profession if the operating fund account is not in a deficit and has a reasonable cash balance. The department shall make direct charges to this fund by profession and may not allocate indirect overhead. The department shall seek board advice regarding enforcement methods and strategies prior to expenditure of funds; however, the department may, without board advice, allocate funds to cover the costs of continuing education compliance monitoring under s. 455.2177. The department shall directly credit, by profession, revenues received from the department's efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement and from continuing education compliance monitoring as separate categories in the quarterly management report provided for in s. 455.219. The department may not charge the account of any profession for the costs incurred on behalf of any other profession. With the concurrence of the applicable board and the department, any balance that remains in an unlicensed activity account at the end of a renewal cycle may be transferred to the operating fund account of that profession.

**History.**—s. 27, ch. 92-149; s. 12, ch. 94-119; s. 160, ch. 99-251; s. 2, ch. 2001-269; s. 5, ch. 2004-292; s. 1, ch. 2016-79.

**455.2285    Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.**

The department is directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

- (1) The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.
- (2) The number of complaints received and investigated.
- (3) The number of findings of probable cause made.
- (4) The number of findings of no probable cause made.
- (5) The number of administrative complaints filed.
- (6) The disposition of all administrative complaints.
- (7) A description of disciplinary actions taken.
- (8) A description of any effort by the department, for any disciplinary cases under its jurisdiction, to reduce or otherwise close any investigation or disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this chapter.

(9) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 455.2273.

(10) Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

**History.**—s. 4, ch. 84-271; s. 3, ch. 86-90; s. 7, ch. 90-228; s. 59, ch. 92-33; s. 28, ch. 92-149; s. 23, ch. 93-129; ss. 85, 86, ch. 94-218; s. 143, ch. 97-237; s. 26, ch. 97-261; s. 5, ch. 97-264; s. 19, ch. 97-273; s. 5, ch. 98-166.

#### **455.2286 Automated information system.**

The department shall implement an automated information system for all certificate holders and registrants under part XII of chapter 468, chapter 471, chapter 481, or chapter 489. The system shall provide instant notification to local building departments and other interested parties regarding the status of the certification or registration. The provision of such information shall consist, at a minimum, of an indication of whether the certification or registration is active, of any current failure to meet the terms of any final action by a licensing authority, of any ongoing disciplinary cases that are subject to public disclosure, whether there are any outstanding fines, and of the reporting of any material violations pursuant to s. 553.781. The system shall also retain information developed by the department and local governments on individuals found to be practicing or contracting without holding the applicable license, certification, or registration required by law. The system may be Internet-based.

**History.**—s. 6, ch. 98-287; s. 31, ch. 2000-141; s. 80, ch. 2019-3.

#### **455.229 Public inspection of information required from applicants; exceptions; examination hearing.**

(1) All information required by the department of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except members of the board, the department, and staff thereof, who have a bona fide need to know such information. Any information supplied to the department by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential pursuant to applicable law while in the custody of the department.

(2) The department shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the administrative law judge. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the administrative law judge.

(3) Unless an applicant notifies the department at least 5 days prior to an examination hearing of the applicant's inability to attend, or unless an applicant can demonstrate an extreme emergency for failing to attend, the department

may require an applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department for the examination hearing.

**History.**—s. 5, ch. 79-36; s. 1, ch. 88-392; s. 8, ch. 90-228; s. 10, ch. 91-137; s. 3, ch. 91-140; s. 60, ch. 92-33; s. 29, ch. 92-149; s. 23, ch. 93-129; s. 13, ch. 94-119; s. 87, ch. 94-218; ss. 306, 307, ch. 96-406; s. 214, ch. 96-410; s. 27, ch. 97-261.

#### **455.232 Disclosure of confidential information.**

(1) No officer, employee, or person under contract with the department, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 455.227, and, if applicable, shall be removed from office, employment, or the contractual relationship.

**History.**—s. 2, ch. 85-311; s. 5, ch. 91-140; s. 83, ch. 91-224; s. 61, ch. 92-33; s. 30, ch. 92-149; s. 23, ch. 93-129; s. 10, ch. 94-119; s. 88, ch. 94-218; s. 28, ch. 97-261.

#### **455.24 Advertisement by a veterinarian of free or discounted services; required statement.**

In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a person licensed under chapter 474, the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care provider defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

**History.**—s. 1, ch. 84-161; s. 1, ch. 85-7; s. 6, ch. 86-90; s. 13, ch. 89-124; s. 31, ch. 92-149; s. 29, ch. 97-261.

#### **455.242 Veterinarians; disposition of records of deceased practitioners or practitioners relocating or terminating practice.**

Each board created under the provisions of chapter 474 shall provide by rule for the disposition, under that chapter, of the records that are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available and which records pertain to the practitioner's patients. The rules shall provide that the records

be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

**History.**—s. 1, ch. 79-302; s. 11, ch. 88-1; s. 11, ch. 88-392; s. 15, ch. 89-124; s. 16, ch. 91-137; s. 34, ch. 92-149; s. 30, ch. 97-261.

#### **455.243 Authority to inspect.**

Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours any establishment at which the services of a licensee authorized to prescribe controlled substances specified in chapter 893 are offered, for the purpose of determining if any of the provisions of this chapter or any practice act of a profession or any rule adopted thereunder is being violated; or for the purpose of securing such other evidence as may be needed for prosecution.

**History.**—s. 2, ch. 82-22; s. 63, ch. 92-33; s. 35, ch. 92-149; s. 23, ch. 93-129; s. 92, ch. 94-218; s. 31, ch. 97-261; s. 35, ch. 2000-160.

#### **455.245 Veterinarians; immediate suspension of license.**

The department shall issue an emergency order suspending the license of any person licensed under chapter 474 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409 or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

**History.**—s. 1, ch. 86-91; s. 12, ch. 88-1; s. 16, ch. 89-124; s. 64, ch. 92-33; s. 36, ch. 92-149; s. 23, ch. 93-129; s. 93, ch. 94-218; s. 192, ch. 97-103; s. 32, ch. 97-261.

#### **455.271 Inactive and delinquent status.**

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession without an active status license is in violation of this section and s. 455.227, and the board, or the department when there is no board, may impose discipline on the licensee.

(2) Each board, or the department when there is no board, shall permit a licensee to choose, at the time of licensure renewal, an active or inactive status.

(3) Each board, or the department when there is no board, shall, by rule, impose a fee for an inactive status license which is no greater than the fee for an active status license.

(4) An inactive status licensee may change to active status at any time, provided the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the board, or the department when there is no board, and meets all continuing education requirements as specified in this section.

(5) A licensee shall apply with a complete application, as defined by rule of the board, or the department when there is no board, to renew an active or inactive status license before the license expires. Failure of a licensee to

renew before the license expires shall cause the license to become delinquent in the license cycle following expiration.

(6)(a) Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license void without any further action by the board or the department. The board, or the department if there is no board, shall, by rule, establish a reinstatement process for void licenses.

(b) Notwithstanding the provisions of the professional practice acts administered by the department, the department may, at its discretion, reinstate the license of an individual whose license has become void if the department determines that the individual failed to comply because of illness or economic hardship. The individual must apply to the department for reinstatement and pay an applicable fee in an amount determined by rule. The department shall require that such individual meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

This subsection does not apply to individuals subject to regulation under chapter 473.

(7) Notwithstanding the provisions of the professional practice acts administered by the department, each board, or the department when there is no board, shall, by rule, impose an additional delinquency fee of \$25 on a delinquent status licensee when such licensee applies for active or inactive status.

(8) Each board, or the department when there is no board, shall, by rule, impose an additional fee, not to exceed the biennial renewal fee for an active status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) Each board, or the department when there is no board, may, by rule, impose reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination to assess current competency, necessary to ensure that a licensee who has been on inactive status for more than two consecutive biennial licensure cycles and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive. The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) The board, or the department if there is no board, may not require an inactive or delinquent licensee, except for a licensee under chapter 473 or chapter 475, to complete more than one renewal cycle of continuing education to reactivate a license.

(11) The status or a change in status of a licensee shall not alter in any way the board's, or the department's when there is no board, right to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent.

(12) This section does not apply to a business establishment registered, permitted, or licensed by the department to do business or to a person licensed, permitted, registered, or certified pursuant to chapter 310 or chapter 475.

**History.**—s. 14, ch. 94-119; s. 1, ch. 2005-249; s. 2, ch. 2009-54; s. 3, ch. 2012-61; s. 5, ch. 2012-72; s. 8, ch. 2012-208; s. 1, ch. 2017-29; s. 2, ch. 2019-86.

**455.273 Renewal and cancellation notices.**

At least 90 days before the end of a licensure cycle, the department shall:

- (1) Forward a licensure renewal notification to an active or inactive licensee at the licensee's last known address of record or e-mail address provided to the department.
- (2) Forward a notice of pending cancellation of licensure to a delinquent status licensee at the licensee's last known address of record or e-mail address provided to the department.

**History.**—s. 15, ch. 94-119; s. 6, ch. 2012-72.

**455.275 Address of record.**

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address, e-mail address, and place of practice, as defined by rule of the board or the department when there is no board. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department when there is no board.

(2) Notwithstanding any other provision of law, service by regular mail or e-mail to a licensee's last known mailing address or e-mail address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required pursuant to s. 455.225.

(3)(a) Notwithstanding any provision of law, when an administrative complaint is served on a licensee of the department, the department shall provide service by regular mail to the licensee's last known address of record, by certified mail to the last known address of record, and, if possible, by e-mail.

(b) If service, as provided in paragraph (a), does not provide the department with proof of service, the department shall call the last known telephone number of record and cause a short, plain notice to the licensee to be posted on the front page of the department's website and shall send notice via e-mail to all newspapers of general circulation and all news departments of broadcast network affiliates in the county of the licensee's last known address of record.

**History.**—s. 16, ch. 94-119; s. 14, ch. 2010-106; s. 7, ch. 2012-72; s. 15, ch. 2012-212.

**455.32 Management Privatization Act.**

(1) This section shall be known by the popular name the "Management Privatization Act."

(2) The purpose of this section is to create a model for contracting with nonprofit corporations to provide services for the regulation of Florida's professionals which will ensure a consistent, effective application of regulatory provisions and appropriate budgetary oversight to achieve the most efficient use of public funds. Nonprofit corporations may be established pursuant to this section to provide administrative, examination, licensing, investigative, and prosecutorial services to any board created within the department pursuant to chapter 20 in accordance with the provisions of this chapter and the applicable practice act. No additional entities may be created to provide these services.



(3) As used in this section, the term:

(a) “Board” means any board, commission, or council created within the department pursuant to chapter 20.

(b) “Corporation” means any nonprofit corporation with which the department contracts pursuant to subsection (14).

(c) “Department” means the Department of Business and Professional Regulation.

(d) “Contract manager” means an employee of the department who serves as a liaison between the department, the board, and the corporation and is responsible for ensuring that the police powers of the state are not exercised by the corporation, while also serving as the contract monitor.

(e) “Business case” means a needs assessment, financial feasibility study, and corporate financial model as specified in paragraph (4).

(f) “Performance standards and measurable outcomes” shall include, but not be limited to, timeliness and qualitative criteria for the activities specified in paragraph (6)(o).

(g) “Secretary” means the Secretary of Business and Professional Regulation.

(4) Based upon the request of any board, the department is authorized to establish and contract with a nonprofit corporation to provide administrative, examination, licensing, investigative, and prosecutorial services to that board, in accordance with the provisions of this chapter and the applicable practice act and as specified in a contract between the department and the corporation. The privatization request must contain a business case that includes a needs assessment and financial feasibility study performed by the board or an entity commissioned by a majority vote of the board. The needs assessment must contain specific performance standards and measurable outcomes and an evaluation of the department’s current and projected performance in regard to those standards. The feasibility study must include the financial status of the board for the current fiscal year and the next 2 fiscal years. A financial model for the corporation must also be developed which includes projected costs and expenses for the first 2 years of operation and specific performance standards and measurable outcomes. The business case for privatization shall be submitted by the board to the department for inclusion in its legislative budget request to the Executive Office of the Governor and the Legislature pursuant to s. 216.023. The board shall proceed with the privatization only if such privatization is specifically authorized by general law.

(5) Any such corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter 110 or chapter 112, except that the board of directors and the employees of the corporation are subject to the provisions of s. 112.061 and part III of chapter 112. The provisions of s. 768.28 apply to each such corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state but which is not an agency within the meaning of s. 20.03(1).

(6) Each corporation created to perform the functions provided in this section shall:

(a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.

(b) Provide administrative, examination, licensing, investigative, and prosecutorial services to the board, which services may include unlicensed activity investigations and prosecutions, in accordance with the provisions of this chapter, the applicable practice act, and the contract required by this section.

- (c) Receive, hold, and administer property and make only prudent expenditures directly related to the responsibilities of the applicable board and in accordance with the contract required by this section.
- (d) Be approved by the department to operate for the benefit of the board and in the best interest of the state and specifically authorized by the Legislature.
- (e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.
- (f) Be funded through appropriations allocated to the regulation of the relevant profession from the Professional Regulation Trust Fund pursuant to s. 455.219.
- (g) Have a five-member board of directors, three of whom are to be appointed by the applicable board and must be licensees regulated by that board and two of whom are to be appointed by the secretary and are laypersons not regulated by that board. Initially, one member shall be appointed for 2 years, two members shall be appointed for 3 years, and two members shall be appointed for 4 years. One layperson shall be appointed to a 3-year term and one layperson shall be appointed to a 4-year term. Thereafter, all appointments shall be for 4-year terms. No new member shall serve more than two consecutive terms. Failure to attend three consecutive meetings shall be deemed a resignation from the board of directors, and the vacancy shall be filled by a new appointment. No professional board member may also serve on the board of directors for the corporation.
- (h) Select its officers in accordance with its bylaws. The members of the board of directors may be removed by the Governor, for the same reasons that a board member may be removed pursuant to s. 455.209.
- (i) Select the president of the corporation, who shall manage the operations of the corporation, subject to the approval of the board.
- (j) Use a portion of the interest derived from the corporation account to offset the costs associated with the use of credit cards for payment of fees by applicants or licensees.
- (k) Operate under a written contract with the department.
- (l) Provide for an annual financial audit of its financial accounts and records by an independent certified public accountant. The annual audit report shall include a management letter in accordance with s. 11.45 and a detailed supplemental schedule of expenditures for each expenditure category. The annual audit report must be submitted to the board, the department, and the Auditor General for review.
- (m) Provide for all employees and nonemployees charged with the responsibility of receiving and depositing fee and fine revenues to have a faithful performance bond in such an amount and according to such terms as shall be determined in the contract.
- (n) Keep financial and statistical information as necessary to completely disclose the financial condition and operation of the corporation and as requested by the Office of Program Policy Analysis and Government Accountability, the Auditor General, and the department.
- (o) Submit to the secretary, the board, and the Legislature, on or before October 1 of each year, a report describing all of the activities of the corporation for the previous fiscal year which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include:

1. The number of license renewals.
2. The number of license applications received.
3. The number of license applications approved and denied and the number of licenses issued.
4. The average time required to issue a license.
5. The number of examinations administered and the number of applicants who passed or failed the examination.
6. The number of complaints received.
7. The number of complaints determined to be legally sufficient.
8. The number of complaints dismissed.
9. The number of complaints determined to have probable cause.
10. The number of administrative complaints issued and the status of the complaints.
11. The number and nature of disciplinary actions taken by the board.
12. All revenues received and all expenses incurred by the corporation during the preceding fiscal year in its performance of the duties under the contract.
13. Any audit performed under paragraph (l), including financial reports and performance audits.
14. The status of the compliance of the corporation with all performance-based program measures adopted by the board.

(p) Meet or exceed the requirements of the business case developed by the board and approved by the Executive Office of the Governor.

(7) The department shall annually certify that the corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. If the department determines the corporation is not compliant with the terms of the contract, including performance standards and measurable outcomes, the contract may be terminated as provided in paragraph (14)(e).

(8) Nothing in this section shall limit the ability of the corporation to enter into contracts and perform all other acts incidental to those contracts which are necessary for the administration of its affairs and for the attainment of its purposes.

(9) The corporation may acquire by lease, and maintain, use, and operate, any real or personal property necessary to perform the duties provided by the contract and this section.

(10) The corporation may exercise the authority assigned to the department or board under this section or the practice act of the relevant profession, pursuant to the contract, including but not limited to initiating disciplinary investigations for unlicensed practice of the relevant profession. The corporation may make a determination of legal sufficiency to begin the investigative process as provided in s. 455.225. However, the department or the board may not delegate to the corporation, by contract or otherwise, the authority for determining probable cause to pursue disciplinary action against a licensee, taking final action on license actions or on disciplinary cases, or adopting administrative rules under chapter 120.

(11) The department shall retain the independent authority to open, investigate, or prosecute any cases or complaints, as necessary to protect the public health, safety, or welfare. In addition, the department shall retain sole authority to issue emergency suspension or restriction orders pursuant to s. 120.60 or may delegate concurrent authority for this purpose to the relevant professional board.

(12) The corporation is the sole source and depository for the records of the board, including all historical information and records. The corporation shall maintain those records in accordance with the guidelines of the Department of State and shall not destroy any records prior to the limits imposed by the Department of State.

(13) The board shall provide by rule for the procedures the corporation must follow to ensure that all licensure examinations are secure while under the responsibility of the corporation and that there is an appropriate level of monitoring during the licensure examinations.

(14) The contract between the department and the corporation must be in compliance with this section and other applicable laws. The department shall retain responsibility for any duties it currently exercises relating to its police powers and any other current duty that is not provided to the corporation by contract or this section. The contract shall provide, at a minimum, that:

(a) The corporation provide administrative, examination, licensing, investigative, and prosecutorial services in accordance with the provisions of this section and the practice act of the relevant profession. The prosecutorial functions of the corporation shall include the authority to pursue investigations leading to unlicensed practice complaints, with the approval of and at the direction of the relevant professional board. With approval of the department and the board, the corporation may subcontract for specialized services for the investigation and prosecution of unlicensed activity pursuant to this chapter. The corporation shall be required to report all criminal matters, including unlicensed activity that constitutes a crime, to the state attorney for criminal prosecution pursuant to s. 455.2277.

(b) The articles of incorporation and bylaws of the corporation be approved by the department.

(c) The corporation submit an annual budget for approval by the department. If the department's appropriations request differs from the budget submitted by the corporation, the relevant professional board shall be permitted to authorize the inclusion in the appropriations request of a comment or statement of disagreement with the department's request.

(d) The corporation utilize the department's licensing and computerized database system.

(e) The corporation be annually certified by the department as complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. As part of the annual certification, the department shall make quarterly assessments regarding contract compliance by the corporation. The contract must also provide for methods and mechanisms for resolving any situation in which the assessment and certification process determines noncompliance, to include termination.

(f) The department employ a contract manager to actively monitor the activities of the corporation to ensure compliance with the contract, the provisions of this chapter, and the applicable practice act.

(g) The corporation be funded through appropriations allocated to the regulation of the relevant profession from the Professional Regulation Trust Fund.

(h) If the corporation is no longer approved to operate for the board or the board ceases to exist, all moneys, records, data, and property held in trust by the corporation for the benefit of the board revert to the department, or the state if the department ceases to exist. All records and data in a computerized database must be returned to the department in a form that is compatible with the computerized database of the department.

(i) The corporation secure and maintain, during the term of the contract and for all acts performed during the term of the contract, all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the corporation and its officers and employees, the department and its employees, the board, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The corporation must provide proof of insurance to the department. The department and its employees, the board, and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the corporation. Violation of this paragraph shall be grounds for terminating the contract.

(j) The board, in lieu of the department, shall retain board counsel pursuant to the requirements of s. 455.221. The corporation, out of its allocated budget, shall pay all costs of representation by the board counsel, including salary and benefits, travel, and any other compensation traditionally paid by the department to other board counsel.

(k) The corporation, out of its allocated budget, pay to the department all costs incurred by the corporation or the board for the Division of Administrative Hearings of the Department of Management Services and any other cost for utilization of these state services.

(l) The corporation, out of its allocated budget, pay to the department all direct and indirect costs associated with the monitoring of the contract, including salary and benefits, travel, and other related costs traditionally paid to state employees.

(m) The corporation comply with the performance standards and measurable outcomes developed by the board and the department. The performance standards and measurable outcomes must be specified within the contract.

(15) Corporation records are public records subject to the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution; however, public records exemptions set forth in ss. 455.217, 455.225, and 455.229 for records held by the department shall apply to records held by the corporation. In addition, all meetings of the board of directors are open to the public in accordance with s. 286.011 and s. 24(b), Art. I of the State Constitution. The department and the board shall have access to all records of the corporation as necessary to exercise their authority to approve and supervise the contract. The Auditor General and the Office of Program Policy Analysis and Government Accountability shall have access to all records of the corporation as necessary to conduct financial and operational audits or examinations.

(16) If any provision of this section is held to be unconstitutional or is held to violate the state or federal antitrust laws, the following shall occur:

(a) The corporation shall cease and desist from exercising any powers and duties enumerated in this section.

(b) The department shall resume the performance of such activities. The department shall regain and receive, hold, invest, and administer property and make expenditures for the benefit of the board.

(c) The Executive Office of the Governor, notwithstanding chapter 216, may reestablish positions, budget authority, and salary rate necessary to carry out the department's responsibilities related to the board.

**History.**—s. 9, ch. 2000-356; s. 120, ch. 2001-266; s. 1, ch. 2004-292; s. 83, ch. 2005-2; s. 1, ch. 2008-134; s. 100, ch. 2023-8.

## CHAPTER 473 PUBLIC ACCOUNTANCY

### 473.301 Purpose.

The Legislature recognizes that there is a public need for independent and objective public accountants and that it is necessary to regulate the practice of public accounting to assure the minimum competence of practitioners and the accuracy of audit statements upon which the public relies and to protect the public from dishonest practitioners and, therefore, deems it necessary in the interest of public welfare to regulate the practice of public accountancy in this state.

**History.**—ss. 1, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 4, ch. 91-429.

### 473.302 Definitions.

As used in this chapter, the term:

- (1) “Board” means the Board of Accountancy.
- (2) “Department” means the Department of Business and Professional Regulation.
- (3) “Division” means the Division of Certified Public Accounting.
- (4) “Certified public accountant” means an individual who holds a license to practice public accounting in this state or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141. The term “Florida certified public accountant” means an individual holding a license under the authority of this chapter.
- (5) “Firm” means any legal entity that is engaged in the practice of public accounting.
- (6) “Home office” means the principal headquarters of an entity. An entity may have only one principal headquarters.
- (7) “Licensed firm” or “public accounting firm” means a sole proprietorship, partnership, corporation, limited liability company, firm, or any other legal entity licensed under s. 473.3101.
- (8) “Practice of,” “practicing public accountancy,” or “public accounting” means:
  - (a) Offering to perform or performing for the public one or more types of services involving the expression of an opinion on financial statements, the attestation as an expert in accountancy to the reliability or fairness of presentation of financial information, the utilization of any form of opinion or financial statements that provide a level of assurance, the utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed, or the expression of an opinion on the reliability of an assertion by one party for the use by a third party;
  - (b) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of tax, management advisory, or consulting services, by any person who is a certified public accountant who holds an active license, issued pursuant to this chapter, or who is authorized to practice public accounting pursuant to the practice privileges granted in s. 473.3141, including the performance of such services by a certified public accountant in the employ of a person or firm;

(c) Offering to perform or performing for the public one or more types of service involving the preparation of financial statements not included within paragraph (a), by a certified public accountant who holds an active license, issued pursuant to this chapter, or who is authorized to practice public accounting pursuant to the practice privileges granted in s. 473.3141; by a firm of certified public accountants; or by a firm in which a certified public accountant has an ownership interest, including the performance of such services in the employ of another person. The board shall adopt rules establishing standards of practice for such reports and financial statements; provided, however, that nothing in this paragraph shall be construed to permit the board to adopt rules that have the result of prohibiting Florida certified public accountants employed by unlicensed firms from preparing financial statements as authorized by this paragraph; or

(d) Offering to perform or performing for the public one or more types of services involving any attestation engagements in accordance with the Statements on Standards for Attestation Engagements.

(9) “Uniform Accountancy Act” means the Uniform Accountancy Act, Eighth Edition, dated January 2018 and published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

However, these terms shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

**History.**—ss. 2, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 1, ch. 89-87; s. 4, ch. 91-429; s. 3, ch. 92-292; s. 124, ch. 94-119; s. 155, ch. 94-218; s. 345, ch. 97-103; s. 1, ch. 98-340; s. 2, ch. 2000-154; s. 3, ch. 2009-54; s. 1, ch. 2015-174; s. 1, ch. 2017-148; s. 1, ch. 2019-89; s. 2, ch. 2024-97.

#### **473.303 Board of Accountancy.**

(1) There is created in the department the Board of Accountancy. The board shall consist of nine members, seven of whom must be certified public accountants licensed in this state and two of whom must be laypersons who are not and have never been certified public accountants or members of any closely related profession or occupation. The members who are certified public accountants must have practiced public accounting on a substantially full-time basis in this state for at least 5 years. At least one member of the board must be 60 years of age or older. Each member shall be appointed by the Governor, subject to confirmation by the Senate.

(2) The probable cause panel of the board may be composed of at least one current board member who shall serve as chair and additional current board members or past board members who are certified public accountants licensed in this state and in good standing. The past board members shall be appointed to the panel for a term of 2 years by the chair of the board with the approval of the secretary of the department, and may be reappointed for additional terms.

**History.**—ss. 3, 25, ch. 79-202; ss. 2, 3, ch. 81-318; s. 52, ch. 83-329; ss. 1, 10, 11, ch. 85-9; s. 21, ch. 87-172; s. 23, ch. 91-137; s. 4, ch. 91-429; s. 156, ch. 94-218; s. 346, ch. 97-103; s. 2, ch. 98-340; s. 4, ch. 2009-54.



#### **473.3035 Division of Certified Public Accounting.**

(1) All services concerning this chapter, including, but not limited to, recordkeeping services, examination services, legal services, and investigative services, and those services in chapter 455 necessary to perform the duties of this chapter shall be provided by the Division of Certified Public Accounting. The board may, by majority vote, delegate a duty or duties to the appropriate division within the department. The board may, by majority vote, rescind any such delegation of duties at any time.

(2) The Division of Certified Public Accounting shall be funded by fees and assessments of the board, and funds collected by the board shall be used only to fund public accounting regulation. Funding for the Division of Certified Public Accounting shall be governed by ss. 215.37 and 455.219.

**History.**—s. 4, ch. 92-292; s. 114, ch. 98-166; s. 175, ch. 2000-160.

#### **473.304 Rules of board; powers and duties; legal services.**

(1) The board shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act. Every certified public accountant and firm shall be governed and controlled by this act and the rules adopted by the board.

(2) Subject to the prior approval of the Attorney General, the board may retain independent legal counsel to provide legal advice to the board on a specific matter.

(3) An attorney employed or used by the board may not both prosecute a matter and provide legal services to the board with respect to the same matter.

**History.**—ss. 3, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 5, ch. 92-292; s. 144, ch. 98-200; s. 5, ch. 2009-54.

#### **473.305 Fees.**

The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The fee for the examination shall be established at an amount that covers the costs for the procurement or development, administration, grading, and review of the examination. The fee for the examination is refundable if the applicant is found to be ineligible to sit for the examination. The fee for initial application is nonrefundable, and the combined fees for application and examination may not exceed \$250 plus the actual per applicant cost to the department for purchase of the examination from the American Institute of Certified Public Accountants or a similar national organization. The biennial renewal fee may not exceed \$250. The board may also establish, by rule, a reactivation <sup>III</sup>fee, and a delinquency fee not to exceed \$50 for continuing professional education reporting forms. The board shall establish fees which are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of public accountants. Fees shall be based on department estimates of the revenue required to implement this chapter and the provisions of law with respect to the regulation of certified public accountants.

**History.**—ss. 4, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 2, 10, 11, ch. 85-9; s. 1, ch. 87-221; s. 22, ch. 88-205; s. 48, ch. 89-162; s. 20, ch. 89-374; s. 4, ch. 91-429; s. 6, ch. 2009-54; s. 2, ch. 2009-69; s. 13, ch. 2009-195.

**Note.**—The comma following the word “fee” was retained in the amendment to the section by s. 2, ch. 2009-69, but stricken in the amendments by s. 6, ch. 2009-54, and s. 13, ch. 2009-195.

#### **473.306 Examinations.**

(1) A person desiring to be licensed as a Florida certified public accountant shall apply to the department to take the licensure examination.

(2) A person applying to the department to take the licensure examination must create and maintain an online account with the department and provide an e-mail address to function as the primary means of contact for all communication to the applicant from the department. Each applicant is responsible for maintaining accurate contact information on file with the department and must submit any change in the applicant’s e-mail address or home address within 30 days after the change. All changes must be submitted through the department’s online system.

(3) An applicant is entitled to take the licensure examination to practice in this state as a certified public accountant if:

(a) The applicant has completed 120 semester hours or 180 quarter hours from an accredited college or university with a concentration in accounting and business courses as specified by the board by rule; and

(b) The applicant shows that she or he has good moral character. For purposes of this paragraph, the term “good moral character” has the same meaning as provided in s. 473.308(7)(a). The board may refuse to allow an applicant to take the licensure examination for failure to satisfy this requirement if:

1. The board finds a reasonable relationship between the lack of good moral character of the applicant and the professional responsibilities of a certified public accountant; and

2. The finding by the board of lack of good moral character is supported by competent substantial evidence.

If an applicant is found pursuant to this paragraph to be unqualified to take the licensure examination because of a lack of good moral character, the board shall furnish to the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

(4) The board shall have the authority to establish the standards for determining and shall determine:

(a) What constitutes a passing grade for each subject or part of the licensure examination;

(b) Which educational institutions, in addition to the universities in the State University System of Florida, shall be deemed to be accredited colleges or universities;

(c) What courses and number of hours constitute a major in accounting; and

(d) What courses and number of hours constitute additional accounting courses acceptable under s. 473.308(4).

(5) The board may adopt an alternative licensure examination for persons who have been licensed to practice public accountancy or its equivalent in a foreign country so long as the International Qualifications Appraisal Board

of the National Association of State Boards of Accountancy has ratified an agreement with that country for reciprocal licensure.

(6) For the purposes of maintaining the proper educational qualifications for licensure under this chapter, the board may appoint an Educational Advisory Committee, which shall be composed of one member of the board, two persons in public practice who are licensed under this chapter, and four academicians on faculties of universities in this state.

**History.**—ss. 5, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 3, 10, 11, ch. 85-9; s. 2, ch. 87-221; s. 4, ch. 91-429; s. 125, ch. 94-119; s. 3, ch. 98-340; s. 9, ch. 2000-332; s. 1, ch. 2008-81; s. 1, ch. 2014-88; s. 10, ch. 2024-178.

**473.3065 Clay Ford Scholarship Program; Certified Public Accountant Education Minority Assistance Advisory Council.**

(1) The Clay Ford Scholarship Program for Florida residents is hereby established in the division for the purpose of providing scholarships to minority persons as defined in s. 288.703 who are students enrolled in their fifth year of an accounting education program at an institution in this state approved by the board by rule. A Certified Public Accountant Education Minority Assistance Advisory Council shall assist the board in administering the program.

(2) All moneys used to provide scholarships under the Clay Ford Scholarship Program shall be funded by a portion of existing license fees, as set by the board, not to exceed \$10 per license. Such moneys shall be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The department may spend up to \$200,000 per year for the program from this program account but may not allocate overhead charges to it. Moneys for scholarships shall be disbursed twice per year upon recommendation of the advisory council and approval by the board, based on the adopted eligibility criteria and comparative evaluation of all applicants. Funds in the program account may be invested by the Chief Financial Officer under the same limitations as apply to investment of other state funds, and all interest earned thereon shall be credited to the program account.

(3) The board shall adopt rules as necessary for administration of the Clay Ford Scholarship Program, including rules relating to the following:

(a) Eligibility criteria for receipt of a scholarship, which, at a minimum, shall include the following factors:

1. Financial need.
2. Ethnic, gender, or racial minority status pursuant to s. 288.703(4).
3. Scholastic ability and performance.

(b) Scholarship application procedures.

(c) Amounts in which scholarships may be provided, the total amount that may be provided, the timeframe for payments or partial payments, and criteria for how scholarship funds may be expended.

(d) The total amount of scholarships that can be made each year.

(e) The minimum balance that must be maintained in the program account.

(4) Determinations made by the board regarding recipients of scholarship moneys shall not be considered agency action for purposes of chapter 120.

(5) It is unlawful for any person or agent of such person to knowingly file with the board any notice, statement, or other document that is false or that contains any material misstatement of fact. A person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) There is hereby created the Certified Public Accountant Education Minority Assistance Advisory Council to assist the board in administering the Clay Ford Scholarship Program. The council shall be diverse and representative of the gender, ethnic, and racial categories set forth in s. 288.703(4).

(a) The council shall consist of five licensed Florida-certified public accountants selected by the board, of whom one shall be a board member who serves as chair of the council, one shall be a representative of the National Association of Black Accountants, one shall be a representative of the Cuban American CPA Association, and two shall be selected at large. At least one member of the council must be a woman.

(b) The board shall determine the terms for initial appointments and appointments thereafter.

(c) Any vacancy on the council shall be filled in the manner provided for the selection of the initial member. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of that term.

(d) Three consecutive absences or absences constituting 50 percent or more of the council's meetings within any 12-month period shall cause the council membership of the member in question to become void, and the position shall be considered vacant.

(e) The members of the council shall serve without compensation, and any necessary and actual expenses incurred by a member while engaged in the business of the council shall be borne by such member or by the organization or agency such member represents. However, the council member who is a member of the board shall be compensated in accordance with ss. 455.207(4) and 112.061.

**History.**—s. 1, ch. 98-263; s. 504, ch. 2003-261; s. 349, ch. 2011-142; s. 1, ch. 2013-167.

#### **473.308 Licensure.**

(1) A person desiring to be licensed as a Florida certified public accountant in this state shall apply to the department for licensure, and the department shall license any applicant who the board certifies is qualified to practice public accounting.

(2) The board shall certify for licensure any applicant who successfully passes the licensure examination and satisfies the requirements of subsections (4), (5), and (6), and shall certify for licensure any firm that satisfies the requirements of ss. 473.309 and 473.3101. The board may refuse to certify any applicant or firm that has violated any of the provisions of s. 473.322.

(3) A person desiring to be licensed as a Florida certified public accountant or a firm desiring to engage in the practice of public accounting must create and maintain an online account with the department and provide an e-mail address to function as the primary means of contact for all communication from the department. Certified public accountants and firms are responsible for maintaining accurate contact information on file with the department and

must submit any change in an e-mail address or street address within 30 days after the change. All changes must be submitted through the department's online system.

(4) An applicant for licensure must have at least 150 semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university, with a concentration in accounting and business in the total educational program to the extent specified by the board.

(5)(a) An applicant for licensure after December 31, 2008, must show that he or she has had 1 year of work experience. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which must be verified by a certified public accountant who is licensed by a state or territory of the United States. This experience is acceptable if it was gained through employment in government, industry, academia, or public practice; constituted a substantial part of the applicant's duties; and was verified by a certified public accountant licensed by a state or territory of the United States. The board shall adopt rules specifying standards and providing for the review and approval of the work experience required by this section.

(b) However, an applicant who completed the requirements of subsection (4) on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, is exempt from the requirements of this subsection.

(6) An applicant for licensure shall show that the applicant has good moral character.

(7)(a) "Good moral character" means a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.

(b) The board may refuse to certify an applicant for failure to satisfy this requirement if:

1. The board finds a reasonable relationship between the lack of good moral character of the applicant and the professional responsibilities of a certified public accountant; and
2. The finding by the board of lack of good moral character is supported by competent substantial evidence.

(c) When an applicant is found to be unqualified for a license because of a lack of good moral character, the board shall furnish to the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

(8) The board shall certify as qualified for a license by endorsement an applicant who:

(a) Is not licensed and has not been licensed in any state or territory and who has met the requirements of this section for education, work experience, and good moral character and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

(b)1. Holds a valid license to practice public accounting issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued;

2. Holds a valid license to practice public accounting issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of subparagraph 1.; has met the requirements

of this section for education, work experience, and good moral character; and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; or

3. Holds a valid license to practice public accounting issued by another state or territory of the United States for at least 10 years before the date of application; has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306; and has met the requirements of this section for good moral character.

(9) If the applicant has at least 5 years of experience in the practice of public accountancy in the United States or in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States, or has at least 5 years of work experience that meets the requirements of subsection (5), the board must waive the requirements of subsection (4) which are in excess of a baccalaureate degree. All experience that is used as a basis for waiving the requirements of subsection (4) must be while licensed as a certified public accountant by another state or territory of the United States or while licensed in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States. The board shall have the authority to establish the standards for experience that meet this requirement.

(10) The board may refuse to certify for licensure any applicant who is under investigation in another state for any act that would constitute a violation of this act or chapter 455, until such time as the investigation is complete and disciplinary proceedings have been terminated.

**History.**—ss. 7, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 4, 10, 11, ch. 85-9; s. 1, ch. 86-102; s. 21, ch. 89-374; s. 4, ch. 91-429; ss. 126, 223, ch. 94-119; s. 3, ch. 94-151; s. 347, ch. 97-103; s. 115, ch. 98-166; s. 4, ch. 98-340; s. 1, ch. 2000-114; s. 176, ch. 2000-160; s. 10, ch. 2000-332; s. 1, ch. 2004-87; s. 1, ch. 2007-139; s. 2, ch. 2008-81; s. 7, ch. 2009-54; s. 1, ch. 2012-176; s. 24, ch. 2020-160; s. 1, ch. 2021-98; s. 11, ch. 2024-178.

**473.309 Practice requirements for partnerships, corporations, and limited liability companies; business entities practicing public accounting.**

(1) A partnership may not engage in the practice of public accounting, as defined in s. 473.302(8)(a), or meet the requirements of s. 473.3101(1)(b), unless:

(a) It is a form of partnership recognized by Florida law.

(b) Partners owning at least 51 percent of the financial interest and voting rights of the partnership are certified public accountants in some state. However, each partner who is a certified public accountant in another state and is domiciled in this state must be a certified public accountant of this state and hold an active license.

(c) At least one general partner is a certified public accountant of this state and holds an active license or, in the case of a firm that must have a license pursuant to s. 473.3101(1)(c), at least one general partner is a certified public accountant in some state and meets the requirements of s. 473.3141(1)(a) or (b).

(d) All partners who are not certified public accountants in any state are engaged in the business of the partnership as their principal occupation.

(e) It is in compliance with rules adopted by the board pertaining to minimum capitalization, letters of credit, and adequate public liability insurance.

(f) It is currently licensed as required by s. 473.3101.

(2) A corporation may not engage in the practice of public accounting, as defined in s. 473.302(8)(a), or meet the requirements of s. 473.3101(1)(b), unless:

(a) It is a corporation duly organized in this or some other state.

(b) Shareholders of the corporation owning at least 51 percent of the financial interest and voting rights of the corporation are certified public accountants in some state and are principally engaged in the business of the corporation. However, each shareholder who is a certified public accountant in another state and is domiciled in this state must be a certified public accountant of this state and hold an active license.

(c) The principal officer of the corporation is a certified public accountant in some state.

(d) At least one shareholder of the corporation is a certified public accountant and holds an active license in this state or, in the case of a firm that must have a license pursuant to s. 473.3101(1)(c), at least one shareholder is a certified public accountant in some state and meets the requirements of s. 473.3141(1)(a) or (b).

(e) All shareholders who are not certified public accountants in any state are engaged in the business of the corporation as their principal occupation.

(f) It is in compliance with rules adopted by the board pertaining to minimum capitalization, letters of credit, and adequate public liability insurance.

(g) It is currently licensed as required by s. 473.3101.

(3) A limited liability company may not engage in the practice of public accounting, as defined in s. 473.302(8)(a), or meet the requirements of s. 473.3101(1)(b), unless:

(a) It is a limited liability company duly organized in this or some other state.

(b) Members of the limited liability company owning at least 51 percent of the financial interest and voting rights of the company are certified public accountants in some state. However, each member who is a certified public accountant in some state and is domiciled in this state must be a certified public accountant of this state and hold an active license.

(c) At least one member of the limited liability company is a certified public accountant and holds an active license in this state or, in the case of a firm that must have a license pursuant to s. 473.3101(1)(c), at least one member is a certified public accountant in some state and meets the requirements of s. 473.3141(1)(a) or (b).

(d) All members who are not certified public accountants in any state are engaged in the business of the company as their principal occupation.

(e) It is in compliance with rules adopted by the board pertaining to minimum capitalization, letters of credit, and adequate public liability insurance.

(f) It is currently licensed as required by s. 473.3101.

(4) A partnership, corporation, limited liability company, or any other firm is engaged in the practice of public accounting if its employees are engaged in the practice of public accounting. Notwithstanding any other provision of law, a licensed firm may own all or part of another licensed firm.

**History.**—ss. 8, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 22, ch. 89-374; s. 4, ch. 91-429; s. 16, ch. 93-110; s. 1, ch. 93-284; s. 1, ch. 97-35; s. 5, ch. 98-340; s. 2, ch. 2000-114; s. 8, ch. 2009-54; s. 2, ch. 2015-174.

#### **473.3101 Licensure of firms or public accounting firms.**

(1) The following must hold a license issued under this section:

(a) Any firm with an office in this state which performs services as defined in s. 473.302(8)(a);

(b) Any firm with an office in this state which uses the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that it is a CPA firm. The board shall define by rule what constitutes a CPA firm; or

(c)1. Any firm that does not have an office in this state but performs the services described in s. 473.3141(4) for a client having its home office in this state, unless it:

a. Complies with the qualifications described in s. 473.309.

b. Is enrolled in a peer review program pursuant to s. 473.3125(4).

c. Performs services through an individual with practice privileges under s. 473.3141.

d. Lawfully performs services in a state where an individual with practice privileges granted under s. 473.3141 has his or her principal place of business.

2. The board shall define by rule what constitutes an office.

(2) An applicant for licensure under this section must file an application for licensure with the department and supply the information that the board requires. An application must be made upon the affidavit of a sole proprietor, general partner, shareholder, or member who is a certified public accountant.

(3) A firm that is not subject to the requirements of paragraph (1)(c) may perform other professional services while using the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm practices public accounting in this state without a license issued under this section only if:

(a) It performs such services through an individual with practice privileges granted under s. 473.3141; and

(b) It can lawfully do so in the state where the individual with practice privileges has his or her principal place of business.

(4) The board shall determine whether the firm or public accounting firm meets the requirements for practice and, pending that determination, may certify to the department the firm or public accounting firm for provisional licensure.

(5) Each license must be renewed every 2 years. Each firm or public accounting firm licensed under this section must notify the department within 1 month after any change in the information contained in the application on which its license is based.



**History.**—ss. 9, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 17, ch. 93-110; s. 2, ch. 93-284; s. 6, ch. 98-340; s. 9, ch. 2009-54; s. 3, ch. 2015-174; s. 2, ch. 2017-148.

#### **473.311 Renewal of license.**

(1)(a) The department shall renew a license issued under s. 473.308 upon receipt of the renewal application and fee and upon certification by the board that the Florida certified public accountant has satisfactorily completed the continuing education requirements of s. 473.312.

(b) A nonresident licensee seeking renewal of a license in this state shall be determined to have met the continuing education requirements in s. 473.312, except for the requirements in s. 473.312(1)(c), if the licensee has complied with the continuing education requirements applicable in the state in which his or her office is located. If the state in which the nonresident licensee's office is located has no continuing education requirements for license renewals, the nonresident licensee must comply with the continuing education requirements in s. 473.312.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses issued pursuant to this section.

**History.**—ss. 11, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 5, 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 220, ch. 94-119; s. 116, ch. 98-166; s. 177, ch. 2000-160; s. 2, ch. 2004-87; s. 10, ch. 2009-54; s. 3, ch. 2009-69; s. 14, ch. 2009-195; s. 2, ch. 2013-167; s. 2, ch. 2021-98.

#### **473.312 Continuing education.**

(1)(a) As part of the license renewal procedure, the board shall by rule require Florida certified public accountants to submit proof satisfactory to the board that during the 2 years prior to application for renewal, they have successfully completed not less than 48 or more than 80 hours of continuing professional education programs in public accounting subjects approved by the board. The board may prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period.

(b) Not less than 10 percent of the total hours required by the board shall be in accounting-related and auditing-related subjects, as distinguished from federal and local taxation matters and management services.

(c) Not less than 5 percent of the total hours required by the board shall be in ethics applicable to the practice of public accounting. This requirement shall be administered by providers approved by the board, and a majority of the hours shall include a review of the provisions of chapter 455 and this chapter and the related administrative rules.

(2) Programs of continuing professional education approved by the board shall be formal programs of learning which contribute directly to the professional competency of an individual following licensure to practice public accounting and may be any of the following:

(a) Professional development programs of the American Institute of Certified Public Accountants, state societies of certified public accountants, or other organizations.

(b) Technical sessions at meetings of the American Institute of Certified Public Accountants, state societies, chapters, or other organizations.

(c) University and college courses.

(d) Formal organized in-firm education programs.

(3) The board shall adopt rules establishing the continuing education requirements for Florida certified public accountants who are engaged in the audit of a governmental entity. The board shall approve subjects directly related to the governmental environment and to governmental auditing for purposes of satisfying the requirement of this subsection.

(4) For the purposes of maintaining proper continuing education requirements for renewal of licensure under this chapter, the board may appoint a Continuing Professional Education Advisory Committee, which shall be composed of one member of the board, one academician on the faculty of a university in this state, and six certified public accountants.

**History.**—ss. 10, 25, ch. 79-202; s. 345, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 6, 10, 11, ch. 85-9; s. 3, ch. 87-221; s. 2, ch. 89-87; s. 4, ch. 91-429; s. 7, ch. 98-340; s. 3, ch. 2004-87; s. 2, ch. 2007-139; s. 11, ch. 2009-54; s. 2, ch. 2019-89; s. 3, ch. 2021-98.

#### **473.3125 Peer review.**

(1) As used in this section, the term:

(a) “Licensee” means a licensed firm or public accounting firm as defined in s. 473.302(7) and engaged in the practice of public accounting as defined in s. 473.302(8)(a) that is required to be licensed under s. 473.3101.

(b) “Peer review” means the study, appraisal, or review by one or more independent certified public accountants of one or more aspects of the professional work of a licensee.

(2) The board shall adopt rules establishing minimum standards for peer review programs, including, but not limited to, standards for administering, performing, and reporting peer reviews. The board shall also adopt rules establishing minimum criteria for the board’s approval of one or more organizations that facilitate and administer peer review programs.

(3) For the purposes of maintaining oversight of the license renewal requirements of s. 473.311(2), the board may establish a peer review oversight committee, which shall be composed of at least three, but no more than five, members who are licensed under this chapter and whose firms are subject to s. 473.311(2) and have received a review rating of “pass” on the most recent peer review.

(4) Effective January 1, 2015, a licensed firm or public accounting firm as defined in s. 473.302(7) and licensed under s. 473.3101 and engaged in the practice of public accounting as defined in s. 473.302(8)(a), except for the performance of compilations and reviews as those terms are defined by the board, must be enrolled in a peer review program.

**History.**—s. 3, ch. 2013-167; s. 5, ch. 2015-174.

**473.313 Inactive status; retired status.**

(1) A Florida certified public accountant may request that her or his license be placed in an inactive status by making application to the department. The board may prescribe by rule fees for placing a license on inactive status, renewal of inactive status, and reactivation of an inactive license.

(a) A license that has become inactive under this subsection or for failure to complete the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The maximum continuing education requirements for reactivating a license are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board, for the reactivation of a license that is inactive or delinquent.

(b) A license that is delinquent for failure to report completion of the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. Reactivation requires the payment of an application fee as determined by the board and certification by the Florida certified public accountant that the applicant satisfactorily completed the continuing education requirements set forth under s. 473.311. If the license is delinquent on January 1 because of failure to report completed continuing education requirements, the applicant must submit a complete application to the board by March 15 immediately after the delinquent period.

(c) Any Florida certified public accountant holding an inactive license may be permitted to reactivate such license in a conditional manner. The conditions of reactivation shall require the payment of fees and the completion of required continuing education.

(d) Notwithstanding the provisions of s. 455.271, the board may, at its discretion, reinstate the license of an individual whose license has become null and void if the individual has made a good faith effort to comply with this section but has failed to comply because of illness or unusual hardship. The individual shall apply to the board for reinstatement in a manner prescribed by rules of the board and shall pay an application fee in an amount determined by rule of the board. The board shall require that the individual meet all continuing education requirements as provided in paragraph (a), pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

(2) A Florida certified public accountant who is at least 65 years of age, currently holds an active or inactive license in good standing under this chapter, and is not the subject of any sanction or disciplinary action may request that her or his license be placed on retired status by making application to the department. The board may prescribe by rule the application for placing a license on retired status, which must state that the applicant has no association with accounting or any of the services described in s. 473.302(8). If a licensee who has been granted retired status reenters the workforce in a position that has an association with accounting or any of the services described in s. 473.302(8), the licensee automatically loses her or his retired status.

(a) A retired licensee may, without losing her or his retired status, serve without compensation on a board of directors or board of trustees, provide volunteer tax preparation services, participate in a government-sponsored business mentoring program such as the Internal Revenue Service's Volunteer Income Tax Assistance program or

the Small Business Administration's SCORE program, or participate in an advisory role for a similar charitable, civic, or other non-profit organization.

(b) The board shall require a retired licensee to affirm in writing her or his understanding of the limited types of activities in which she or he may engage while in retired status and that she or he has a professional duty to ensure that she or he holds the professional competencies necessary to participate in such activities.

(c) A retired licensee may accept routine reimbursement for actual costs of travel and meals associated with volunteer services or de minimis per diem amounts paid to the licensee to cover such expenses as allowed by law.

(d) A retired licensee may use the title of "retired CPA" on any business card or letterhead or any other printed or electronic document. However, such title must not be applied in such a manner that could confuse the public as to the current status of the licensee. The licensee is not required to have a certificate issued with the word "retired" on the certificate.

(e) A retired licensee is not required to maintain the continuing education requirements under s. 473.312.

(f) A retired licensee may not offer or render professional services that require her or his signature and the use of the CPA title, regardless of whether "retired" is attached to such title.

(g) A retired licensee may be permitted to reactivate her or his license in a conditional manner as determined by the board. The conditions of reactivation must require the payment of fees and the completion of required continuing education. The board may prescribe by rule an application for reactivating a license placed on retired status and continuing education requirements as a condition of reactivating a license placed on retired status. The minimum continuing education requirements for reactivating a license placed on retired status are those of the most recent biennium plus one-half of the requirements in s. 473.312 for each biennium or part thereof during which the license was on retired status.

For the purposes of this subsection, the term "retired licensee" means a licensee whose license has been placed in retired status by the department.

**History.**—ss. 12, 25, ch. 79-202; s. 346, ch. 81-259; ss. 17, 18, ch. 81-302; ss. 2, 3, ch. 81-318; s. 3, ch. 83-265; s. 53, ch. 83-329; ss. 7, 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 221, ch. 94-119; s. 348, ch. 97-103; s. 8, ch. 98-340; s. 5, ch. 2001-269; s. 12, ch. 2009-54; s. 4, ch. 2009-69; s. 15, ch. 2009-195; s. 2, ch. 2012-176; s. 4, ch. 2013-167; s. 2, ch. 2014-88; s. 3, ch. 2019-89; s. 1, ch. 2024-97.

#### **473.314 Temporary license.**

(1) The board shall adopt rules providing for the issuance of temporary licenses to certified public accountants or firms of other states who do not meet the requirements of s. 473.3141, for the purpose of enabling them or their employees to perform specific engagements involving the practice of public accountancy in this state. No temporary license shall be valid for more than 90 days after its issuance, and no license shall cover more than one engagement. After the expiration of 90 days, a new license shall be required.

(2) Each application for a temporary license shall state the names of all persons who are to enter this state and shall be accompanied by a fee in an amount established by the board not to exceed \$400.

(3) A temporary license shall not be required of certified public accountants or firms entering this state solely for the purpose of preparing federal tax returns or advising as to federal tax matters if they do not use the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the certified public accountants or firms are authorized to practice public accounting. To use such terms in this state, certified public accountants or firms from other states must comply with the provisions of this section or s. 473.3141.

(4) Upon certification of the applicant by the board, the department shall issue a temporary license to the applicant.

(5) The application for a temporary license shall constitute the appointment of the Department of State as an agent of the applicant for service of process in any action or proceeding against the applicant arising out of any transaction or operation connected with, or incidental to, the practice of public accounting for which the temporary license was issued.

**History.**—ss. 13, 25, ch. 79-202; s. 347, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 24, ch. 91-137; s. 4, ch. 91-429; s. 13, ch. 2009-54.

#### **473.3141 Certified public accountants licensed in other states.**

(1) Except as otherwise provided in this chapter, an individual who does not have an office in this state has the privileges of Florida certified public accountants and may provide public accounting services in this state without obtaining a license under this chapter or notifying or registering with the board or paying a fee if the individual:

(a) Holds a valid license as a certified public accountant from a state that the board or its designee has determined by rule to have adopted standards that are substantially equivalent to the certificate requirements in s. 5 of the Uniform Accountancy Act in the issuance of licenses; or

(b) Holds a valid license as a certified public accountant from a state that has not been approved by the board as having adopted standards in substantial equivalence with s. 5 of the Uniform Accountancy Act, but obtains verification from the board, or its designee, as determined by rule, that the individual’s certified public accountant qualifications are substantially equivalent to the certificate requirements in s. 5 of the Uniform Accountancy Act.

The board shall define by rule what constitutes an office.

(2) Except as otherwise provided in this chapter, an individual who qualifies to practice under this section may offer or provide services in this state in person, by mail, by telephone, or by electronic means, and a notice, fee, or other submission is not required.

(3) An individual certified public accountant from another state who practices pursuant to this section, and the firm that employs that individual, shall both consent, as a condition of the privilege of practicing in this state:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) To comply with this chapter and the applicable board rules;

(c) That if the license as a certified public accountant from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering public accounting services in this state, individually and on behalf of a firm; and

(d) To the appointment of the state board that issued the individual's license as the agent upon whom process may be served in any action or proceeding by the board or department against the individual or firm.

(4) An individual who qualifies to practice under this section may perform the services identified in s. 473.302(8)(a) only through a firm that has obtained a license issued under s. 473.3101 or is authorized by s. 473.3101 to provide such services.

(5) Disciplinary action against an individual or firm that practices pursuant to this section is not valid unless, prior to the entry of a final order, the agency has served, by personal service pursuant to this chapter or chapter 48 or by certified mail, an administrative complaint that provides reasonable notice to the individual or firm of facts or conduct that warrants the intended action and unless the individual or firm has been given an adequate opportunity to request a proceeding pursuant to ss. 120.569 and 120.57.

**History.**—s. 14, ch. 2009-54; s. 16, ch. 2012-212.

#### **473.315 Independence, technical standards.**

(1) A certified public accountant shall not express an opinion on the financial statements of an enterprise unless she or he and her or his firm are independent with respect to such enterprise.

(2) A certified public accountant shall not undertake any engagement in the practice of public accounting which she or he or her or his firm cannot reasonably expect to complete with professional competence.

(3) The board shall adopt rules establishing the standards of practice of public accounting, including, but not limited to, independence, competence, and technical standards.

(4) Attorneys who are admitted to practice law by the Supreme Court of Florida are exempt from the standards of practice of public accounting as defined in s. 473.302(8)(b) and (c) when such standards conflict with the rules of The Florida Bar or orders of the Florida Supreme Court.

**History.**—ss. 14, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 349, ch. 97-103; s. 9, ch. 98-340; s. 107, ch. 2010-5.

#### **473.316 Communications between the accountant and client privileged.**

(1) For purposes of this section:

(a) An "accountant" is a certified public accountant.

(b) A "client" is any person, public officer, corporation, association, or other organization or entity, either public or private, who agrees with an accountant or accountant's employer to receive professional services.

(c) A communication between an accountant and her or his client is "confidential" if it is not intended to be disclosed to third persons other than:

1. Those to whom disclosure is in furtherance of the rendition of accounting services to the client.

2. Those reasonably necessary for the transmission of the communication.

(d) A “quality review” is a study, appraisal, or review of one or more aspects of the professional work of an accountant in the practice of public accountancy which is conducted by a professional organization for the purpose of evaluating quality assurance required by professional standards, including a quality assurance review. The term includes a peer review as defined in s. 473.3125.

(e) A “review committee” is any person or persons who are not owners or employees of an accountant or firm that is the subject of a quality review and who carry out, administer, or oversee a quality review.

(2) A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, the contents of confidential communications with an accountant when such other person learned of the communications because they were made in the rendition of accounting services to the client. This privilege includes other confidential information obtained by the accountant from the client for the purpose of rendering accounting advice.

(3) The privilege may be claimed by:

(a) The client.

(b) A guardian or conservator of the client.

(c) The personal representative of a deceased client.

(d) A successor, assignee, trustee in dissolution, or any similar representative of an organization, corporation, or association or other entity, either public or private, whether or not in existence.

(e) The accountant, but only on behalf of the client. The accountant’s authority to claim the privilege is presumed in the absence of contrary evidence.

(4) There is no accountant-client privilege under this section when:

(a) The services of the accountant were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or should have known was a crime or fraud.

(b) A communication is relevant to an issue of breach of duty by the accountant to her or his client or by the client to her or his accountant.

(c) A communication is relevant to a matter of common interest between two or more clients, if the communication was made by any of them to an accountant retained or consulted in common when offered in a civil action between the clients.

(5) Communications are not privileged from disclosure in any disciplinary investigation or proceeding conducted pursuant to this act by the department or before the board or in any judicial review of such a proceeding. In any such proceeding, a certified public accountant or public accountant, without the consent of her or his client, may testify with respect to any communication between the accountant and the accountant’s client or be compelled, pursuant to a subpoena of the department or the board, to testify or produce records, books, or papers. Such a communication disclosed to the board and records of the board relating to the communication shall for all other purposes and proceedings be a privileged communication in all of the courts of this state.

(6) The proceedings, records, and workpapers of a review committee are privileged and are not subject to discovery, subpoena, or other means of legal process or to introduction into evidence in a civil action or arbitration,

administrative proceeding, or state accountancy board proceeding. A member of a review committee or person who was involved in a quality review may not testify in a civil action or arbitration, administrative proceeding, or state accountancy board proceeding as to any matter produced or disclosed during the quality review or as to any findings, recommendations, evaluations, opinions, or other actions of the review committee or any members thereof. Public records and materials prepared for a particular engagement are not privileged merely because they were presented during the quality review. This privilege does not apply to disputes between a review committee and a person subject to a quality review.

**History.**—ss. 15, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 1, ch. 91-63; s. 26, ch. 91-140; s. 4, ch. 91-429; s. 350, ch. 97-103; s. 15, ch. 2009-54; s. 4, ch. 2015-174; s. 3, ch. 2017-148.

#### **473.318 Ownership of working papers.**

All statements, records, schedules, working papers, and memoranda made by a certified public accountant or firm or her or his employee incident to, or in the course of, professional services to a client, except the reports submitted by the certified public accountant or firm to the client and except for records which are part of the client's records, shall be and remain the property of the certified public accountant or firm in the absence of an express agreement between the certified public accountant or firm and the client to the contrary.

**History.**—ss. 17, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 351, ch. 97-103; s. 16, ch. 2009-54.

#### **473.319 Contingent fees.**

Public accounting services as defined in s. 473.302(8)(a) and (c), and those that include tax filings with federal, state, or local government, shall not be offered or rendered for a fee contingent upon the findings or results of such service. This section does not apply to services involving federal, state, or other taxes in which the findings are those of the tax authorities and not those of the certified public accountant or firm. Fees to be fixed by courts or other public authorities, which are of an indeterminate amount at the time a public accounting service is undertaken, shall not be regarded as contingent fees for purposes of this section.

**History.**—ss. 18, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 2, ch. 97-35; s. 10, ch. 98-340; ss. 17, 18, ch. 2009-54.

#### **473.3205 Commissions or referral fees.**

A certified public accountant or firm may not accept or pay a commission or referral fee in connection with the sale or referral of public accounting services as defined in s. 473.302(8)(a) and (c). Any certified public accountant or firm that is engaged in the practice of public accounting and that accepts a commission for the sale of a product or service to a client must disclose that fact to the client in writing in accordance with rules adopted by the board.

However, this section shall not prohibit:

- (1) Payments for the purchase of an accounting practice;



(2) Retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates; or

(3) Payment of fees to a referring certified public accountant or firm for public accounting services to the successor certified public accountant or firm or the client in connection with an engagement.

**History.**—ss. 3, 5, ch. 89-87; s. 4, ch. 91-429; s. 3, ch. 97-35; s. 352, ch. 97-103; s. 11, ch. 98-340; s. 19, ch. 2009-54.

#### **473.321 Fictitious names.**

(1) A certified public accountant, partnership, corporation, or limited liability company may not practice public accountancy in this state under any name that is misleading or deceptive as to the legal form; as to persons who are partners, officers, shareholders, or members of the firm; or as to any other matter. However, a firm name may include the names of retired or deceased persons who were active partners, shareholders, or members of the firm.

(2) This section does not prohibit any certified public accountant or firm from practicing public accounting under a fictitious name that is not misleading or deceptive as to the persons who are partners, officers, shareholders, or members.

(3) The board shall adopt rules for interpretation of this section.

**History.**—ss. 19, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 4, ch. 91-429; s. 18, ch. 93-110; s. 3, ch. 93-284; s. 20, ch. 2009-54.

#### **473.322 Prohibitions; penalties.**

(1) A person may not knowingly:

(a) Practice public accounting unless the person is a certified public accountant or a public accountant;

(b) Assume or use the titles or designations “certified public accountant” or “public accountant” or the abbreviation “C.P.A.” or any other title, designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person holds a license to practice public accounting under this chapter or the laws of any other state, territory, or foreign jurisdiction, unless the person holds an active license under this chapter or has the practice privileges pursuant to s. 473.3141;

(c) Perform or offer to perform any services described in s. 473.302(8)(a) or (d) unless such person holds an active license under this chapter and is a licensed firm, provides such services through a licensed firm, or complies with ss. 473.3101 and 473.3141. This paragraph does not prohibit the performance by persons other than certified public accountants of other services involving the use of accounting skills, including the preparation of tax returns and the preparation of financial statements without expression of opinion thereon;

(d) Present as her or his own the license of another;

(e) Give false or forged evidence to the board or a member thereof;

(f) Use or attempt to use a public accounting license that has been suspended, revoked, or placed on inactive or delinquent status;

(g) Employ unlicensed persons to practice public accounting; or

(h) Conceal information relative to violations of this chapter.

(2) Any person who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—ss. 20, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 10, 11, ch. 85-9; s. 104, ch. 91-224; s. 4, ch. 91-429; s. 222, ch. 94-119; s. 2, ch. 94-151; s. 2, ch. 96-261; s. 1116, ch. 97-103; s. 12, ch. 98-340; s. 3, ch. 2000-114; s. 21, ch. 2009-54; s. 6, ch. 2015-174; s. 4, ch. 2019-89.

#### **473.323 Disciplinary proceedings.**

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(a) Violation of any provision of s. 455.227(1) or any other provision of this chapter.

(b) Attempting to procure a license to practice public accounting by bribery or fraudulent misrepresentations.

(c) Having a license to practice public accounting revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of public accounting or the ability to practice public accounting.

(e) Making or filing a report or record that the certified public accountant or firm knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a certified public accountant.

(f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(g) Committing an act of fraud or deceit, or of negligence, incompetency, or misconduct, in the practice of public accounting.

(h) Violation of any rule adopted pursuant to this chapter or chapter 455.

(i) Practicing on a revoked, suspended, inactive, or delinquent license.

(j) Suspension or revocation of the right to practice before any state or federal agency or the Public Company Accounting Oversight Board.

(k) Performance of any fraudulent act in any jurisdiction while holding a license to practice public accounting in this state or using practice privileges in this state.

(l) Failing to maintain a good moral character as provided in s. 473.308 while applying for licensure, or while licensed in this state or using practice privileges pursuant to s. 473.3141.

(m) Failing to provide any written disclosure to a client or the public which is required by this chapter or rule of the board.

(n) Having the same or equivalent practice privileges of a Florida certified public accountant or firm revoked, suspended, or otherwise acted against by the licensing authority of another state, territory, or country as a result of activity in that jurisdiction which would have subjected the Florida certified public accountant or firm to discipline in this state.

(2) The board shall specify, by rule, what acts or omissions constitute a violation of subsection (1).

(3) When the board finds any certified public accountant or firm guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of the certified public accountant or firm's license or practice privileges in this state.

(c) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the certified public accountant on probation for a period of time and subject to such conditions as the board may specify, including requiring the certified public accountant to attend continuing education courses or to work under the supervision of another licensee.

(f) Restriction of the authorized scope of practice by the certified public accountant.

(4) The department shall reissue the license of a disciplined licensee upon certification by the board that the disciplined licensee has complied with all of the terms and conditions set forth in the final order.

**History.**—ss. 21, 25, ch. 79-202; ss. 2, 3, ch. 81-318; ss. 8, 10, 11, ch. 85-9; s. 25, ch. 91-137; s. 4, ch. 91-429; s. 224, ch. 94-119; s. 4, ch. 94-151; s. 5, ch. 95-140; s. 3, ch. 96-261; s. 4, ch. 97-35; s. 117, ch. 98-166; s. 3, ch. 2000-154; s. 178, ch. 2000-160; s. 3, ch. 2008-81; s. 22, ch. 2009-54; s. 55, ch. 2009-195; s. 46, ch. 2010-106; s. 4, ch. 2017-148.

# Florida Department and Business and Professional Regulation Rules

## CHAPTER 61-5: FEES AND UNLICENSED ACTIVITY

61-5.002	Definitions
61-5.003	Notification and Fees (Repealed)
61-5.004	Advancement of Funds
61-5.005	License Renewal Fee Waivers (Repealed)
61-5.007	Disciplinary Guidelines for Unlicensed Activity

### **61-5.002 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

(1) “Anticipated costs” means the projected direct and indirect costs and administrative overhead of a board based upon the current fiscal year’s legislative appropriation enactment and other anticipated initiatives.

(2) “Reasonable cash balance” means a positive cash balance which must exist at the end of each fiscal year, plus and minus the Department’s projections of revenue and expenditures of the board for the next 24-month period.

(3) “Projection” means the department’s projected cash balance for a board based upon a board’s projected revenues including license fees, application fees, examination fees, and fines, and the department’s projected anticipated costs for the board.

*Rulemaking Authority 455.203(5) FS. Law Implemented 455.219(1) FS. History—New 4-27-94, Amended 8-28-95.*

### **61-5.003 Notification and Fees.**

*Rulemaking Authority 455.203(5) FS. Law Implemented 455.219(1), 455.2281 FS. History—New 4-27-94, Amended 1-7-97, Repealed 9-10-17.*

### **61-5.004 Advancement of Funds.**

(1) The Department is authorized to permit a temporary loan of funds to any Board operating at a deficit. Any request for a loan shall be made to the Director of the Division of Administration and shall state:

(a) That the Board is currently operating at a deficit; and

(b) That the Board has already assessed a one-time fee to eliminate the cash deficit or to maintain the financial integrity of the profession within the last four years.

(2) Upon verification of the information stated in the request, the Department shall loan funds sufficient to maintain a reasonable cash balance.

(3) No action taken under this section will extend beyond two years. All loans authorized under this section will be repaid by the borrowing Board within two years from the date of the loan. All loans authorized under this section will be repaid with interest calculated at the then prevailing rates paid for investments in the State Treasury to the credit of the Professional Regulation Trust Fund.

*Rulemaking Authority 455.203(5) FS. Law Implemented 455.219(1), (2) FS. History—New 8-28-95.*

### **61-5.005 License Renewal Fee Waivers.**

*Rulemaking Authority 455.219(1) FS. Law Implemented 455.219(1) FS. History—New 10-1-00, Amended 8-17-06, 1-24-08, 2-20-12, Repealed 9-10-17.*

### **61-5.007 Disciplinary Guidelines for Unlicensed Activity.**

(1) In imposing disciplinary penalties upon unlicensed persons, the Department of Business and Professional Regulation (hereinafter, “Department”) shall act in accordance with the following disciplinary guidelines and shall impose a penalty consistent herewith absent the application of aggravating or mitigating circumstances and subject to the provisions of Sections 455.227 and 489.13, F.S.

(2) For the purpose of this rule, the term “license” shall mean the professional license, registration, certificate or certification issued by the Department to authorize the practice of a profession pursuant to a professional practice act administered by the Department.

(3) All penalties established herein are for each count or separate violation found.

(4) For using a professional title or designation without holding the requisite license to do so, the following penalties shall apply:

- (a) First violation – \$1000 administrative fine;
- (b) Second violation – \$2500 administrative fine; and,
- (c) Third and subsequent violations – \$5000 administrative fine.

(5) For advertising or offering to practice a profession without holding the requisite license to do so, the following penalties shall apply:

- (a) First violation – \$1500 administrative fine;
- (b) Second violation – \$3000 administrative fine; and,
- (c) Third and subsequent violations – \$5000 administrative fine.

(6) For practicing a profession without holding the requisite license to do so, the following penalties shall apply:

- (a) First violation – \$3000 administrative fine;
- (b) Second violation – \$4000 administrative fine; and,
- (c) Third and subsequent violations – \$5000 administrative fine.

(7) Notwithstanding the foregoing, violations of Section 489.127(1), F.S., may result in the imposition of a \$10,000 administrative fine.

(8) Circumstances which may be considered for the purposes of mitigation or aggravation of the foregoing penalties shall include the following:

(a) Monetary or other damage to the unlicensed person’s customer and/or other persons, in any way associated with the violation, which damage the unlicensed person has not relieved as of the time the penalty is to be assessed.

(b) The severity of the offense.

(c) The danger to the public.

(d) The number of repetitions of offenses.

(e) The number of complaints filed against the unlicensed person.

(f) The length of time the unlicensed person has been engaging in unlicensed activity.

(g) The actual damage, physical or otherwise, to the unlicensed person’s customer.

(h) The deterrent effect of the penalty imposed.

(i) The effect of the penalty upon the unlicensed person’s livelihood.

(j) Any efforts at rehabilitation.

(k) The unlicensed person’s use of an altered license or impersonation of a licensee.

(9) The disciplinary guidelines established by this rule are only applicable to final orders issued by the Secretary of the Department or his/her appointed designee.

*Rulemaking Authority 455.2273 FS. Law Implemented 455.227, 455.2273, 455.228, 489.127, 489.13 FS. History—New 1-26-10.*

## CHAPTER 61-35: DEPARTMENTAL FORMS

61-35.003 Board of Accountancy Departmental Forms

### 61-35.003 Board of Accountancy Departmental Forms.

The following Division of Certified Public Accountants forms can be obtained at [www.myfloridalicense.com/dbpr/](http://www.myfloridalicense.com/dbpr/) or by mail from the Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, FL 32399-0790, (850)487-1395.

(1) Any person desiring to apply to take the examination to become a Certified Public Accountant (CPA) shall submit a completed Form DBPR CPA 1, Application for CPA Examination, effective April 2024, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-17373>.

(2) Any person desiring to apply to become a Certified Public Accountant (CPA) shall submit a completed Form DBPR CPA 2, Initial CPA Licensure Application, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13165>.

(3) Any person desiring to apply to become a Certified Public Accountant (CPA) by endorsement shall submit a completed Form DBPR CPA 3, Application for CPA Licensure by Endorsement, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13166>.

(4) Any person desiring to apply for a firm license shall submit a completed Form DBPR CPA 4, Application for CPA Firm, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13167>.

(5) Any person desiring to apply for a firm license as a sole proprietor shall submit a completed Form DBPR CPA 5, Application for CPA Sole Proprietor Firm, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13168>.

(6) Any person that is a non-resident desiring to apply for a temporary permit to perform a specific engagement for a client within the State of Florida shall submit a completed Form DBPR CPA 6, Application for CPA Non Resident Temporary Practice Permit, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13169>.

(7) Any person desiring to change the status of their license shall submit a completed Form DBPR CPA 7, CPA Change of Status, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13170>.

(8) Any person desiring to change their name or address as listed on their license or desiring to request a duplicate wall certificate shall submit a completed Form DBPR CPA 8, CPA Request for Name/Address Change, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13171>.

(9) Any person desiring to reinstate their null and void license as a Certified Public Accountant shall submit a completed Form DBPR CPA 9, Application for Reinstatement of Null and Void License, effective April 2024, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-17374>.

(10) Any provider of Continuing Professional Education (CPE) Courses for Certified Public Accountants desiring to apply for their Ethics course to be recognized as an approved Ethics in the State of Florida for the purposes of satisfying CPE requirements shall submit a completed Form DBPR CPA 10, Continuing Education Provider and Ethics Course Approval Application, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13173>.

(11) Any person desiring to apply for the Clay Ford Scholarship shall submit a completed Form DBPR CPA 11, Clay Ford Scholarship Application, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13174>.

(12) Any person desiring to send another State Board of Accountancy a verification of either exam scores or licensure information shall submit a completed Form DBPR CPA 12, Authorization for Transfer of Examination and/or Licensure Information Request, effective April 2024, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-17375>.

(13) Any person desiring to use work experience as a requirement for a Certified Public Accountant (CPA) Licensure in lieu of education shall submit a completed Form DBPR CPA 32, Verification of Work Experience, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13176>.

(14) Any person desiring to report their Continuing Professional Education (CPE) Courses in order to renew, reactivate, or seek an endorsement for CPA Licensure shall submit a completed Form DBPR CPA 41, CPE Reporting Form, effective July 2024, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-17376>.

(15) Any person that is a non-resident and has previously sat for a Certified Public Accountant (CPA) Examination and is desiring to take the CPA Examination or obtain a license by endorsement in the State of Florida shall submit a completed Form DBPR CPA 5012-1, Authorization for Interstate Exchange of Examination and Licensure Information, effective June 2021, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-13178>.

(16) Any person desiring to receive instructor credit for their Continuing Professional Education (CPE) as required by Rule 61H1-33.003, F.A.C., in order to renew their CPA license shall submit a completed DBPR CPA 13, Instructor CPE Credit Reporting Form, effective April 2023, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-15216>.

(17) Any person who is a non-resident Florida license holder and is seeking to report their Continuing Professional Education (CPE) as required by Rule 61H1-33.003, F.A.C., in order to renew their CPA license shall submit a completed DBPR CPA 14, Out of State Licensee CPE Acknowledgement Form, effective April 2023, adopted and incorporated by reference and available at, <http://www.flrules.org/Gateway/reference.asp?No=Ref-15217>.

(18) Any person desiring to change the status of their license from “current, active” or “current, inactive” to “retired” shall submit a completed Form DBPR CPA 16, Application for Retired Status, effective July 2024, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-17377>.

(19) Any person desiring to change the status of their license from “retired” to “current, active” shall submit a completed Form DBPR CPA 17, CPA Retired Status Reactivation Application, effective July 2024, adopted and incorporated by reference and available at, <https://www.flrules.org/Gateway/reference.asp?No=Ref-17378>.

*Rulemaking Authority 455.203, 455.213, 455.217, 455.271, 455.219, 473.305 FS. Law Implemented 455.2179, 455.271, 455.219, 473.305, 455.275, 473.305, 473.306, 473.3065, 473.308, 473.309, 473.3101, 473.313, 473.314, 559.79 FS. History—New 6-17-21, Amended 5-11-23, 2-19-25.*

## **Florida Board of Accountancy Rules**

### **CHAPTER 61H1-19: PURPOSE, ORGANIZATION, RULEMAKING PROCEEDINGS, ETC.**

61H1-19.006	Attendance at Board Meetings, Unexcused Absences
61H1-19.007	Probable Cause Panel
61H1-19.008	Committees (Repealed)
61H1-19.009	Other Board Business for Which Compensation Is Allowed (Repealed)
61H1-19.010	Criteria for Investigators and Consultants

#### **61H1-19.006 Attendance at Board Meetings, Unexcused Absences.**

(1) Board members shall attend all regularly scheduled Board meetings unless prevented from doing so by reason of the illness of the Board member or a member of the Board member's family, death of a member of the Board member's immediate family, or natural disaster.

(2) No Board member may be absent from three consecutive regularly scheduled Board meetings unless the absence is excused for one of the reasons stated in subsection (1) of this rule. An absence for any reason other than the reasons stated in subsection (1), constitutes an unexcused absence for the purpose of declaring a vacancy of the Board. An otherwise excused absence is not excused if the Board member fails to notify the Board office of the impending absence prior to the regularly scheduled Board meeting at which the absence will occur or unless the failure to notify the Board office is the result of circumstances surrounding the reason for the absence which the Board itself excuses after the absence has occurred.

(3) "Family" consists of immediate family, nieces, nephews, cousins, and in-laws.

(4) "Immediate family" consists of spouse, child, parents, parents-in-law, siblings, grandchildren, and grandparents.

*Rulemaking Authority 455.207(3), 473.304 FS. Law Implemented 455.207(3) FS. History--New 9-30-97.*

#### **61H1-19.007 Probable Cause Panel.**

(1) The determination whether probable cause exists to believe that a violation of any of the provisions of Chapters 455 and 473, F.S., or the rules promulgated pursuant thereto has occurred, shall be made by a majority vote of a probable cause panel of the Board.

(2) The probable cause panel shall be composed of at least three (3) members. Any panel so appointed must contain at least one present Board member and at least one present or former Board member who is a Certified Public Accountant. Any former Board member appointed to a panel must hold an active, valid license to practice. In addition, a former or present consumer member must serve on the panel if a consumer member is available, willing to serve, and appointed by the Chairman.

(3) The probable cause panel shall be selected by the Chairman, one of whom shall be designated by the Chairman as presiding officer of the panel.

(4) The probable cause panel shall meet at such times as called by the presiding officer of the panel.

(5) The Chairman, at his discretion, shall, as needed, appoint multiple probable cause panels which panels shall be constituted as set forth in subsection (2) above.

*Rulemaking Authority 455.225, 473.304 FS. Law Implemented 455.225 FS. History--New 12-4-79, Formerly 21A-19.07, Amended 12-2-92, Formerly 21A-19.007, Amended 7-14-02.*

#### **61H1-19.008 Committees.**

*Rulemaking Authority 120.53, 473.304 FS. Law Implemented 120.53, 20.30(5) FS. History--New 2-3-81, Formerly 21A-19.08, Amended 12-2-92, Formerly 21A-19.008, Repealed 4-14-20.*

#### **61H1-19.009 Other Board Business for Which Compensation Is Allowed.**



*Rulemaking Authority 455.207 Law Implemented 455.207 History—New 11-2-81, Formerly 21A-19.09, 21A-19.009, Amended 1-11-95, Repealed 3-7-10.*

**61H1-19.010 Criteria for Investigators and Consultants.**

Except for investigation of non-technical matters, all investigators and consultants hired by the Department who undertake the investigation of certified public accountants shall be active Florida certified public accountants with a minimum of five (5) years of active licensure in the area of public accountancy. Non-technical matters are defined as those not encompassing the technical proficiency of a certified public accountant in the practice of public accountancy.

*Rulemaking Authority 455.203(6) FS. Law Implemented 455.203(8) FS. History—New 11-2-81, Formerly 21A-19.10, 21A-19.010, Amended 10-26-09.*

## CHAPTER 61H1-20: DEFINITIONS

61H1-20.001	Definitions
61H1-20.002	Attest as an Expert in Accountancy to the Reliability or Fairness of Presentation or “Expression of Opinion”
61H1-20.003	Client (Repealed)
61H1-20.004	Enterprise
61H1-20.005	Financial Statements
61H1-20.0051	Assembled Financial Statements (Repealed)
61H1-20.0052	Offer to Perform or Perform Services Involving Assembled Financial Statements (Repealed)
61H1-20.0053	Standards for Assembled Financial Statements (Repealed)
61H1-20.006	Firm or Firms of Certified Public Accountants (Repealed)
61H1-20.007	Generally Accepted Accounting Principles (Repealed)
61H1-20.008	Generally Accepted Auditing Standards (Repealed)
61H1-20.009	Standards for Accounting and Review Services (Repealed)
61H1-20.0091	Government Accounting Standards (Repealed)
61H1-20.0092	Government Auditing Standards (Repealed)
61H1-20.0093	Rules of the Auditor General
61H1-20.0094	Standards for Prospective Financial Statements (Repealed)
61H1-20.0095	Standards for Consulting Services (Repealed)
61H1-20.0096	Services for Tax Practice (Repealed)
61H1-20.0097	Standards for Personal Financial Planning (Repealed)
61H1-20.0098	Standards for Business Valuations (Repealed)
61H1-20.0099	Standards for Attestation Engagements (Repealed)
61H1-20.010	Engagement
61H1-20.011	Practice of, or Practicing Public Accountancy (Repealed)
61H1-20.012	Holding Out (Repealed)
61H1-20.013	Employee
61H1-20.015	Partnership (Repealed)
61H1-20.016	Non-CPA Shareholders, Partners, and Members

### **61H1-20.001 Definitions.**

(1) “Certified public accountant,” or “CPA,” shall be deemed and construed to mean a person, who holds an active, inactive, delinquent, or temporary license issued under Chapter 473, F.S., or who is practicing public accounting in this state pursuant to the practice privilege granted in Section 473.3141, F.S.

(2) “Florida certified public accountant” shall be deemed and construed to mean a person who holds an active, inactive, delinquent, or temporary license issued under Chapter 473, F.S.

(3) “Non-Florida certified public accountant” shall be deemed and construed to mean a person who is practicing public accounting in this state pursuant to the practice privilege granted in Section 473.3141, F.S.

(4) “Firm,” “CPA Firm” or “Firms of certified public accountants” shall be deemed and construed to mean a sole proprietor, partnership, professional corporation, limited liability company, or any other legal entity engaged in the practice of public accounting, including individual partners, stockholders or members thereof, that holds an active, delinquent, or temporary license issued under Section 473.3101, F.S., or its state of domicile.

(5) “Florida firm” shall be deemed and construed to mean any sole proprietor, partnership, professional corporation, limited liability company, or any legal entity that holds an active, delinquent, or temporary license issued under Section 473.3101, F.S.

(6) “Non-Florida firm” shall be deemed and construed to mean any legal entity that is practicing public accounting pursuant to a license issued in its state of domicile.

(7) A “suspended certified public accountant” is prohibited from practicing public accounting as a sole proprietor,

partner or shareholder and using the “CPA” designation. A suspended certified public accountant may be an employee under the supervision of a certified public accountant who holds an active license.

(8) An “office” shall be deemed and construed to mean a place in which public accounting is conducted or any place for which the physical address is identified in advertising. For a certified public accountant employed by a Florida firm, “office” shall also mean the licensee’s designated address of record.

(9) “Proof of CPE completion” from a continuing professional education CPE provider shall be defined as the document identifying the licensee has completed a course. To be accepted by the Board, the document must contain the following elements: name of course taken, licensee name, the date the course was completed, number of hours, credit type or category, sponsor name, and signature of the CPE sponsor. Proof of CPE completion for a Florida ethics course, in addition to the aforementioned elements, must include the DBPR course approval number. For courses completed at accredited institutions of higher learning and credited for CPE, a transcript will be considered proof of CPE completion. Proof of CPE completion for instructor credit will include an Instructor CPE Credit Reporting Form (DBPR CPA 13, effective April 2023), which is incorporated by reference in Rule 61-35.003, F.A.C.

*Rulemaking Authority 473.304 FS. Law Implemented 455.271, 473.012, 473.3101, 473.3141 FS. History—New 12-4-79, Formerly 21A-20.01, Amended 10-20-86, Formerly 21A-20.001, Amended 8-13-06, 11-3-09, 3-18-10, 11-21-13, 12-24-15, 8-6-23.*

#### **61H1-20.002 “Attest as an Expert in Accountancy to the Reliability or Fairness of Presentation” or “Expression of Opinion.”**

The terms “attest as an expert in accountancy to the reliability or fairness of presentation” and “expression of opinion” shall be deemed and construed to mean any report, transmittal letter or other written communication issued as a result of an examination or review of financial statements or financial information which contains either an expression of opinion or other assurance as to the fairness, accuracy or reliability of such financial statements within the meaning of generally accepted auditing standards or standards for accounting and review services. A report issued in connection with a review of financial statements is an “expression of opinion.” Statements, affidavits or signatures of preparers required on tax returns and reports issued in connection with a compilation of financial statements are not “expressions of opinion,” but compilations do provide a level of assurance.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315, 473.322 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-20.02, 21A-20.002, Amended 1-11-95.*

#### **61H1-20.003 Client.**

*Rulemaking Authority 473.304 FS. Law Implemented 473.316 FS. History—New 12-4-79, Formerly 21A-20.03, 21A-20.003, Amended 9-21-10, Repealed 3-13-18.*

#### **61H1-20.004 Enterprise.**

“Enterprise” shall be deemed and construed to mean any person(s) or entity, whether organized for profit or not, for which a certified public accountant or firm provides public accounting services.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Formerly 21A-20.04, 21A-20.004, Amended 9-21-10.*

#### **61H1-20.005 Financial Statements.**

“Financial Statements” shall be deemed and construed to mean a presentation of financial data, including accompanying notes, derived from accounting records that purports to show actual or anticipated financial position and intended to communicate an entity’s economic resources or obligations at a point in time, and the results of operations and cash flows for a period of time, in accordance with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles. Financial presentations included in tax returns are not financial statements. The method of preparation (for example, manual or computer preparation) is not relevant to the definition of a financial statement.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-20.05, Amended 3-22-89, 12-2-92, Formerly 21A-20.005.*

**61H1-20.0051 Assembled Financial Statements.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.302, 473.322 FS. History—New 10-28-98, Amended 9-21-10, Repealed 4-22-19.*

**61H1-20.0052 Offer to Perform or Perform Services Involving Assembled Financial Statements.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.302, 473.322 FS. History—New 10-28-98, Amended 9-21-10, Repealed 4-22-19.*

**61H1-20.0053 Standards for Assembled Financial Statements.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.302, 473.322 FS. History—New 10-28-98, Amended 9-20-00, 8-28-06, 9-21-10, 12-21-15, Repealed 4-22-19.*

**61H1-20.006 Firm or Firms of Certified Public Accountants.**

*Rulemaking Authority 473.302(8), 473.304 FS. Law Implemented 473.3101 FS. History—New 12-4-79, Formerly 21A-20.06, 21A-20.006, Amended 11-4-93, Repealed 11-11-13.*

**61H1-20.007 Generally Accepted Accounting Principles.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 2-3-81, 3-16-81, 1-25-82, 7-6-82, 12-9-82, 7-27-83, 3-22-84, 7-2-85, Formerly 21A-20.07, Amended 9-23-86, 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.007, Amended 10-19-94, 9-30-97, 9-29-02, Repealed 11-11-15.*

**61H1-20.008 Generally Accepted Auditing Standards.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 3-16-81, 7-6-82, 12-9-82, 7-27-83, 3-22-84, 7-2-85, Formerly 21A-20.08, Amended 9-23-86, 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.008, Amended 10-19-94, 9-30-97, 9-29-02, Repealed 11-11-15.*

**61H1-20.009 Standards for Accounting and Review Services.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 3-16-81, 1-25-82, 7-6-82, 12-9-82, 7-27-83, 3-22-84, 7-2-85, Formerly 21A-20.09, Amended 9-23-86, 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.009, Amended 10-19-94, 9-30-97, 9-29-02, Repealed 12-21-15.*

**61H1-20.0091 Governmental Accounting Standards.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.304, 473.315 FS. History—New 10-28-86, Amended 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.0091, Amended 10-19-94, 9-30-97, Repealed 9-29-02.*

**61H1-20.0092 Government Auditing Standards.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 10-28-86, Amended 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.0092, Amended 10-19-94, 9-30-97, 9-29-02, 9-21-10, 11-3-13, Repealed 11-11-15.*

**61H1-20.0093 Rules of the Auditor General.**

(1) “Rules of the Auditor General” shall be deemed and construed to mean the following Rules of the Auditor General of the State of Florida in effect as follows:

Chapter	Title
10.550	Local Governmental Entity Audits, effective 09-30-24
10.650	Florida Single Audit Act Audits Non-profit and For-profit Organizations, effective 6-30-24
10.700	Audits of Certain Nonprofit Organizations, effective 6-30-24
10.800	Audits of District School Boards, effective 6-30-24
10.850	Audits of Charter Schools and Charter Technical Career Centers, The Florida Virtual School, and Virtual Instruction Program Providers, effective 6-30-24

These rules hereby incorporated by reference and are available from <http://www.flrules.org/Gateway/reference.asp?No=Ref-17325>, <http://www.flrules.org/Gateway/reference.asp?No=Ref-17326>, <http://www.flrules.org/Gateway/reference.asp?No=Ref-17327>, <http://www.flrules.org/Gateway/reference.asp?No=Ref-17328>, <http://www.flrules.org/Gateway/reference.asp?No=Ref-17351>, or the State of Florida, Auditor General's Office or from its website <http://www.flauditor.gov>, under the Rules and Guidelines section.

(2) Certified public accountants performing accounting services in connection with Local Governmental Entity Audits required to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Sections 10.550-.559, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

(3) Certified public accountants performing accounting services in connection with Standards for Florida Single Audit Act Audits for Nonprofit and For-Profit Organizations required by Section 215.97, F.S., to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Section 10.650, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

(4) Certified public accountants performing accounting services in connection with Standards for Audits of Certain Nonprofit Organizations required by Section 215.981(1), 1001.453(4), 1004.28(5) or 1004.70(6), F.S., to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Section 10.700, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

(5) Certified public accountants performing accounting services in connection with Standards for Audits of District School Boards required by Section 11.45 or 218.39, F.S., to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Chapter 10.800, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

(6) Certified public accountants performing accounting services in connection with Standards for Audits of Charter Schools and Similar Entities, Florida Virtual School, and Virtual Instruction Program Providers required by Section 218.39 or 1002.37, F.S., to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Chapter 10.850, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 10-22-86, Amended 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.0093, Amended 9-30-97, 9-29-02, 9-21-10, 10-9-13, 12-2-14, 1-27-16, 2-6-18, 4-4-19, 4-27-20, 2-21-21, 1-4-22, 12-29-24.*

#### **61H1-20.0094 Standards for Prospective Financial Statements.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 3-22-89, Amended 4-8-90, 4-21-91, Formerly 21A-20.0094, Amended 9-30-97, Repealed 9-29-02.*

#### **61H1-20.0095 Standards for Consulting Services.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 5-20-91, Formerly 21A-20.0095,*

*Amended 9-30-97, 9-29-02, Repealed 11-11-15.*

**61H1-20.0096 Services for Tax Practice.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 5-20-91, Formerly 21A-20.0096, Amended 9-30-97, 9-29-02, Repealed 11-11-15.*

**61H1-20.0097 Standards for Personal Financial Planning.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 11-8-95, Amended 9-30-97, 9-29-02, Repealed 11-11-15.*

**61H1-20.0098 Standards for Business Valuations.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 11-8-95, Amended 9-30-97, 9-29-02, 2-4-08, 12-27-09, Repealed 11-11-15.*

**61H1-20.0099 Standards for Attestation Engagements.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 9-29-96, Amended 6-22-98, 9-29-02, Repealed 11-11-15.*

**61H1-20.010 Engagement.**

“Engagement” shall be deemed and construed to mean the association between a client and a certified public accountant or firm relative to the performance of public accounting services by the certified public accountant or firm for the client.

*Rulemaking Authority 473.304, 473.314, 473.315, 473.317 FS. Law Implemented 473.314, 473.315, 473.317 FS. History—New 12-4-79, Formerly 21A-20.10, 21A-20.010, Amended 9-21-10.*

**61H1-20.011 Practice of, or Practicing Public Accountancy.**

*Rulemaking Authority 473.304 FS. Law Implemented 473.302 FS. History—New 12-4-79, Amended 9-17-84, Formerly 21A-20.011, Amended 1-25-87, Formerly 21A-20.011, Repealed 8-25-94.*

**61H1-20.012 Holding Out.**

*Rulemaking Authority 473.302, 473.304, 473.307 FS. Law Implemented 473.302 FS. History—New 9-17-84, Formerly 21A-20.12, 21A-20.012, Repealed 11-21-94.*

**61H1-20.013 Employee.**

An employee of a certified public accounting firm includes a certified public accountant which may be leased to a firm through an employee leasing company as defined in Section 443.036(18), F.S., as long as the firm has the power to hire and fire, has complete supervision and control over the certified public accountant’s work product, and accepts the certified public accountant as its responsibility for purposes of complying with Rule 61H1-26.002, F.A.C.

*Rulemaking Authority 473.304 FS. Law Implemented 473.302, 473.309(1)(b), 473.3101 FS. History—New 10-17-90, Formerly 21A-20.013, Amended 9-21-10, 3-9-21.*

**61H1-20.015 Partnership.**

*Rulemaking Authority 473.304, 473.3101 FS. Law Implemented 473.309, 473.3101 FS. History—New 6-16-94, Repealed 10-8-97.*

**61H1-20.016 Non-CPA Shareholders, Partners, and Members.**

(1) For purposes of Chapter 473, F.S., the terms non-CPA shareholders, partners, and members shall be deemed

and construed to mean natural persons materially participating in the business conducted by the firm and when their participation ceases, their interest shall revert to the firm.

(2) Non-CPA shareholders, partners, and members shall not hold themselves out as certified public accountants.

*Rulemaking Authority 473.304 , 473.309 FS Law Implemented 473.309 FS. History--New 2-5-98, Amended 9-21-10, 3-9-21.*

## CHAPTER 61H1-21: INDEPENDENCE, INTEGRITY, ETC.

61H1-21.001	Independence
61H1-21.002	Integrity and Objectivity
61H1-21.003	Commissions or Referral Fees
61H1-21.005	Contingent Fees
61H1-21.006	Communication with Client of Another Certified Public Accountant

### **61H1-21.001 Independence.**

(1) Pursuant to Section 473.315, F.S., standards of practice are established for independence, and a Certified Public Accountant (CPA) in public practice is required to be independent in fact and appearance when providing services under Section 473.302(8)(a), F.S., namely expressing opinions on financial statements, referred to herein as attest services.

(2) Independence permits a CPA to perform an attest service without being affected by influences that compromise professional judgment or materially impair the CPA's ability to act with integrity and exercise objectivity and professional skepticism. The CPA shall determine whether those influences, when present, create such a threat that would cause the CPA not to act with integrity and exercise objectivity and professional skepticism. The CPA shall not perform an attest service where independence is impaired as described in this rule.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History--New 12-4-79, Amended 2-3-81, 10-28-85, Formerly 21A-21.01, Amended 10-20-86, Formerly 21A-21.001, Amended 5-21-03, 1-31-05, 12-10-09, 10-10-22.*

### **61H1-21.002 Integrity and Objectivity.**

A certified public accountant shall not knowingly misrepresent facts, and, when engaged in the practice of public accounting, shall not subordinate his/her judgment to others including but not limited to clients, employers or other third parties. In tax practice, a certified public accountant may resolve doubt in favor of his/her client as long as there is reasonable support for his/her position.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History--New 12-4-79, Formerly 21A-21.02, Amended 6-4-86, Formerly 21A-21.02, 21A-21.002, Amended 12-10-09.*

### **61H1-21.003 Commissions or Referral Fees.**

(1) A certified public accountant shall not pay or accept a commission or referral fee in connection with the sale of a product or referral of any services as defined in Section 473.302(8)(a) and (c), F.S., or prohibited to non-certified public accountants as listed in Section 473.322, F.S. These services include:

(a) Audit, review or compilation services.

(b) Services for any prospective financial data including forecasts or projections.

(c) Any special procedures engagement resulting in an expression of an opinion when the services fall within the definitions as set forth in Section 473.302(8)(a) and (c) and Section 473.322, F.S.

(2) The certified public accountant must have an engagement letter signed by the client prior to beginning any engagement for which the certified public accountant will receive a commission. The letter must include complete details of the financial arrangements involving compensation for the services rendered.

(3) The certified public accountant must hold appropriate licenses as required.

(4) If the certified public accountant is not independent as described in Rule 61H1-21.001, F.A.C., it must be disclosed in the engagement letter. However, if the only reason for not being independent is the fact that the certified public accountant is being compensated by a commission or contingent fee then the lack of independence does not have to be disclosed.

*Rulemaking Authority 473.304, 473.3205 FS. Law Implemented 473.3205 FS. History--New 12-4-79, Formerly 21A-21.03, Amended 3-28-89, Formerly 21A-21.003, Amended 2-23-98, 8-16-99, 12-21-09.*



**61H1-21.005 Contingent Fees.**

(1) No certified public accountant or firm shall accept a fee contingent upon the findings or results of such services if the service is of the type for which a commission or referral fee could not be accepted (See Rule 61H1-21.003, F.A.C.).

(2) No certified public accountant or firm shall accept a contingent fee for tax filings with the federal, state, or local government unless the findings are those of the tax authorities and not those of the certified public accountant or firm. Unless the certified public accountant or firm has specific reason to know that the filing will be reviewed in detail by the taxing authorities, the findings will be presumed to be those of the certified public accountant or firm and a contingent fee is not permissible. An original or amended federal tax return or a claim for refund cannot be prepared for a contingent fee since the findings are not considered to be those of the taxing authority. If the taxing authority has begun an audit, any findings will be considered those of the taxing authority and a contingent fee may be accepted. Fees to be fixed by courts or other public authorities, which are of an indeterminate amount at the time a public accounting service is undertaken, shall not be regarded as contingent fees for the purposes of this rule. However, a certified public accountant's or firm's fee may vary depending, for example, on the complexity of the service rendered.

*Rulemaking Authority 473.304 FS. Law Implemented 473.319 FS. History—New 12-4-79, Formerly 21A-21.05, 21A-21.005, Amended 11-30-93, 2-23-98, 12-10-09.*

**61H1-21.006 Communication with Client of Another Certified Public Accountant.**

If a client of one certified public accountant or firm requests a second certified public accountant or firm to provide professional advice on accounting or auditing matters in connection with an expression of opinion, the second certified public accountant or firm must consult with the first certified public accountant or firm, after obtaining the client's consent, to make certain that the (the second certified public accountant or firm) is aware of all the relevant facts.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-21.06, 21A-21.006, Amended 12-10-09.*

## **CHAPTER 61H1-22: COMPETENCE AND TECHNICAL STANDARDS**

61H1-22.001	Competence (General Standards)
61H1-22.002	Auditing Standards (Repealed)
61H1-22.003	Accounting Principles (Repealed)
61H1-22.004	Standards for Accounting and Review Services (Repealed)
61H1-22.005	Prospective Financial Statements (Repealed)
61H1-22.006	Governmental Accounting Standards (Repealed)
61H1-22.007	Governmental Auditing Standards (Repealed)
61H1-22.008	Standards for Local Governmental Audits (Repealed)
61H1-22.0081	Standards for Florida Single Audit Act Audits for Nonprofit and For-Profit Organizations. (Repealed)
61H1-22.0082	Standards for Audits of Certain Nonprofit Organizations. (Repealed)
61H1-22.0083	Standards for Audits of District School Boards. (Repealed)
61H1-22.0084	Standards for Audits of Charter Schools and Similar Entities. (Repealed)
61H1-22.0085	Standards for Management Advisory Services (Repealed)
61H1-22.0086	Standards for Tax Practice (Repealed)
61H1-22.009	Standards for Attestation Engagement (Repealed)
61H1-22.010	Standards for Personal Financial Planning (Repealed)
61H1-22.011	Standards for Business Valuations (Repealed)
61H1-22.012	Standards for Assembled Financial Statements (Repealed)

### **61H1-22.001 Competence (General Standards).**

A certified public accountant shall comply with the following general standards and must justify any departures therefrom:

(1) Professional competence. A certified public accountant shall undertake only those engagements which he or his firm can reasonably expect to complete with professional competence. A certified public accountant must be in charge of all public accounting services performed by the firm.

(2) Due professional care. A certified public accountant shall exercise due professional care in the performance of an engagement.

(3) Planning and supervision. A certified public accountant shall adequately plan and supervise an engagement.

(4) Sufficient relevant data. A certified public accountant shall obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-22.01, 21A-22.001, Amended 12-30-97, 12-10-09.*

### **61H1-22.002 Auditing Standards.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Formerly 21A-22.02, 21A-22.002, Repealed 12-21-09.*

### **61H1-22.003 Accounting Principles.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-22.03, 21A-22.003, Repealed 12-21-09.*

### **61H1-22.004 Standards for Accounting and Review Services.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Formerly 21A-22.04, 21A-22.004, Repealed 12-21-09.*

**61H1-22.005 Prospective Financial Statements.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Formerly 21A-22.05, Amended 3-28-89, Formerly 21A-22.005, Repealed 12-21-09.*

**61H1-22.006 Governmental Accounting Standards.**

*Rulemaking Authority 473.304, 473.315, Chapter 79-202, Laws of Florida. Law Implemented 473.315, Chapter 79-202, Laws of Florida. History— New 9-23-86, Formerly 21A-22.006, Repealed 12-21-09.*

**61H1-22.007 Governmental Auditing Standards.**

*Rulemaking Authority 473.304, 473.315, Chapter 79-202, Laws of Florida. Law Implemented 473.315, Chapter 79-202, Laws of Florida. History— New 9-23-86, Formerly 21A-22.007, Repealed 12-21-09.*

**61H1-22.008 Standards for Local Governmental Audits.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 10-22-86, Amended 5-9-88, Formerly 21A-22.008, Amended 9-30-97, Repealed 12-21-09.*

**61H1-22.0081 Standards for Florida Single Audit Act Audits for Nonprofit and For-Profit Organizations.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 2-4-08, Repealed 12-21-09.*

**61H1-22.0082 Standards for Audits of Certain Nonprofit Organizations.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 2-4-08, Repealed 12-21-09.*

**61H1-22.0083 Standards for Audits of District School Boards.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 2-4-08, Repealed 12-21-09.*

**61H1-22.0084 Standards for Audits of Charter Schools and Similar Entities.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 2-4-08, Repealed 12-21-09.*

**61H1-22.0085 Standards for Management Advisory Services.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 5-20-91, Formerly 21A-22.0085, Amended 9-30-97, Repealed 12-21-09.*

**61H1-22.0086 Standards for Tax Practice.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.304, 473.315 FS. History—New 5-20-91, Formerly 21A-22.0086, Amended 9-30-97, 5-24-07, Repealed 12-21-09.*

**61H1-22.009 Standards for Attestation Engagement.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 4-16-89, Formerly 21A-22.009, Amended 10-16-96, Repealed 12-21-09.*

**61H1-22.010 Standards for Personal Financial Planning.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 11-2-95, Amended 2-18-96, 9-30-97, Repealed 12-21-09.*

**61H1-22.011 Standards for Business Valuations.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 11-2-95, Amended 2-18-96, 9-30-97,*

*Repealed 12-21-09.*

**61H1-22.012 Standards for Assembled Financial Statements.**

*Rulemaking Authority 473.304, 473.315 FS. Law Implemented ss. 1, 12, Ch. 98-340, Laws of Florida. History—New 10-28-98, Repealed 12-21-09.*

## CHAPTER 61H1-23: RESPONSIBILITIES TO CLIENTS

- 61H1-23.001 Confidential Client Information
- 61H1-23.002 Records Disposition Responsibility

### **61H1-23.001 Confidential Client Information.**

A certified public accountant shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client. This rule shall not be construed to contravene or contradict any of the provisions of chapter 473, F.S., or the rules promulgated thereto, or to relieve a certified public accountant of his or her obligation provided in these laws and rules. Furthermore, this rule shall not prohibit either a confidential review of a certified public accountant's professional practice as a part of a peer review program or compliance with a lawful court or Board order.

*Rulemaking Authority 473.304, 473.315, 473.316 FS. Law Implemented 473.315, 473.316, 473.3125(1)(b) FS. History—New 12-4-79, Formerly 21A-23.01, 21A-23.001, Amended 1-17-11, 9-11-18.*

### **61H1-23.002 Records Disposition Responsibility.**

(1) A certified public accountant shall furnish to a client or former client upon request and reasonable notice:

(a) Any accounting or other records belonging to, or obtained from or on behalf of, the client that were provided to the certified public accountant; the certified public accountant may make and retain copies of such documents of the client when they form the basis for work done by the certified public accountant.

(b) Any accounting or other records that the certified public accountant was not specifically engaged to prepare that are related to an issued work product of the certified public accountant and that are not in the client's books and records or are otherwise not available to the client, with the result that the client's financial information is complete.

(c) A copy of any deliverable as set forth in the terms of the engagement that has been issued by the certified public accountant.

(2) This rule shall not preclude a certified public accountant from making reasonable charges for costs incurred. Once the certified public accountant has complied with the requirements in subsection (1), above, the certified public accountant is under no obligation to comply with subsequent requests from the client to again provide such records or work products. However, if subsequent to complying with a request, a client experiences a loss of records due to a natural disaster or act of war, the certified public accountant shall comply with an additional request to provide such records or work products.

(3) Provisions of this rule apply to Licensed Firms and to all certified public accountants practicing public accounting.

*Rulemaking Authority 473.304 FS. Law Implemented 473.318 FS. History—New 12-4-79, Amended 12-11-83, Formerly 21A-23.02, Amended 9-1-87, Formerly 21A-23.002, Amended 10-28-98, 10-26-09, 12-2-14, 12-21-15.*

## CHAPTER 61H1-24: ADVERTISING

61H1-24.001 Advertising

61H1-24.002 Solicitation (Repealed)

### **61H1-24.001 Advertising.**

(1) No certified public accountant shall disseminate or cause the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading, if it, among other things:

- (a) Contains a misrepresentation of facts; or
- (b) Makes only a partial disclosure of relevant facts; or
- (c) Creates false or unjustified expectations of beneficial assistance; or
- (d) Appeals primarily to a layperson's fears, ignorance, or anxieties regarding his state of financial well-being; or
- (e) Contains any representation or claims, as to which the certified public accountant, referred to in the advertising, does not expect to perform; or
- (f) Contains any other representation, statement, or claim which misleads or deceives; or
- (g) In the event that a certified public accountant uses the term "specialty" or "specialist" or any other term tending to indicate an advanced standing in any aspect of the practice of public accountancy, in any advertisement or offering to the public, the advertisement must state that the use of the term is a self-designation and is not sanctioned by the state or federal government. This requirement shall not apply to any statement indicating the certified public accountant has received any bona fide formal recognition or attainment; or
- (h) Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or

(2) "Advertising" shall mean:

(a) Any statements, oral or written, disseminated to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling public accounting services, or offering to perform public accounting services, or including members of the public to enter into any obligation relating to such public accounting services. For purposes of this rule, oral or written statements include:

- 1. Business cards;
- 2. Letterhead;
- 3. Signs;
- 4. Listings in telephone and other media or communication directories;
- 5. Display of certificate or license from this or any other state;
- 6. Business reports;
- 7. Transmittal letters or other written communication issued or associated with accompanying financial statements;
- 8. Brochures;
- 9. Forms filed with state and federal regulatory agencies;
- 10. Press releases;
- 11. Paid promotional listing in any media;
- 12. Display of membership in CPA associations;
- 13. Listings in professional directories;
- 14. Presentation during court proceedings;
- 15. Website, e-mail, or any other electronic communication.

(b) "Advertisement," "advertising" and "advertising as a part of a certified public accountant's business activities" as defined terms by this rule does not include:

- 1. Verbal statements in a social context, or
- 2. Use of the designation by authors when used only for identification as authors of books, articles or other publications, provided that such publications, do not offer the performance of services or the sale of products (other than books, articles or other publications).

*Rulemaking Authority 473.304, 473.323 FS. Law Implemented 473.323(1)(f) FS. History—New 12-4-79, Amended 2-3-81, 12-29-83, Formerly 21A-24.01, Amended 5-20-91, Formerly 21A-24.001, Amended 2-12-95, 5-7-96, 10-8-97, 11-18-07, 12-10-09, 12-2-14.*

**61H1-24.002 Solicitation.**

*Rulemaking Authority 473.304, 473.323 FS. Law Implemented 473.323 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-24.02, 21A-24.002, Amended 11-30-93, 12-10-09, Repealed 12-21-15.*

## **CHAPTER 61H1-25: RESPONSIBILITY FOR OTHER PERSONS**

61H1-25.001      Responsibility for Other Persons (Repealed)

### **61H1-25.001 Responsibility for Other Persons.**

*Rulemaking Authority 473.304, 473.323 FS. Law Implemented 473.322, 473.323 FS. History—New 12-4-79, Formerly 21A-25.01, 21A-25.001, Amended 10-26-09, Repealed 10-15-19.*



## CHAPTER 61H1-26: NAMES, TERMS, BRANCH OFFICES

61H1-26.001	Form of Practice and Name-Shared Office Space
61H1-26.002	Minimum Capitalization or Adequate Public Liability Insurance for Florida Firms with the Exception of a Sole Proprietorship
61H1-26.003	Licensure of Florida Certified Public Accountant Firms
61H1-26.004	Changes by Firms
61H1-26.005	Address of Record

### **61H1-26.001 Form of Practice and Name-Shared Office Space.**

(1) A Florida certified public accountant may practice public accounting, whether as an owner or employee, only in the form of a proprietorship, a partnership or a corporation, or a limited liability company. A Florida certified public accountant shall not allow any person to practice in his name that is not a partner or shareholder with him or in his employ. A Florida certified public accountant shall not practice under a name which is misleading or deceptive as to the legal form of the firm or as to persons who are partners, or shareholders of the firm or as to any other matter. In this regard:

(a) A Florida certified public accountant may practice public accounting under a fictitious name which is not misleading or deceptive as to the persons who are sole proprietors, partners, or shareholders; and

(b) A firm name may include the names of retired or deceased partners or shareholders or members who were active partners or shareholders or members of the entity. This provision permits a firm, in the same line of succession, to change from one form of business to another and continue to use the names of retired or deceased partners, shareholders or members.

(c) Use of the term “and Company” or “and Associates” requires at least one other fully employed Florida certified public accountant or non certified public accountant owner other than those named in the firm name; however, this rule does not preclude a Florida certified public accountant initially meeting this requirement from using the above-mentioned terms if the Florida certified public accountant subsequently does not fully employ at least one Florida certified public accountant other than those named in the firm name.

(d) A firm may use the term “Certified Public Accountants” in the firm’s name if all owners are certified public accountants. If there are non certified public accountant owners, the firm may use the terms “CPA Firm” “CPAs and Associates” or “Certified Public Accountants and Associates” provided the firm has more than one certified public accountant. Further, a certified public accountant firm with non certified public accountant owners may not use the term Certified Public Accountants without indicating there are other owners such as Associates or Consultants.

(e) A firm may only use the term “CPA,” “CPA Firm,” “CPAs and Associates,” “Certified Public Accountants and Associates,” or any other title, designation, words, letters, abbreviations, or device indicating that it is a CPA Firm if it holds a license issued pursuant to Section 473.3101, F.S.

(2) Florida certified public accountants may share office facilities provided there is adequate disclosure that would enable a reasonable person to determine the practice is not associated with the profession or occupation not regulated by the Board, such as written agreements, signs, etc.

*Rulemaking Authority 473.304, 473.321 FS. Law Implemented 473.3101, 473.321 FS. History—New 12-4-79, Amended 11-7-84, 10-28-85, Formerly 21A-26.01, Amended 10-20-86, 12-28-89, 7-1-91, 1-7-93, Formerly 21A-26.001, Amended 11-30-93, 12-30-97, 8-16-99, 9-20-00, 12-10-09, 12-21-15, 3-18-18.*

### **61H1-26.002 Minimum Capitalization or Adequate Public Liability Insurance for Florida Firms with the Exception of a Sole Proprietorship.**

A Florida firm, with the exception of a sole proprietorship, shall not engage in the practice of public accounting in this state unless:

(1) Assets in excess of liabilities and professional liability insurance combined are at least equal to \$50,000 per shareholder, officer, member, or partner and any Florida licensed certified public accountant to a maximum of

\$2,000,000 or

(2) It has an irrevocable letter of credit of at least equal to \$50,000 per shareholder, officer, member, or partner and any Florida licensed certified public accountant to a maximum of \$2,000,000, which meets the following criteria:

(a) The responsibility for repayment of any sums disbursed under the letter of credit is not an obligation of the Florida firm, its owners, or any entity affiliated with the Florida firm;

(b) The letter of credit contains an "evergreen clause," which automatically renews the letter of credit unless the issuer of the letter of credit notifies the Florida firm and the Board within sixty (60) days of the decision not to renew; and

(c) The letter of credit is issued by a financial institution authorized to do so under applicable state or federal banking laws; or

(3) The corporation, each shareholder, and each officer who has authority over the practice of public accountancy, the LLC or the limited liability company and each member of the LLC, or the LLP and each partner have executed the waiver of limitation on liability approved by the Board which must be set forth as follows:

#### **WAIVER ON LIMITATION OF LIABILITY**

The shareholders, officers, members, or partners of \_\_\_\_ (Name of Firm), do jointly and severally covenant and agree that they will pay any award or judgment arising out of any claim the basis of which is grounded upon an allegation of negligence, incompetence, misconduct, fraud or deceit in the firm's or its owners', officers', members', or employees' practice of public accounting as soon as the same shall become payable regardless of any limitation on liability provided by Chapters 621, 608, and 620, F.S. (2009).

Unless executed by a partnership and its partners, the members intend this agreement as a mutual covenant of assumption and not as a partnership, but should any court of competent jurisdiction construe same to be a partnership then it is the intention of the parties that such partnership be limited in scope to the uses for which this contract is executed and no other.

Any individual who, subsequent to the date of this instrument, becomes a shareholder, officer, member, or partner in \_\_\_\_\_ (Name of Firm), shall immediately become a party to this waiver and be bound to the conditions thereof. Said shareholder, officer, member, or partner shall execute an amended Waiver on Limitation of Liability which shall become a part of the original Waiver on Limitation of Liability.

We the undersigned shareholders, officers, members, or partners in \_\_\_\_\_ (Name of Firm), do hereunto set our hands and seals to certify our acceptance of the Waiver on Limitation of Liability dated this \_\_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_.

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(Signatures of all shareholders, officers, members, or partners)

*Rulemaking Authority 473.304, 473.309 FS. Law Implemented 473.309 FS. History—New 12-4-79, Formerly 21A-26.02, Amended 10-20-86, Formerly 21A-26.002, Amended 11-30-93, 5-23-94, 6-10-96, 10-6-96, 12-30-97, 9-21-00, 12-10-09, 2-6-13.*

#### **61H1-26.003 Licensure of Florida Certified Public Accountant Firms.**

Every firm required to be licensed pursuant to Section 473.3101, F.S., shall be certified for licensure by the Board on a biennial basis, and shall furnish its firm name, addresses and telephone numbers of its principal place of business. Said firms must also disclose whether any non-certified public accountant owners have convictions or findings of guilt, regardless of adjudication, of a crime in any jurisdiction and judgment or settlements of civil lawsuits, or having been acted against including denial of licensure by any regulatory agency by a court or regulatory agency and any

other matters which show a lack of good moral character. (good moral character is defined in Section 473.308(6)(a), F.S.).

*Rulemaking Authority 473.304, 473.3101 FS. Law Implemented 473.3101 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-26.03, Amended 6-4-86, Formerly 21A-26.003, Amended 2-3-94, 12-30-97, 1-26-10, 10-7-12, 12-21-15, 1-31-18.*

#### **61H1-26.004 Changes by Firms.**

(1) A firm licensed pursuant to Rule 61H1-26.003, F.A.C., shall file a written notification with the Department within thirty (30) days after the occurrence of any of the following events:

(a) The admission or addition of a non-CPA co-partner, shareholder or member in any Florida office, including whether any non-CPA co-partners, shareholders or members have convictions or findings of guilt, regardless of adjudication, of a crime in any jurisdiction; judgement or settlements or civil lawsuits; having been acted against, including denial of licensure, by any regulatory agency or by a court; and any other matters which show a lack of good moral character as defined in Section 473.308(6)(a), F.S.;

(b) The admission or addition of a CPA co-partner, shareholder or member in any Florida office, including whether any CPA co-partners, shareholders or members have convictions or findings of guilt, regardless of adjudication, of a crime in any jurisdiction; judgment or settlements of civil lawsuits (excluding domestic matters); having the right to practice acted against, including denial of licensure, by the Securities Exchange Commission (SEC), Internal Revenue Service (IRS), or any other regulatory agency or court; and any other matters which show a lack of good moral character as defined in Section 473.308(6)(a), F.S.;

(c) The retirement or death of a co-partner, shareholder or member in any Florida office;

(d) A change in the name of the partnership, corporation or limited liability company;

(e) The termination of the partnership, corporation or limited liability company.

(f) When the firm or any existing CPA or Non-CPA co-partner, shareholder or member has been the recipient of a conviction or finding of guilt, regardless of adjudication, of a crime in any jurisdiction; has been the subject of a judgment or settlements of a civil lawsuit (excluding domestic matters); has had the right to practice public accountancy acted against, including denial of licensure, imposition of a censure, fine, or corrective action, by the Securities Exchange Commission (SEC), Public Company Accounting Oversight Board (PCAOB), Internal Revenue Service (IRS), or any other regulatory agency or court; and any other matters which show a lack of good moral character as defined in Section 473.308(6)(a), F.S.

(2) In the event of the formation of a new sole proprietorship, partnership, corporation or limited liability company, or any legal entity engaged in the practice of public accounting or a change in the name of a sole proprietorship, partnership, corporation or limited liability company, or any other legal entity engaged in the practice of public accounting, such sole proprietorship, partnership, corporation or limited liability company shall, within thirty (30) days of the event, become certified for licensure by the Board in accordance with Rule 61H1-26.003, F.A.C. and Section 473.3101, F.S., and pay the license fee required by Rule 61H1-31.010, F.A.C.

*Rulemaking Authority 473.304, 473.3101 FS. Law Implemented 473.3101 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-26.04, Amended 6-4-86, Formerly 21A-26.004, Amended 11-3-97, 7-16-98, 8-17-98, 1-31-05, 8-28-06, 1-26-10, 2-6-13, 12-21-15, 1-31-18.*

#### **61H1-26.005 Address of Record.**

(1) All certified public accountants, and firms, licensed in Florida, are required to provide a correct email address and street address, including a correct email address and the street address of their office, to the Board office. Firms with multiple locations shall list their principal place of business as their address of record. A post office box may be used for a mailing address, but it must be in addition to the address of record.

(2) A Florida certified public accountant or licensed firm must notify the Board office in writing within thirty days of any change to their email address, address of record, or mailing address.

*Rulemaking Authority 455.275, 473.304 FS. Law Implemented 455.275 FS. History—New 12-2-92, Formerly 21A-26.005, Amended 7-23-06, 12-27-09, 12-21-15, 1-31-18, 5-3-20, 9-7-22.*

## CHAPTER 61H1-27: EDUCATIONAL AND EXPERIENCE REQUIREMENTS

61H1-27.001	College or University Requirements
61H1-27.002	Concentrations in Accounting and Business
61H1-27.003	Additional One Year Accounting Course Acceptable in Lieu of One Year of Employment (Repealed)
61H1-27.004	One Year of Employment (Repealed)
61H1-27.0041	One Year of Work Experience
61H1-27.005	Educational Advisory Committee

### **61H1-27.001 College or University Requirements.**

(1) An accredited college or university within the meaning of Section 473.306, F.S., is a four-year degree granting college or university in the State University System or other four-year degree granting educational institution accredited at the time applicant's degree was received by virtue of membership in one of the following accrediting agencies or for (a) through (f) its predecessor:

- (a) Middle States Commission on Higher Education (MSCHE);
- (b) New England Commission of Higher Education (NECHE);
- (c) Higher Learning Commission (HLC);
- (d) Northwest Commission on Colleges and Universities (NWCCU);
- (e) Southern Association of Colleges and Schools Commission on Colleges (SACSCOC);
- (f) WASC Senior College and University Commission (WSCUC);
- (g) Association to Advance Collegiate Schools of Business (AACSB);
- (h) European Quality Improvement System (EQUIS);

(i) Association of Independent Colleges and Schools. After August 2, 1992 the Association of Independent Colleges and Schools (AICS) will no longer be deemed an acceptable accrediting agency, unless the college or school accredited by the AICS is regulated by the Commission for Independent Education and exempted from licensure by the CIE under the provisions of Section 246.085, F.S.

(j) Canadian, Mexican, Irish, Australian, New Zealand, Scotland, South Africa, and Hong Kong academic accounting programs approved by the provincial education bodies or the equivalent educational accreditation body for that country.

(2) A listing of accredited colleges and universities as recognized by the Board is contained in the "Accredited Institutions of Post-secondary Education"; published by the American Council on Education for the Council on Post-secondary Accreditation as published for the time period the candidate attended the institutions. However, an applicant whose degree was received from a non-accredited college or university may qualify under the provisions of subsection (3).

(3) If an institution was not accredited at the time an applicant's degree was received but was so accredited at the time his application was filed with the Board, the institution will be deemed to be accredited for the purpose of subsections (1) and (2) provided it:

(a) Certifies that the applicant's total educational program would qualify him for graduation with a baccalaureate degree during the time the institution has been accredited, and

(b) Furnishes the Board satisfactory proof, including college catalogue course numbers and descriptions, that the preaccrediting courses used to qualify applicant as an accounting major can be matched with substantially equivalent postaccrediting courses.

(4) If an applicant's degree was received at an accredited college or university as defined in subsections 61H1-27.001(2) and (3), F.A.C., but the educational program used to qualify him as an accounting major included courses taken at either two-year or four-year nonaccredited institutions either before or after graduation, such courses will be deemed to have been taken at the accredited institution from which applicant's degree was received provided it either has accepted by virtue of inclusion in an official transcript, or will accept by certification to the Board, such courses

for credit toward graduation.

(5) A graduate of a four-year degree granting institution not accredited at the time the applicant's degree was received or at the time of filing application will be deemed to be a graduate of a four-year accredited college or university course provided an accredited college or university as defined by subsections 61H1-27.001(1) and (2), F.A.C., accepts applicant's non-accredited baccalaureate degree and the applicant satisfactorily completes at least 15 semester or 22 quarter hours, or the equivalent, in graduate level courses at the accredited institution of which at least 9 semester or 13 quarter hours, including at least 3 semester or 4 quarter hours in taxation; or the equivalent, shall be in accounting. Elementary accounting subjects, or courses equivalent to elementary accounting, cannot be used to satisfy the requirements of this rule. Elementary accounting subjects include principles of financial and managerial accounting courses even if they are covered in a three-course sequence, are titled "introductory," "fundamentals," or "principles," and even if they are offered at the graduate level.

(6) Applicants relying on transcripts from a foreign institution shall provide at their own expense to the Board, a complete course by course evaluation of any foreign transcripts by an evaluation service as approved by the Board. The Board's list of approved evaluation services, effective April 2017, is incorporated herein and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-09611> or <http://www.myfloridalicense.com/dbpr/cpa/documents/BoardApprovedForeignEvaluationServices.pdf?x40199>.

*Rulemaking Authority 473.304, 473.306 FS. Law Implemented 473.306 FS. History—New 12-4-79, Amended 2-3-81, 3-21-84, 10-28-85, Formerly 21A-27.01, Amended 4-8-86, 9-1-87, 8-25-88, 12-28-89, 3-29-90, Formerly 21A-27.001, Amended 1-11-95, 5-11-03, 3-21-05, 4-9-06, 8-13-06, 12-27-09, 2-6-12, 3-27-13, 8-7-13, 3-13-18, 7-29-18, 4-30-19, 4-23-20, 2-9-21, 6-2-21, 4-23-24.*

#### **61H1-27.002 Concentrations in Accounting and Business.**

(1) For purposes of Section 473.306, F.S., if application for the Uniform CPA Examination was made prior to August 2, 1983, an applicant must have a baccalaureate degree from an accredited college or university with a major in accounting, or its equivalent, with a concentration in accounting and business subjects. A concentration in accounting and business is defined as an educational program that includes at least 18 semester hours or 27 quarter hours, or the equivalent, in accounting education above elementary (principles of) accounting and 27 semester or 40 quarter hours, or the equivalent, in general business education. In order to meet the provisions of Section 473.306, F.S., the application must have been filed, completed and approved and show on its face that all educational and other requirements were met prior to August 2, 1983.

(2) For purposes of Section 473.308, F.S., if application for licensure is made after August 1, 1983, an applicant must have at least 150 semester hours or 225 quarter hours of college education, including a baccalaureate degree or higher conferred by an accredited college or university with a major in accounting, or its equivalent. The applicant's total education program shall include a concentration in accounting and business as follows:

(a) 30 semester or 45 quarter hours in accounting education at the upper division level which shall include coverage of the following topics:

1. Auditing
2. Financial accounting
3. Taxation
4. Cost and managerial accounting or accounting data analytics.

Of these courses, the applicant must complete 3 semester hours or 4 quarter hours of financial accounting based upon United States Generally Accepted Accounting Principles (GAAP) and 3 semester hours or 4 quarter hours of taxation for accounting standards based upon United States federal and state laws. Not more than 3 semester or 4 quarter hours may be internship programs which may be applied to the 30 semester or 45 quarter hours in accounting (internship courses must be taken in conjunction with other traditional coursework at an institution and must appear on the transcript). Further, any remaining internship credit if otherwise acceptable would be applied to the general business requirement;

(b) 36 semester or 54 quarter hours in general business education which shall include not less than the equivalent of 3 semester or 4 quarter hours in business law courses based upon United States federal and state laws. Vocational and clerical type courses will not count either toward the accounting requirement set forth in subsection 61H1-

27.002(2), F.A.C., or this general business education requirement. Specialized industry courses will be acceptable as general business courses but not as accounting courses unless as defined in subsection 61H1-27.002(2), F.A.C., and they have an accounting prefix, further such courses in order to qualify must be certified by the chairman of the school or college's accounting department as qualifying for general business credit. Written or oral communication courses will qualify for the general business requirement if they have a business or accounting prefix or if they are reflected in the catalog in the school or college as relating directly to the school or college's business or accounting requirements.

(3) To be eligible to take the licensure examination, an applicant shall have completed 120 semester or 180 quarter hours as follows:

(a) 24 semester or 36 quarter hours in accounting education at the upper division level which shall include coverage of the following topics:

1. Auditing
2. Financial accounting
3. Taxation
4. Cost and managerial accounting or accounting data analytics.

Of these courses, the applicant must complete 3 semester hours or 4 quarter hours of financial accounting based upon United States Generally Accepted Accounting Principles (GAAP) and 3 semester hours or 4 quarter hours of taxation for accounting standards based upon United States federal and state laws. Not more than 3 semester or 4 quarter hours may be internship programs which may be applied to the 24 semester or 36 quarter hours in accounting (internship courses must be taken in conjunction with other traditional coursework at an institution and must appear on the transcript). Further, any remaining internship credit if otherwise acceptable would be applied to the general business requirement;

(b) 24 semester or 36 quarter hours in general business education which shall include not less than the equivalent of 3 semester or 4 quarter hours in business law courses based upon United States federal and state laws. Vocational and clerical type courses will not count either toward the accounting requirement set forth in subsection 61H1-27.002(2), F.A.C., or this general business education requirement. Specialized industry courses will be acceptable as general business courses but not as accounting courses unless as defined in subsection 61H1-27.002(2), F.A.C., and they have an accounting prefix; further such courses in order to qualify must be certified by the chairman of the school or college's accounting department as qualifying for general business credit. Written or oral communication courses will qualify for the general business requirement if they have a business or accounting prefix or if they are reflected in the catalog in the school or college as relating directly to the school or college's business or accounting requirements.

(4) For purposes of this rule, upper division accounting hours other than elementary above the minimum requirement may be substituted for general business hours. Elementary accounting subjects shall not be accepted as general business education. Elementary accounting subjects include principles of financial and managerial accounting courses even if they are covered in a three course sequence, are titled "introductory," "fundamentals" or "principles" and even if they are offered at the graduate level. All accounting courses and not less than 21 semester or 32 quarter hours of general business courses must be at the upper division level. For the purpose of paragraph 61H1-27.002(2)(b), F.A.C., all general business courses, including accounting courses in excess of the 36 hours required, must be taken at the upper division level, except for Introductory Macro and Micro Economics, Business Law, Introductory Statistics, Introduction to Computer Information Systems, and any written or oral communication course described in paragraph 61H1-27.002(2)(b), F.A.C. Lower level general business courses, other than those listed above, posted to transcripts after August 31, 1989 will not count. Standardized tests, such as CLEP, are not acceptable for accounting or general business courses; however, advanced placement (AP) courses will be counted if the applicant has been granted college credit for those AP courses by their degree-granting institution.

(a) Upper division, as used in Rule 61H1-27.002, F.A.C., means courses above the principal introductory level.

(b) If an applicant has taken a course at the lower division at a senior institution, and that institution has reclassified the course to the upper division at the time of application to Florida, the course will be deemed upper division for the purpose of Rule 61H1-27.002, F.A.C.

(5) Re-applicants whose original application for the CPA examination was approved prior to August 2, 1983, may elect to satisfy subsection 61H1-27.002(1), F.A.C.

(6) For purposes of subsection 61H1-27.002(2), F.A.C., and Section 473.306, F.S., a baccalaureate degree will not be considered as meeting the statutory requirement for a major in accounting or its equivalent unless all credit hours accepted by the college or university as part of the degree requirement are listed as courses in the catalogues of all institutions attended.

(7) If an applicant takes duplicate courses, only one of these courses will be counted. For purposes of this rule, all CPA Examination Review courses will be deemed to be duplicate courses.

(a) Courses will be considered duplicated if they cover a substantially equivalent professional area of knowledge even if separated by a span of time and even if some of the professional, technical and/or legal issues have been changed or modified.

(b) Regarding CPA Review courses, by definition these courses cover material already studied. Accordingly, no exception will be made to consider a CPA Review course non-duplicative, regardless of statements by applicants, professors, or academic administrators that additional topics are covered or the material covered only superficially in prior courses is covered in more detail in a “review” course.

(8) Individuals who are currently licensed in good standing, with at least five (5) years of work experience in the practice of public accountancy in the United States are exempt from the requirements in subsections 61H1-27.002(1)-(3), which are in excess of a baccalaureate degree or higher conferred by an accredited college or university with a major in accounting or its equivalent. All experience that is used as a basis for waiving the requirements in excess of a baccalaureate degree must be while licensed by another state or territory in the United States. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. This experience shall be verified by a licensed certified public accountant in good standing with a state or territory of the United States. Individuals performing the certification must be licensed and in good standing both during the applicant’s work experience and at the time of verification.

(9) Individuals who are currently licensed in good standing, with at least five (5) years of work experience in the practice of public accountancy or its equivalent in countries approved by the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy (IQAB) and whose educational degrees are from accredited institutions as set forth in subsection 61H1-27.001(1), F.A.C., shall be deemed to have met the requirements set forth in subsections 61H1-27.002(1)-(3), F.A.C. All experience that is used as a basis for waiving the requirements in subsections 61H1-27.002(1)-(3) must be while licensed by another state or territory in the United States or while licensed in the practice of public accounting or its equivalent in a foreign country that the IQAB has determined has licensure standards that are substantially equivalent to the those in the United States. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. This experience shall be verified by a licensed certified public accountant in good standing with a state or territory of the United States or a chartered accountant in good standing recognized by the IQAB, both during the applicant’s work experience and at the time of verification.

*Rulemaking Authority 473.304, 473.306(3), 473.308(3) FS. Law Implemented 473.306(2), (3), 473.308(3), (8) FS. History—New 12-4-79, Amended 2-3-81, 8-1-83, 3-21-84, 6-10-84, 6-5-85, 10-28-85, Formerly 21A-27.02, Amended 5-22-88, 3-21-89, 5-20-91, 12-2-92, Formerly 21A-27.002, Amended 11-2-95, 11-3-97, 1-31-05, 5-24-07, 11-30-08, 12-21-09, 12-2-14, 7-11-16, 2-13-18, 7-29-18, 2-3-20, 1-12-21, 5-14-23, 10-26-23.*

#### **61H1-27.003 Additional One Year Accounting Course Acceptable in Lieu of One Year of Employment.**

*Rulemaking Authority 473.304 FS. Law Implemented 473.307 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-27.03, Amended 10-20-86, Formerly 21A-27.003, Repealed 1-30-96.*

#### **61H1-27.004 One Year of Employment.**

*Rulemaking Authority 473.304 FS. Law Implemented 473.307 FS. History—New 12-4-79, Amended 2-3-81, 10-28-85, Formerly 21A-27.04, Amended 4-8-86, Formerly 21A-27.004, Repealed 1-30-96.*

#### **61H1-27.0041 One Year of Work Experience.**

(1) With the exception of an applicant who completes the requirements of Section 473.308(3), F.S., on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, an applicant must document one year of work experience. One year of work experience shall be held and understood to mean the provision of any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills as verified by the verifying certified public accountant, commencing after the completion of 120 semester or 180 quarter hours from an accredited college or university with a concentration in accounting and business courses or after the applicant has passed the licensure examination in another state or territory of the United States and has either been licensed as a certified public accountant or has met licensing requirements for that state or territory. The experience must either average at least twenty (20) hours a week over no more than one hundred and four (104) weeks or average no more than forty (40) hours a week over no more than fifty-two (52) weeks. Reasonable vacation time and sick leave or other required absences may be permitted. The verifying certified public accountant, in her or his report to the Department, shall verify that the applicant rendered such services for a minimum of 2,000 hours gained over a period of not less than fifty-two (52) or more than one hundred and four (104) weeks. The sequence of the experience is considered immaterial, that is, whether the experience was secured before or after taking the examination, or partly before the examination and partly after the examination, provided the two periods combined equal at least one year.

(2) For purposes of this rule, a verifying certified public accountant is either a certified public accountant with an active license in good standing with any regulating body or a chartered accountant recognized by the International Qualifications Appraisal Board (IQAB), both during the applicant's one year of work experience and at the time of verification.

(3) The one year of work experience may be achieved by teaching accounting full-time for one year at an accredited college or university, as defined in subsection 61H1-27.001(1), F.A.C., under the following conditions:

(a) Full-time teaching as described by the rules of the educational institution where the applicant taught will be accepted by the Board to be full-time teaching. However, in no case will less than twelve (12) semester hours, or the equivalent, be accepted by the Board as full-time teaching.

(b) If the applicant has not taught accounting full-time for one year, credit will be allowed by the Board for teaching accounting less than full-time on a pro rata basis based upon the number of semester or quarter hours required for full-time teaching at the educational institution where the applicant taught. However, in no case will an applicant receive credit for a full-time teaching year for teaching done in less than one academic year or more credit than one full-time teaching year for teaching done within one calendar year.

(c) Courses outside the fields of accounting and general business will not be counted toward full-time teaching.

(4) Applicants shall document the one year of work experience on the Verification of Work Experience form (DBPR CPA 32/Effective June 2021). The form, which is hereby incorporated by reference in Rule 61-35.003, F.A.C., is provided by the Department and available on the Department's website or the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32607-6655.

*Rulemaking Authority 473.304(1), 473.308(4) FS. Law Implemented 473.308(4) FS. History--New 3-3-09, Amended 5-3-10, 12-18-12, 2-6-17, 12-8-21, 10-30-22.*

#### **61H1-27.005 Educational Advisory Committee.**

The Board shall appoint an Educational Advisory Committee which shall be composed of one (1) member of the Board, two (2) Florida certified public accountants in public practice, and four (4) academicians on faculties of universities within the State of Florida. The Board member shall be appointed by the Chairman and serve at his or her pleasure. The other members of the Committee will be selected by the Chairman of the Committee for terms of two (2) years, with the potential for reappointment. In addition, the Committee shall consist of expert staff retained by the Department of Business and Professional Regulation. Said staff shall be individuals who have knowledge and experience with educational curricula and national accreditation standards for accounting and business programs. The Educational Advisory Committee shall assist the Board and Board staff with any educational matters or issues brought to the Committee, including but not limited to questions regarding academic qualification for applications for



examination and licensure by endorsement. The Committee may also bring educational issues it deems of importance to the Board.

*Rulemaking Authority 473.304 FS. Law Implemented 473.306 FS. History—New 7-7-85, Formerly 21A-27.05, Amended 12-2-92, Formerly 21A-27.005, Amended 10-26-09, 10-26-23.*

## CHAPTER 61H1-28: EXAMINATIONS

61H1-28.001	Examination (Repealed)
61H1-28.0001	Initial Licensure by Examination
61H1-28.0011	Examinations
61H1-28.005	Number of Sitzings, Passing Grade and Granting of Credit, Effective Dates, Release of Grades and Completion of Examination (Repealed)
61H1-28.0052	Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules
61H1-28.006	Examination Credit from Other States (Repealed)
61H1-28.0061	Examination Credit from Other States
61H1-28.007	Law and Rules Examination (Repealed)
61H1-28.008	State of Florida CPA Examination Security Requirements (Repealed)

### **61H1-28.001 Examination.**

*Rulemaking Authority 473.304, 473.306 FS. Law Implemented 473.306 FS. History—New 12-4-79, Amended 2-3-81, 9-16-84, Formerly 21A-28.01, Amended 4-8-86, Formerly 21A-28.0011, Amended 5-23-94, 9-20-00, Repealed 1-1-04.*

### **61H1-28.0001 Initial Licensure by Examination.**

(1) An applicant seeking to obtain CPA licensure by examination shall first complete the Application for CPA Examination (DBPR CPA 1, Effective June 2021), which is hereby incorporated by reference in Rule 61-35.003, F.A.C. The form is also available on the Department's website and at the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32607-6655. Upon approval, the applicant may sit for the CPA Examination adopted by the Board as referenced in Rule 61H1-28.0011, F.A.C.

(2) After complying with the eligibility criteria pursuant to Sections 473.306 and 473.308(2), F.S., the applicant shall complete the Initial CPA Licensure Application (DBPR CPA 2, Effective June 2021), which is hereby incorporated by reference in Rule 61-35.003, F.A.C. The form is also available on the Department's website and at the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32607-6655. Upon approval, the applicant is considered a licensed CPA in the State of Florida.

*Rulemaking Authority 455.217(1), 473.304 FS. Law Implemented 455.217(1), 473.306, 473.308 FS. History—New 1-26-22.*

### **61H1-28.0011 Examinations.**

The Board adopts the Uniform CPA Examination "CPA Examination" prepared by the Board of Examiners of the American Institute of Certified Public Accountants as its licensure examinations.

*Rulemaking Authority 455.217(1), 473.304, 473.306 FS. Law Implemented 455.217(1), 473.306 FS. History—New 1-1-04, Amended 10-26-09, 11-3-19, 1-4-22.*

### **61H1-28.005 Number of Sitzings, Passing Grade and Granting of Credit, Effective Dates, Release of Grades and Completion of Examination.**

*Rulemaking Authority 473.304, 473.306 FS. Law Implemented 473.306 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-28.05, 21A-28.005, Amended 11-4-93, Repealed 1-1-04.*

### **61H1-28.0052 Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.**

(1) With respect to the CPA Examination:

(a) A candidate may take the required test sections individually and in any order. As designated in this paragraph, credit for any test section(s) passed shall be valid for either eighteen or thirty months from the National Association

of State Boards of Accountancy (NASBA) grade release date for that test section, without having to attain a minimum score on any failed test section(s) and without regard to whether the candidate has taken other test sections. For any test section passed with a grade release date prior to January 1, 2024, credit will be valid for eighteen months from the NASBA grade release date for that test section. For any test section passed with a grade release date on or after January 1, 2024, credit will be valid for thirty months from the NASBA grade release date for that test section.

(b) Candidates must pass all four test sections of the CPA Examination within the designated rolling period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the designated rolling period, credit for any test section(s) passed outside the applicable period will expire and must be retaken.

(2) A candidate shall be deemed to have passed the CPA Examination when the candidate has been granted credit for all sections of the CPA Examination. Upon certification of examination scores by the Board to the Department that the applicant has met all licensure requirements as imposed by Chapters 455 and 473, F.S., and the rules promulgated pursuant thereto, the Department shall issue a license to practice public accounting to such individual. However, in no event shall an initial license be issued if the initial licensure fees and all required documents are not received within 36 months of the date of certification of examination scores by the Board; in such case, the certification expires and the applicant may reapply for licensure by endorsement, pursuant to Section 473.308(7)(a), F.S.

(3) Examination credits expiring between April 1, 2020 and June 29, 2021 are granted an extension through June 30, 2021.

(4) Examination credits expiring between January 1, 2024 and June 29, 2025 are granted an extension through June 30, 2025.

(5) This rule shall be reviewed and, if necessary, repealed, modified, or renewed through the rulemaking process five years from the effective date.

*Rulemaking Authority 455.217(1), 473.304, 473.306 FS. Law Implemented 455.217(1), 473.306 FS. History—New 1-1-04, Amended 2-24-08, 8-20-09, 12-10-09, 5-6-21, 5-14-23, 12-6-23.*

#### **61H1-28.006 Examination Credit from Other States.**

*Rulemaking Authority 473.304, 473.306 FS. Law Implemented 473.306 FS. History—New 12-4-79, Formerly 21A-28.06, 21A-28.006, Repealed 1-1-04.*

#### **61H1-28.0061 Examination Credit from Other States.**

Upon application, an individual who has been granted credit by another state for any section on the CPA Examination, the specific examinations for which sections were identical to those offered in Florida, shall receive Florida credit for such out-of-state credit provided similar credit would have been granted in Florida at the time out-of-state credit was granted had the candidate met all the Florida requirements and sat for such examinations in Florida. For purposes of this rule in determining whether to transfer examination credit from another state, the Board shall consider and hold binding the examination requirements in effect in Florida at the time the individual received out-of-state credit. An individual so receiving Florida credit shall be deemed to have been a Florida candidate for such purpose in determining future sittings and credit granting for the remaining section(s). Any person desiring to receive credit under this rule shall file an application with the Department and be certified as eligible to the Department by the Board.

*Rulemaking Authority 455.217(1), 473.304, 473.306 FS. Law Implemented 455.217(1), 473.306 FS. History—New 1-1-04*

#### **61H1-28.007 Law and Rules Examination.**

*Rulemaking Authority 473.304, 473.306 FS. Law Implemented 473.306 FS. History—New 4-8-86, Formerly 21A-28.007, Repealed 8-20-09.*

#### **61H1-28.008 State of Florida CPA Examination Security Requirements.**

*Rulemaking Authority 455.217 FS. Law Implemented 455.217 FS. History—New 3-4-82, Formerly 21A-28.08, 21A-28.008, Repealed 1-30-96.*

## CHAPTER 61H1-29: LICENSURE BY ENDORSEMENT

61H1-29.002	Temporary License
61H1-29.0025	Temporary License – Electronic Practice (Repealed)
61H1-29.003	Experience for Licensure by Endorsement
61H1-29.004	Licensure by Endorsement; Domiciled (Repealed)
61H1-29.005	CPA Education/CPE Credit

### **61H1-29.002 Temporary License.**

(1) In each instance in which out-of-state certified public accountants or firms, not authorized to practice public accounting pursuant to the practice privileges granted to Section 473.3141, F.S., send out-of-state personnel into the state to perform a specific engagement, a temporary license will be required. Applications for temporary licenses must be filed thirty (30) days prior to commencement of the engagement. A temporary license shall not be required of a person entering this state solely for the purpose of preparing federal tax returns or advising as to federal tax matters.

(2) Applications for temporary licenses to fulfill specific engagements shall be in writing directed to the Department on forms prescribed by the Department.

(3) Each application will be accompanied by the statement of the applicant, or if it is a partnership or professional service corporation, by a partner or shareholder of the applicant, to the effect that:

(a) Said work qualifies for a temporary license;

(b) That the applicant is not maintaining a full-time office and staff in the state for the full-time public accounting practice in the state through the use of a temporary license.

(4) The out-of-state certified public accountant shall furnish the Department with the names of all out-of-state personnel coming into the state to fulfill the specific engagement and such other information as required by Chapters 455 and 473, F.S., and rules promulgated pursuant thereto. If the out-of-state certified public accountant desires to substitute personnel or bring additional personnel into the state to fulfill the specific engagement, he shall notify the Department of the names of such substituted personnel or additional personnel as soon as practicable after the substitution or addition.

(5) An out-of-state certified public accountant who is a resident of Florida may not practice as a certified public accountant in Florida through the use of temporary licenses or the practice privileges granted to Section 473.3141, F.S., nor may he assume or use the titles or designations “certified public accountant,” or “public accountant” or the abbreviation “CPA,” or any other title, designation, words, letters, abbreviations, sign, card, or device tending to indicate that he holds an active license under Chapter 473, F.S., nor shall such person attest as an expert in accountancy to the reliability or fairness of presentation of financial information or utilize any form of disclaimer of opinion which is intended or conventionally understood to convey an assurance of reliability as to matters not specifically disclaimed unless such person holds an active license under Chapter 473, F.S. This rule shall not prohibit the performance by such persons of other services involving the use of accounting skills, including the preparation of tax returns and the preparation of financial statements without expression of opinion thereon.

(6) A temporary license may be denied for any one of the following:

(a) The applicant has failed to fully complete required application;

(b) The applicant has committed any of the acts specified by Rule 61H1-36.004, F.A.C., which constitutes grounds for disciplinary action against a certified public accountant.

(7) Notwithstanding the above-stated requirements, a temporary license will not be required for an individual who does not have an office as defined by subsection 61H1-20.001(8), F.A.C., and either:

(a) Holds a valid license as a certified public accountant from a state the Board has determined to have adopted standards that are substantially equivalent to the certificate requirements in s. 5 of the Uniform Accountancy Act in the issuance of licenses (the Board’s list of approved states, effective January 1, 2024, is incorporated herein and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-16541> or at <http://www.myfloridalicense.com/DBPR/certified-public-accounting/mobility/>); or

(b) Holds a valid license as a certified public accountant and obtains verification from the National Association

of State Boards of Accountancy CredentialNet service that the individual meets certificate requirements in s. 5 of the Uniform Accountancy Act, seventh edition revised May 2014, which is incorporated herein by reference. The Board has determined that posting the incorporated material on the Internet would constitute a violation of federal copyright law. At the time of adoption, the copyrighted incorporated material will be available for public inspection and examination, but may not be copied, at the Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607, and at the Department of State, Administrative Code and Register Section, Room 701, The Capitol, Tallahassee, Florida 32399-0250. CredentialNet can be reached at [credentialnet@nasba.org](mailto:credentialnet@nasba.org) or (866)350-0017.

*Rulemaking Authority 473.304, 473.314 FS. Law Implemented 473.314, 473.315, 473.3141 FS. History—New 12-4-79, Amended 2-3-81, 10-19-83, Formerly 21A-29.02, Amended 5-3-88, 12-3-89, 6-13-90, 3-29-92, 12-2-92, Formerly 21A-29.002, Amended 6-28-94, 1-11-95, 8-28-06, 12-10-09, 6-21-11, 1-7-13, 3-18-15, 5-3-20, 4-23-24.*

#### **61H1-29.0025 Temporary License – Electronic Practice.**

*Rulemaking Authority 473.304, 473.314 FS. Law Implemented 473.314 FS. History—New 2-12-98, Amended 8-28-06, 12-10-09, 1-7-13, 7-26-15, Repealed 3-13-18.*

#### **61H1-29.003 Experience for Licensure by Endorsement.**

(1) Any applicant seeking licensure by endorsement under Section 473.308(8), F.S., must have experience that includes at least five years experience gained in industry, academia, or in the practice of public accounting while licensed as a Certified Public Accountant or Chartered Accountant in the practice of public accounting or as an auditor or accountant in a unit of federal, state, or local government provided that the position held meets the activity and verification requirements set forth in Section 473.308(4)(a), F.S.

(2) Documentation of the experience shall be made using the Verification of Work Experience form (DBPR CPA 32/Effective June 2021). The form, which is hereby incorporated by reference in Rule 61-35.003, F.A.C., is provided by the Department on the Department's website or at the Board office located at 240 N. W. 76th Drive, Suite A, Gainesville, FL 32607-6655.

*Rulemaking Authority 473.304, 473.308 FS. Law Implemented 473.308 FS. History—New 4-24-88, Amended 6-12-88, Formerly 21A-29.003, Amended 2-12-98, 5-19-03, 1-31-05, 2-22-07, 11-18-07, 12-10-09, 12-20-12, 6-2-21, 12-23-21.*

#### **61H1-29.004 Licensure by Endorsement; Domiciled.**

*Rulemaking Authority 473.304, 473.3101, 473.323(2) FS. Law Implemented 473.309, 473.3101 FS. History—New 4-24-88, Formerly 21A-29.004, Repealed 11-3-09.*

#### **61H1-29.005 CPA Education/CPE Credit.**

The CPE reestablishment period for new Florida certified public accountants begins on the date of certification, which is printed on the license. Only courses completed after that date may be used for CPE credit. Accordingly, no courses which count as education for obtaining the CPA license may be used for CPE credit.

*Rulemaking Authority 473.304 FS. Law Implemented 473.311, 473.312 FS. History—New 11-2-95, Amended 10-26-09.*

## CHAPTER 61H1-30: LICENSURE STATUS

61H1-30.010	Active License
61H1-30.020	Delinquent License
61H1-30.030	Null and Void License
61H1-30.040	Inactive License
61H1-30.050	License Relinquishment
61H1-30.060	Retired License

### **61H1-30.010 Active License.**

A licensee may practice in the profession of certified public accounting, pursuant to Section 455.271(1), F.S., only if the license of the licensee is active. To maintain a current active license, a licensee is required to pay applicable fees pursuant to Chapter 61H1-31, F.A.C. Individual licensees shall also comply with the continuing professional education (CPE) criteria regarding license renewals.

*Rulemaking Authority 455.271, 473.304, 473.312 FS. Law Implemented 455.271, 455.213, 473.312 FS. History—New 4-26-22.*

### **61H1-30.020 Delinquent License.**

(1) Failure of a licensee to renew the license before the license expires, pursuant to Section 455.271(5), F.S., shall cause the license to become delinquent immediately following expiration of the most current licensure cycle. Pursuant to Rule 61H1-33.006, F.A.C.:

(a) A license becomes delinquent when the licensee fails to renew and pay the applicable renewal fee by the deadline of December 31 of any renewal cycle.

(b) Licensees who pay renewal fees after March 15, in addition to incurring a penalty fee, are required to submit a request to the Department to reactivate the license.

(2) A licensee seeking reactivation shall complete the CPA Change of Status form (DBPR CPA 7, Effective June 2021), which is incorporated by reference in Rule 61-35.003, F.A.C., and comply with the requirements stated therein, including the completion of the applicable CPE hours, reporting the same hours using the CPE Reporting Form # CPA 41 and submitting certificates of completion for each course listed. The form is provided by the Department and available on the Department's website and at the Board office located at 240 N. W. 76th Drive, Suite A, Gainesville, FL 32607-6655.

*Rulemaking Authority 455.271, 473.311 FS. Law Implemented 455.213, 455.271, 473.311, 473.312 FS. History—New 4-26-22.*

### **61H1-30.030 Null and Void License.**

(1) A license that remains in a delinquent status for two years, pursuant to Section 455.271(6), F.S., automatically becomes null and void.

(2) A null and void license is only eligible for a change of status, pursuant to the reinstatement terms set forth in Section 473.313(5), F.S.

(3) A null and void license, subject to board review and clearance, may be reinstated pursuant to Section 473.313(5), F.S. An applicant seeking reinstatement of a null and void license shall:

(a) Complete the Application for Reinstatement of Null and Void License (DBPR CPA 9, Effective June 2021). The form, which is incorporated by reference in Rule 61-35.003, F.A.C., is provided by the Department and available on the Department's website and at the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32607-6655. The applicant is required to include with the application a personal statement regarding the cause and circumstances resulting in the null and void license;

(b) Pay applicable fees pursuant to Rules 61H1-31.015, 61H1-31.003, and 61H1-31.004, F.A.C.; and

(c) Complete continuing professional education (CPE) as referenced in subsection (3) of this rule. An applicant is not required to provide proof of CPE completion prior to board review of the application; however, the applicant must complete all required hours prior to the reinstatement of the license.

(4) An applicant, whose application been approved by the board, shall submit the Continuing Professional

Education Reporting form (DBPR CPA 41, Effective June 2021), which is incorporated by reference in Rule 61-35.003, F.A.C. The form is provided by the Department and available on the Department's website and at the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32607-6655. The applicant shall provide proof of completion of CPE hours as follows:

(a) 120 CPE hours for the reinstatement of the null and void license to delinquent status, consisting of 30 hours in accounting and auditing, 8 hours in board approved ethics, and no more than 30 hours in behavioral subjects; and

(b) 120 CPE hours for the reactivation from the delinquent status to current active status, consisting of 30 hours in accounting and auditing, 8 hours in board approved ethics, and no more than 30 hours in behavioral subjects.

(5) In lieu of reinstatement, applicants with a null and void license may apply for licensure pursuant to Section 473.308, F.S., by one the following methods:

(a) Licensure by Endorsement, if applicable; or

(b) Licensure by Examination.

*Rulemaking Authority 455.213, 455.271, 473.304, 473.308, 473.312, 473.313(5) FS. Law Implemented 455.213, 455.271, 473.312, 473.313 FS. History—New 4-26-22.*

#### **61H1-30.040 Inactive License.**

(1) A license does not automatically become inactive. The licensee must elect to change the licensure status by paying a change of status, application, and other applicable fees, depending on the status of the license, pursuant to Chapter 61H1-31, F.A.C. The licensee shall also complete the Change of Status form (DBPR CPA 7, Effective June 2021), which is incorporated by reference in Rule 61-35.003, F.A.C. The CPE requirements are suspended during the period the license is inactive.

(2) A licensee with a current or delinquent active license may elect to become inactive at any time by complying with the criteria set forth in subsection (1) of this rule, unless otherwise encumbered or prohibited from doing so pursuant to disciplinary action.

(3) A licensee with an inactive license may reactivate the license to active status at any time, by completing the CPA Change of Status form (DBPR CPA 7, Effective June 2021), which is incorporated by reference in Rule 61-35.003, F.A.C., and comply with the requirements stated therein, including the completion of the applicable CPE hours, reporting the same hours using the CPE Reporting Form # CPA 41 and submitting certificates of completion for each course listed. The form is provided by the Department and available on the Department's website and at the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32607-6655.

(4) A licensee with a delinquent license, may reactivate the license to a current active status by paying the fees and satisfying the requirements set forth in subsection (3), and must also pay the applicable delinquent fee pursuant to Chapter 61H1-31, F.A.C. A timely election of inactive status while the license is delinquent prevents an automatic licensure status change from delinquent to null and void.

*Rulemaking Authority 455.271, 473.304, 473.311 FS. Law Implemented 455.213, 455.271, 473.311, 473.312 FS. History—New 4-26-22.*

#### **61H1-30.050 License Relinquishment.**

(1) A licensee with a current active or current inactive license, which is not otherwise encumbered by discipline, may elect to voluntarily relinquish the license administratively by submitting to the Department the CPA Change of Status form (DBPR CPA 7, Effective June 2021), which is incorporated by reference in Rule 61-35.003, F.A.C.

(2) The licensing authority, pursuant to Section 455.227(1)(f), F.S., may accept a licensee's relinquishment of a license as a form of discipline during the course of any disciplinary proceeding or action. A license encumbered by discipline resulting in disciplinary relinquishment shall be construed as action against the licensee.

*Rulemaking Authority 455.227, 455.271, 473.304, 473.311 FS. Law Implemented 455.227(1)(f), 455.213, 455.271, 473.311, 473.312 FS. History—New 4-26-22.*

#### **61H1-30.060 Retired License.**

(1) A retired CPA is defined as a CPA who holds a retired license, as approved by the Department. To apply for a retired license, the licensee shall submit to the Department an Application for Retired Status (DBPR CPA 16, effective July 2024), which is incorporated by reference in Rule 61-35.003, F.A.C.

(2) A licensee, age 65 years of age or older, is eligible to request a licensure change to retired status if the license is:

(a) Current and active as defined in Rule 61H1-30.010, F.A.C. or current and inactive as defined in Rule 61H1-30.040, F.A.C.; and

(b) Not the subject of any sanction or disciplinary action by any jurisdiction, or otherwise under investigation by the Department.

(3) Pursuant to section 473.313(2), F.S., a retired CPA may:

(a) Use the title of “retired CPA” on any business card or letterhead or any other printed or electronic document.

(b) Serve without compensation on a board of directors or board of trustees.

(c) Provide volunteer tax preparation services.

(d) Participate in a government-sponsored business mentoring program such as the Internal Revenue Service's Volunteer Income Tax Assistance program or the Small Business Administration's SCORE program.

(e) Participate in an advisory role for a similar charitable, civic, or other non-profit organization.

(f) Accept routine reimbursement for actual costs of travel and meals associated with volunteer services.

(4) Pursuant to section 473.313(2), F.S., a retired CPA is prohibited from the following actions:

(a) Any activity defined in section 473.302(8), F.S. that is not permitted in section 473.313(2)(a), F.S.

(b) Reentering the workforce in a position that has an association with accounting or any of the services described in section 473.302(8), F.S.

(c) Offering or rendering professional services that require the licensee’s signature and the use of the CPA title.

(5) A retired CPA who engages in activity not specified in subsection (3) or who violates any section of subsection (4) of this rule will be subject to discipline as prescribed in Rule 61H1-36.004, F.A.C.

(6) During the period for which the licensee holds a retired license, the retired CPA is neither required to renew the license nor maintain the continuing professional education (CPE) requirements set forth in section 473.312, F.S.

(7) A retired licensee may apply to reactivate the retired license to a current active license. The licensee does not have the option to reactivate the license to any other status or by any other means than as set forth in this paragraph. To reactivate, the retired licensee shall:

(a) Submit to the Department a CPA Retired Status Reactivation Application (DBPR CPA 17, effective July 2024), incorporated by reference in Rule 61-35.003, F.A.C., and the applicable reactivation fee as stated on the application.

(b) Prior to the reactivation being effective, the retired CPA shall complete continuing professional education pursuant to the requirements set forth below:

1. A minimum of 120 hours of CPE for each biennium, or part thereof, from the effective date of the retired status until the Department’s receipt of a CPA Retired Status Reactivation Application.

2. Each group of 120 hours of CPE must include at least thirty (30) hours of accounting and auditing (A&A), and eight (8) hours of Florida Board approved ethics. A licensee may not submit more than 20 behavioral subject hours for each group of 120 hours of CPE.

3. All CPE hours shall be completed, either 24 months prior to the reactivation application date or 12 months after the application date. Continuing professional education shall be reported to the Department using the CPE Reporting Form (DBPR CPA 41), incorporated by reference in Rule 61-35.003, F.A.C. Licensees who fail to complete and report their CPE within this designated period shall be required to resubmit a reactivation application. Their required CPE hours will be recalculated based on the resubmission date of the application.

*Rulemaking Authority 473.313(2) FS. Law Implemented 473.313(2) FS. History—New 4-16-25.*



## CHAPTER 61H1-31: FEES

61H1-31.001	Collection and Payment of Fees
61H1-31.002	Examination Application Fee
61H1-31.003	Renewal of Active and Inactive License Fee for CPA
61H1-31.004	Delinquency Fee
61H1-31.005	Initial Licensure Fee
61H1-31.006	Reactivation Fee
61H1-31.0065	Change of Status Process Fee
61H1-31.007	Temporary License Fee
61H1-31.0075	Temporary License Fee – Electronic Practice (Repealed)
61H1-31.008	Licensure by Endorsement
61H1-31.009	Renewal of Accountancy Firm License Fee
61H1-31.010	Initial Accountancy Firm License Fees
61H1-31.011	Licensure and Exam Score Verification Fee
61H1-31.012	Duplicate License Fee
61H1-31.014	Continuing Education Course Approval Fees
61H1-31.015	Reinstatement of a Null and Void License Fee

### **61H1-31.001 Collection and Payment of Fees.**

All fees shall be made payable to the Department of Business and Professional Regulation. Application fees will not be refunded in the event an application is withdrawn or denied.

*Rulemaking Authority 455.213, 473.305 FS. Law Implemented 455.219, 473.305 FS. History—New 12-4-79, Amended 2-3-81, 3-4-82, 11-6-83, 3-29-84, Formerly 21A-31.01, Amended 6-4-86, 9-16-87, 2-1-88, 8-30-88, 2-6-89, 12-18-89, 12-28-89, 8-16-90, 4-8-92, 12-2-92, Formerly 21A-31.001, Amended 11-4-93, 2-14-95, 11-3-97, 6-22-98, 10-28-98, 7-15-99, 4-3-02, 1-27-04, 1-31-05, 7-14-05, 4-9-06, 12-3-06, 4-29-07, 9-24-07, 2-24-08, 8-20-09, 12-10-09, 1-7-13.*

### **61H1-31.002 Examination Application Fee.**

The application fee to sit for the CPA examination shall be \$50.00. Once the applicant has been approved to sit for the examination as a Florida candidate, it is the applicant's responsibility to complete the examination process with the national vendor and pay any examination fee required by the vendor.

*Rulemaking Authority 473.305 FS. Law Implemented 473.305 FS. History—New 1-7-13, Amended 4-23-20.*

### **61H1-31.003 Renewal of Active and Inactive License Fee for CPA.**

For individual active and inactive status licenses, the biennial renewal fee provided for in Section 473.305, F.S., shall be \$100.00, with the exception that for the 2018 and 2019 renewal periods, the fee shall be \$90.00. A special fee of \$5.00 per licensee shall be imposed upon initial licensure and at each renewal to fund efforts to combat unlicensed activity.

*Rulemaking Authority 455.219(1), 455.2281, 455.271, 473.305, 473.311, 473.313 FS. Law Implemented 455.219(1), 455.271, 473.305, 473.311, 473.313 FS. History—New 1-7-13, Amended 6-18-18.*

### **61H1-31.004 Delinquency Fee.**

A delinquent status licensee shall pay a delinquency fee of \$25.00 when the licensee applies for active or inactive status.

*Rulemaking Authority 455.271, 473.305 FS. Law Implemented 455.271, 455.2281, 473.305 FS. History—New 1-7-13, Amended 10-12-17.*

### **61H1-31.005 Initial Licensure Fee.**

The fee for initial licensure of an individual shall be \$50.00. In the event the application is denied or withdrawn, no portion of the fee shall be refunded by the Department. A special fee of \$5.00 per licensee shall be imposed upon initial licensure and at each renewal to fund efforts to combat unlicensed activity.

*Rulemaking Authority 455.213, 455.219, 455.271, 473.305 FS. Law Implemented 455.219, 455.2281, 455.271, 473.305 FS. History—New 1-7-13.*

**61H1-31.006 Reactivation Fee.**

(1) The application fee for reactivation of an inactive status license to active status shall be \$250.00; for reactivation of a delinquent status license to active, \$250.00. In all cases completion of the requirements of Rule 61H1-33.006, F.A.C., shall be required for reactivation.

(2) The application fee for reactivation of a retired status license to active status shall be \$250.00. Applicants seeking reactivation of a retired license shall comply with the requirements of paragraph 61H1-30.060 (7)(b), F.A.C.

*Rulemaking Authority 473.305, 473.313 FS. Law Implemented 473.305, 473.313 FS. History—New 1-7-13, Amended 10-28-24.*

**61H1-31.0065 Change of Status Process Fee.**

The fee for processing a licensee's request to change licensure status from active to inactive at any time other than during the renewal period shall be \$50.00.

*Rulemaking Authority 473.305, 473.313 FS. Law Implemented 473.305, 473.313 FS. History—New 1-7-13.*

**61H1-31.007 Temporary License Fee.**

The fee for a temporary license shall be \$400.00 for the first license in a calendar year and \$400.00 for each additional application in the same calendar year.

*Rulemaking Authority 473.305, 473.314 FS. Law Implemented 473.305, 473.314 FS. History—New 1-7-13.*

**61H1-31.0075 Temporary License Fee – Electronic Practice.**

*Rulemaking Authority 473.304, 473.305, 473.314 FS. Law Implemented 473.305, 473.314, 473.3141 FS. History—New 1-7-13, Repealed 5-28-18.*

**61H1-31.008 Licensure by Endorsement.**

The application fee for license by endorsement provided in Section 473.308, F.S. shall be \$250.00 per person.

*Rulemaking Authority 473.305 FS. Law Implemented 473.305, 473.308, 473.3141 FS. History—New 1-7-13.*

**61H1-31.009 Renewal of Accountancy Firm License Fee.**

(1) The biennial renewal fee provided in Section 473.305, F.S., for partnerships, corporations, and limited liability companies licensed in Section 473.3101, F.S. shall be \$145.00.

(2) The biennial renewal fee provided in Section 473.305, F.S., for sole proprietor firms licensed in Section 473.3101, F.S. shall be \$45.00.

(3) A special fee of \$5.00 per licensee shall be imposed at each renewal to fund efforts to combat unlicensed activity.

*Rulemaking Authority 473.305 FS. Law Implemented 473.305, 473.3101 FS. History—New 1-7-13, Amended 11-21-13.*

**61H1-31.010 Initial Accountancy Firm License Fees.**

(1) The initial licensure fee provided in Section 473.305, F.S., for partnerships, corporations, and limited liability companies licensed in Section 473.3101, F.S. shall be \$145.00.

(2) The initial licensure fee provided in Section 473.305, F.S., for sole proprietor firms licensed in Section 473.3101, F.S. shall be \$45.00.

(3) Persons, partnerships and corporations licensed in the first year of the biennial period, as established by the

Department, shall pay the fees established above. Those persons, partnerships and corporations licensed in the second year of the biennial period, as established by the Department, shall pay one half of the fees established above.

(4) A special fee of \$5.00 per licensee shall be imposed upon initial licensure and at each renewal of fund efforts to combat unlicensed activity.

*Rulemaking Authority 473.305 FS. Law Implemented 473.305, 473.3101, 455.2281 FS. History—New 1-7-13, Amended 11-21-13.*

**61H1-31.011 Licensure and Exam Score Verification Fee.**

The fee for verification of licensure and examination status to other states shall be \$50.00. In the event the verification request is completed using the Department of Business and Professional Regulation's Online Certification system there will be no charge.

*Rulemaking Authority 455.217, 473.305 FS. Law Implemented 455.217, 473.305, 473.308 FS. History—New 1-7-13, Amended 3-23-14.*

**61H1-31.012 Duplicate License Fee.**

Duplicate licensee fee – If a Florida certified public accountant requests a duplicate license or wall certificate, the Board will issue the duplicate if the request is made in writing and is accompanied by a payment of \$25.00.

*Rulemaking Authority 455.219(5), 473.305 FS. Law Implemented 455.219(5), 473.305 FS. History—New 1-7-13.*

**61H1-31.014 Continuing Education Course Approval Fees.**

For approval of a continuing education course in ethics, meeting the requirements of Section 473.312(1)(c), F.S., \$250.00.

*Rulemaking Authority 455.2179, 473.305 FS. Law Implemented 455.2179, 473.305, 473.312 FS. History—New 1-7-13, Amended 8-7-13.*

**61H1-31.015 Reinstatement of a Null and Void License Fee.**

Upon approval of the board, reinstatement of a null and void license must be accompanied by an application fee of \$250.00. The completion of the requirements of Rule 61H1-33.006, F.A.C. shall be required for reinstatement.

*Rulemaking Authority 455.271, 473.305, 473.313 FS. Law Implemented 455.271, 473.305, 473.313 FS. History—New 1-7-13.*

## **CHAPTER 61H1-33: REESTABLISHMENT OF PROFESSIONAL KNOWLEDGE AND COMPETENCY**

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### **61H1-33.001 Certified Public Accountants Required to Comply with this Chapter.**

(1) Each Florida certified public accountant shall be required to reestablish his/her professional knowledge and competency in conformity with this rule by the completion of continuing professional education programs.

(2) Pursuant to Section 473.311(1)(b), F.S., a Florida licensed certified public accountant, who is not a resident of Florida and is licensed in another state, may satisfy Florida's CPE requirements by completing the CPE requirements of the state where the licensee's office is located and by completing a Florida Board-approved ethics course. If the state where the licensee's office is located does not have continuing professional education requirements, the licensee must comply with the requirements set forth in paragraph 61H1-33.003(1)(b), F.A.C.

(3) See Rule 61H1-33.006, F.A.C., for reinstatement of inactive Florida certified public accountants who desire to become active Florida certified public accountants, and the requirements related to continuing professional education.

*Rulemaking Authority 473.304, 473.311, 473.312, 473.313 FS. Law Implemented 473.311, 473.312, 473.313 FS. History—New 12-4-79, Amended 2-3-81, 12-19-82, Formerly 21A-33.01, Amended 4-8-86, Formerly 21A-33.001, Amended 5-24-07, 11-18-07, 12-10-09, 9-7-22.*

### **61H1-33.002 Organization and Administration.**

There is created the Committee on Continuing Professional Education. Subject to the approval of the Board, said Committee shall:

(1) Evaluate and determine, either prospectively or retrospectively, whether specific courses, programs, education and training qualify as formal programs of learning which contribute directly to professional competency of an individual following licensure to practice public accounting, and the credit to be granted therefore;

(2) Determine in individual cases whether professional knowledge and competency have been reestablished by virtue of the completion of such programs; and

(3) Audit the continuing professional education records of Florida certified public accountants on a sample basis from time to time.

*Rulemaking Authority 473.304, 473.312 FS. Law Implemented 473.312 FS. History—New 12-4-79, Amended 2-3-81, 7-2-85, Formerly 21A-33.02, 21A-33.002, Amended 10-26-09.*

### **61H1-33.003 Continuing Professional Education.**

(1)(a) Each Florida certified public accountant's reestablishment period shall commence on the date indicated on the licensee's Florida certificate. The initial designated reestablishment period for each Florida certified public accountant shall end on the third June 30th following the date indicated on the licensee's Florida certificate. Each succeeding reestablishment period shall begin on July 1, and end on June 30, two years thereafter and ending in the year the license expires.

(b) In any given reestablishment period, except as stated below in paragraph (1)(c) of this rule, each current/active Florida certified public accountant must have completed at any time or times during the two-year period, at least 80 hours of educational instruction or training in public accounting subjects or courses of study, as defined hereinafter, of which at least 8 hours must have been in accounting-related and/or auditing-related subjects and of which no more than 20 hours may be in behavioral subjects and at least four hours shall be in Florida Board-approved ethics. All CPE proof of completion must be reported in the DBPR On-Line Services portal on or before July 31 prior to their biennial license renewal.

(c) Effective with the reestablishment period ending June 30, 2024, the licensee must report courses completed and provide proof of CPE completion in the DBPR On-Line Services portal on or before July 31 immediately following the reestablishment period and prior to their biennial license renewal.

(d) A nonresident Florida licensed certified public accountant seeking renewal of a Florida license may provide proof of CPE completion in the State where the licensee's office is located by submission of the Out of State Licensee CPE Acknowledgement Form (DBPR CPA 14, effective April 2023), which is incorporated by reference in Rule 61-35.003, F.A.C., and proof of completion of a Florida Board-approved ethics course in the DBPR On-Line Services portal prior to renewal.

(e) Florida certified public accountants who do not meet the requirements by June 30th will be granted an automatic extension until September 15th provided the licensee submits proof of CPE completion in the DBPR On-Line Services portal for an additional eight hours in Accounting and Auditing subjects, totaling 88 hours of completed CPE on or before the extension date. An automatic extension will be granted until December 31st provided the licensee submits proof of CPE completion in the DBPR On-Line Services portal for an additional 16 hours in Accounting and Auditing subjects, totaling 96 hours of completed CPE on or before the extension date.

(2) Educational instruction or training in public accounting subjects or courses of study is hereby defined as formal programs of learning as defined below, which contribute directly to professional competency following licensure to practice public accountancy. Subjects or courses of study qualifying an individual for the purposes of this shall be limited to:

(a) Accounting and auditing subjects to consist of: Accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. Subjects include auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and the reporting on the results of audit findings, compilation and review. It also includes assurance services that relate to Standards for Attest Engagements.

(b) Technical business subjects to consist of:

1. Taxation including tax compliance and tax planning.
2. Consulting services including management advisory services; personal financial planning services; planning and control systems dealing with planning, organizing and controlling any phase of individual financial activity or business activity; designing, implementing, and evaluating operating systems as well as business advisory services and personal financial planning.
3. Management including practice management for the public practitioner; financial management of an organization including information systems, budgeting and asset management, planning, buying and selling businesses, contracting for goods and services and foreign operation; budgeting; cost analysis; human resource management; and financial management.
4. Specialized knowledge and applications including subjects related to specialized industries such as not for profit organizations, health care, oil and gas.

(c) The ethics courses shall be obtained from a provider approved pursuant to Rule 61H1-33.0032, F.A.C., and

consist of:

1. A review of Chapters 455 and 473, F.S., and the related administrative rules.
2. The ethics course may include other subjects including but not limited to: ethical conduct, core values and competencies, professional responsibility, responsibility to clients and the public, case studies that require the application of ethics principles, national professional standards and interpretations, and appropriate national issues related to the practice of accounting.

(d) Behavioral subjects including oral and written communications and the social environment of business. All courses not covered above are considered behavior except for business meetings, social functions, committee service and courses in elementary accounting or basic mathematics which do not qualify for credit.

(3) Credit may be prorated by the sponsor for courses that cover more than one area of study by (1) prorating the amount of time spent in each area or (2) awarding credit based on the lowest topic covered with accounting and auditing being the highest and behavioral the lowest. Therefore an eight-hour course that was 75% accounting and auditing and 25% management would receive six (6) hours of accounting and auditing credit and two (2) hours of technical business or eight (8) hours of all technical business. Hours cannot be prorated in less than half-hour increments.

(4) In order for a Florida certified public accountant to receive credit for programs of learning, as defined above, the following formalities and further requirements must be met:

(a) Courses taken at institutions of higher education:

1. Higher education credit courses taken from an accredited institution as defined in subsection 61H1-27.001(1), F.A.C., shall be credited for continuing professional education purposes at the rate of 15 hours for each semester hour of higher education credit and 10 hours for each quarter hour of higher education credit, provided the number of contact hours (hours in the classroom) totals at least 90% of the continuing professional education credit so determined. Otherwise, continuing professional education credit shall be limited to the actual number of contact hours.

2. Higher education non-credit courses shall be credited for continuing professional education purposes equivalent to the actual number of contact hours.

3. Continuing professional education credit for instructing a higher education course shall be twice the credit which would have been granted participants for the first presentation of a specific course of program, the same as the credit granted a participant for the second presentation and none thereafter, except as permitted by subparagraph 61H1-33.003(4)(b)4., F.A.C.

4. No continuing professional education credit shall be permitted for attending or instructing accounting courses considered to be elementary.

5. To receive instructor credit for courses taught, licensees must submit a completed DBPR CPA 13, Instructor CPE Credit Reporting Form, effective April 2023, which is incorporated by reference in Rule 61-35.003, F.A.C.

(b) Other professional education or training:

1. Professional development courses shall be credited for continuing professional education purposes in increments of not less than one half hour, equivalent to the actual number of contact hours (hours in the classroom which must include at least fifty minutes of continuous participation per contact hour or twenty-five minutes per contact half hour) provided an outline (defined as a schedule of activity listing major topics of discussion) is prepared in advance and retained; a course is at least one contact hour or half hour in length; the course conducted by a qualified instructor, lecturer or discussion leader; and a record of registration and attendance is maintained. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is at least eight hours and the contact time is approximately 400 minutes. An instructor, lecturer or discussion leader will be considered qualified if, through formal training or experience, he has obtained sufficient knowledge of the subject matter to competently instruct the course. A course participant will be granted credit for only that portion of a course actually attended. If a record of registration and attendance is not maintained by the sponsoring organization, the course participant must be able to prove registration and attendance.

2. Formal organization in-firm educational programs shall be credited for continuing professional education purposes to the same extent and by the same requirements as other professional development courses.

3. Instructors, lecturers, panelists and discussion leaders for professional development courses and formal

organized in-firm educational programs shall be credited for continuing professional education purposes at twice the credit granted participants for the first presentation of a specific course or program, the same as the credit granted a participant for the second presentation and none thereafter, except as permitted in subparagraph 61H1-33.003(4)(b)4., F.A.C. Co-panelists and co-discussion leaders shall be credited for the portion of specific course or program they must prepare to discuss and lead as a co-panelist or co-discussion leader.

4. To the extent course content has been substantially revised, the revised portion shall be considered a first presentation for the purposes of subparagraph 61H1-33.003(4)(b)3., F.A.C.

5. Credit may be granted to an author for published materials related to an Accounting, Assurance, Tax or Technical Business topic in a journal listed in or published by the (1) Australian Business Deans Council Journal Quality List, (2) Cabells, (3) American Accounting Association, (4) any state or national society of CPAs and (5) any textbook addressing accounting, assurance, tax or technical business topic that would otherwise qualify as continuing professional education. No authorship hours may apply to fulfill the ethics requirement. Credit will not be granted for repeated publishing of the same material. The maximum number of continuing professional education hours in any re-establishment period for authorship is 20 hours. The Continuing Professional Education Advisory Committee of the Board shall determine the hours granted for each publication submitted and the day of their approval shall serve as the date of awarded credit for reporting purposes.

(5) As a part of each licensee's biennial license renewal, each Florida certified public accountant shall comply with the continuing professional education requirements during the applicable reestablishment period, and upload proof of CPE completion to the DBPR On-Line Services Portal. Each Florida certified public accountant's proof of CPE completion shall be retained for at least two years following a two-year reestablishment period and be made available if requested for a random audit by the Department of Business and Professional Regulation (DBPR) to determine compliance with the requirements. Proof of CPE completion for each course shall be in a format as prescribed by the Board in subsection 61H1-20.001(9), F.A.C.

(6) If staff review or review by the Committee on Continuing Professional Education determines that courses are either improperly classified by the provider or do not otherwise meet the requirements of the chapter, then the Florida certified public accountant shall be notified and given 60 days from the date of notification to comply with the continuing professional education requirements. Failure to timely correct the error constitutes grounds for disciplinary action pursuant to Section 455.227 or 473.323, F.S.

(7) Sponsors of formal correspondence or other individual study technical business and accounting and auditing programs must be approved by the National Association of State Board of Accountancy Quality Assurance Service.

*Rulemaking Authority 455.213(7), 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(7), 455.2179, 473.312(1)(a), (b), (c) FS. History—New 12-4-79, Amended 2-3-81, 4-5-83, 10-19-83, 8-20-85, Formerly 21A-33.03, Amended 9-18-88, 7-7-92, 12-2-92, Formerly 21A-33.003, Amended 12-14-93, 1-26-98, 12-17-00, 8-21-01, 3-21-05, 5-18-05, 7-10-05, 7-23-06, 12-10-09, 7-7-10, 11-7-12, 8-7-13, 4-21-16, 11-3-19, 10-20-20, 12-23-21, 8-6-23, 10-26-23.*

#### **61H1-33.0031 Continuing Professional Education/Ethics.**

(1) A Florida certified public accountant must complete no less than four of the total hours required for any reestablishment period in ethics from a provider approved pursuant to Rule 61H1-33.0032, F.A.C.

(2) In the event the four hours is completed in two modules, Florida certified public accountants must complete the four-hour requirement with the same provider.

*Rulemaking Authority 455.213(7), 473.304, 473.312 FS. Law Implemented 455.213(7), 473.312(1)(a), (c) FS. History—New 5-18-05, Amended 10-26-09.*

#### **61H1-33.0032 Board Approval of CPA Ethics Continuing Education by Providers.**

(1) Applicants for continuing education provider status to offer courses which satisfy the four (4) hour certified public accountant continuing education ethics requirement in Section 473.312(1)(c), F.S., must meet the requirements of subsections (2) and (3) of this rule.

(2) To demonstrate the education and/or the experience necessary to offer courses which satisfy the CPA continuing education ethics requirement, an applicant for continuing education provider status must be a regionally

accredited educational institution, a commercial educator, a governmental agency, a state or national certified public accounting professional association whose purpose includes fostering ethical conduct and promoting standards of independence, integrity, and objectivity in the certified public accounting profession, a certified public accountant who has not been disciplined by the Board, or a certified public accounting firm.

(3) To allow the Board to evaluate an application for continuing education provider status, the applicant must submit the following:

- (a) The name, address and telephone number of the prospective provider;
- (b) A description of the ethics course the provider expects to conduct for credit to include a review of Chapters 455 and 473, F.S., the related administrative rules, and topics including but not limited to: ethical conduct, core values and competencies, professional responsibility, responsibility to clients and the public, case studies that require the application of ethics principles, national professional standards and interpretations, and appropriate national issues related to the practice of accounting;
- (c) A description of the staffing capability of the applicant;
- (d) A sample of intended course materials;
- (e) A list of anticipated locations to conduct the courses;
- (f) A complete course curriculum;
- (g) A description of the means the applicant will use to update the course in response to rule or law changes; and
- (h) Documentation that the ethics course instructor will notify the ethics course provider of any disciplinary action taken against the instructor by the Board.

(4) Should the Board determine that the provider has failed to provide appropriate continuing education services, it shall request that the Department issue an order requiring the provider to cease and desist from offering certified public accountant ethics continuing education courses and shall request that the Department revoke any approval of the certified public accountant ethics course provider granted by the Board.

(5) No provider may allow any certified public accountant to conduct any certified public accountant ethics course or seminar offered by the provider if that certified public accountant has been disciplined. Upon receipt of notice from an instructor that the instructor has been disciplined, the provider shall, within fourteen (14) days, write to the Board office and confirm that the instructor is no longer conducting certified public accountant ethics courses or seminars offered by the provider. For the purpose of this subsection, a letter of guidance shall not constitute "discipline."

(6) The Board retains the right and authority to audit and/or monitor programs and review records and course materials given by any provider approved pursuant to this rule. The Board shall revoke the approved status of the ethics course provider or reject individual ethics courses given by an ethics course provider if the provider disseminated any false or misleading information in connection with the continuing education programs, or if the provider fails to conform to and abide by the rules of the Board.

*Rulemaking Authority 455.213(7), 455.2178, 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(7), 455.2178, 455.2179, 473.312(1)(a), (c) FS. History—New 6-30-05, Amended 9-24-07, 12-11-07, 12-10-09, 1-7-13.*

#### **61H1-33.0033 Obligations of CPA Ethics Course Continuing Education Providers.**

To maintain an approved status as an ethics course continuing education provider, the provider must:

(1) Retain documentation that the course instructor is a certified public accountant who has practiced in a public accounting firm for five of the last ten years, whose background, training, education or experience makes it appropriate for the person to teach the course.

(2) Require each Florida certified public accountant to complete the entire four-hour certified public accounting ethics course requirement in order to receive proof of CPE completion. Offer the four-hour certified public accounting ethics course in one module of four credit hours or two modules of two credit hours.

(3) Furnish each attendee with an individual proof of CPE completion certificate in a format to include approved course title and completion date, number of hours earned, attendee name, DBPR course approval number, DBPR ethics provider number, and signature by the provider furnishing said certificate after successful completion of the course. An attendance record shall be maintained by the provider for four years and shall be available for inspection by the Board. Providers shall maintain security of attendance records and attendance records.



(4) Ensure that all promotional material for courses or seminars offered to Florida certified public accountants for credit contain the certified public accountant DBPR course approval number, DBPR ethics provider number, and course title.

(5) Allow only one hour credit for each hour of classroom, audio or video instruction, an “hour of classroom, audio or video instruction” being a minimum of 50 minutes instruction or presentation.

(6) Allow only one hour of credit for each “hour of correspondence study.” The “hour of correspondence study” must be based on the average completion time of each course as established by the provider.

(7) Provide a written examination to each participating Florida certified public accountant in correspondence study courses. In order to complete the course, the Florida certified public accountant must sign and date the examination and receive a minimum grade of eighty percent (80%). If a Florida certified public accountant fails the examination, the Florida certified public accountant will be permitted to take the examination again in order to achieve a passing grade.

(8) Ensure that all correspondence or other individual study courses are approved by the National Association of State Boards of Accountancy Quality Assurance Service.

(9) Notify the Board within thirty (30) days of any change in the address or telephone number of the provider.

(10) Allow the Board to have access to information concerning courses or seminars conducted by the provider for continuing education credit.

*Rulemaking Authority 455.213(7), 455.2178, 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(7), 455.2178, 455.2179, 473.312(1)(a), (c) FS. History—New 5-18-05, Amended 10-26-09, 11-7-12, 9-7-22.*

#### **61H1-33.0034 Evaluation of CPA Ethics Course Providers.**

The Board or its designee reserves the right to evaluate continuing education ethics courses or seminars offered to certified public accountants for credit by the following methods:

(1) Observing such ethics courses or seminars; and

(2) Reviewing the files of the provider to gain information about any course or seminar offered to certified public accountants for ethics course credit.

*Rulemaking Authority 455.213(7), 455.2178, 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(7), 455.2178, 455.2179, 473.312(1)(a), (c) FS. History—New 5-18-05.*

#### **61H1-33.00341 Duration of CPA Ethics Course Provider Status.**

(1) Continuing education providers are approved only for the biennium during which their application was received and approved. Providers must reapply for approved provider status at the beginning of each biennium. The biennium for continuing education providers ends on June 30th of each odd-numbered year.

(2) The Board shall notify certified public accountant ethics course providers at least ninety (90) days prior to the date of expiration of the provider status.

(3) A provider must reapply for approval at least sixty (60) days prior to the date of expiration of provider status in order to prevent a lapse in provider status.

*Rulemaking Authority 455.213(7), 455.2178, 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(7), 455.2178, 455.2179, 473.312(1)(a), (c) FS. History—New 5-18-05.*

#### **61H1-33.00342 CPA Ethics Courses – Standards for Approval of Courses.**

(1) In order to meet the requirements of paragraph 61H1-33.0032(3)(b), F.A.C., each approved CPA Ethics Course Provider shall submit a syllabus of each ethics course for which it seeks Board approval. The syllabus shall include a description of the manner by which the course (including its various components) meets the requirements of this rule.

(2) The syllabus of the course shall include the following:

(a) A description of each subject to be covered during the presentation of the course with the estimated time to be spent addressing each subject, the individual(s) who will be responsible for presenting each subject, a listing of the

sources (through a bibliography or notes) from which the course material addressing each subject is drawn, and any tests, quizzes or exercises provided during the offering of the course;

(b) The manner in which the course complies with the requirements of Section 473.312(1)(c), F.S. In order to meet this requirement the course shall be limited to addressing the ethical and professional responsibilities of CPAs with emphasis on ethical conduct, core values and competencies, professional responsibility, responsibility to clients and the public, case studies that require the application of ethics principles, national professional standard and interpretations, and appropriate national issues related to the practice of accounting. Practice-oriented programs are preferred insofar as such programs involve the CPA in the process of the practice of public accountancy. Courses should be structured to confront the question, "How will you handle this situation when it occurs in your practice?"

(c) The course shall include a review of Chapters 455 and 473, F.S., and the related administrative rules.

(3) A provider may meet the requirements set forth herein through various generally accepted methodologies. Thus, lectures, case studies, discussion groups, interactive studies and other recognized methods may be utilized. Additionally, providers may target specific areas of CPA practice in each course submitted for approval. A provider may offer a course module which, for example, addresses CPA ethics and professionalism in Tax Practice or Managerial Accounting as well as other areas of practice.

(4) Upon receipt of the syllabus required in subsection 61H1-33.00342(2), F.A.C., the Board will review the course to determine whether it complies with this rule, the provisions of Section 473.312(1), F.S., and the CPA Ethics Provider Rules set forth in Chapter 61H1-33, F.A.C. If the Board rejects a course in whole or in part, a provider will be offered the option of modifying the course or withdrawing the course and resubmitting the course for approval. However, all courses submitted for approval must be submitted at least sixty (60) days prior to either the ending of the provider's approval as a CPA Ethics Course Provider as set forth in Rule 61H1-33.00341, F.A.C., or sixty (60) days prior to the initial date the course will be taught—whichever occurs earlier.

*Rulemaking Authority 455.2177, 455.2178, 455.2179, 473.304, 473.312 FS. Law Implemented 455.2177, 455.2178, 455.2179, 473.312(1)(a), (c) FS. History—New 7-10-05.*

#### **61H1-33.0035 Continuing Professional Education/Governmental Auditing.**

(1) Any certified public accountant who is involved in governmental audits shall be required to comply with the continuing professional education (CPE) requirements imposed by Government Auditing Standards 2018 Revision commonly referred to as the "Yellow Book," which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-13319> or at <http://www.gao.gov/yellowbook>, if during the engagement:

- (a) The certified public accountant is the in charge person, or
- (b) The certified public accountant reviews the working papers or report or both, or
- (c) The certified public accountant supervises others, or
- (d) The certified public accountant is the only certified public accountant performing the work.

(2) Certified public accountants conducting audits controlled by either paragraph (a) or (b) below, shall be required to take 24 hours of governmental CPE and shall be required to comply with the CPE requirements imposed by Government Auditing Standards.

(a) Government Auditing Standards, 2018 Revision, as referenced in subsection (1) of this rule.

(b) The Rules of the Auditor General, Chapter 10.550, as referenced in Rule 61H1-20.0093, F.A.C.

(3) The required 24 hours of governmental CPE may be used to meet the courses required in paragraph 61H1-33.003(1)(a), F.A.C., provided they meet the requirements of subsection 61H1-33.003(2), F.A.C.

*Rulemaking Authority 473.312(3) FS. Law Implemented 473.312(3) FS. History—New 8-22-90, Amended 7-7-92, Formerly 21A-33.0035, Amended 5-26-96, 4-13-08, 12-10-09, 7-27-21.*

#### **61H1-33.006 Inactive or Delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees.**

(1) Each Florida certified public accountant who has requested inactive status or became delinquent, as distinguished from a Florida certified public accountant whose certificate or license has been suspended, who desires

to become an active Florida certified public accountant, i.e., engage or reengage in the practice of public accounting in Florida, shall apply for such reactivation by completing and submitting to the Department, the CPA Change of Status Form (DBPR CPA 7), which is incorporated by reference in Rule 61-35.003, F.A.C., and available on the Department's website and the Board office located at 240 N.W. 76th Drive, Suite A, Gainesville, FL 32607-6655.

(2) However, if a licensee completed, reported, and provided proof of CPE completion in the DBPR On-line Services Portal pursuant to Rule 61H1-33.003, F.A.C., but their license is delinquent on January 1 for failure to report compliance with continuing professional education requirements and pay renewal fees by the preceding December 31st, a licensee may reactivate, pursuant to Section 473.311, F.S., by certifying the required hours have been completed and by paying the renewal and reactivation fees required by Rules 61H1-31.003, 61H1-31.004 and 61H1-31.006, F.A.C., by March 15 of the same year of the delinquency.

(3) For a licensee to reactivate a delinquent license after March 15 of the same year of the delinquency or to reactivate an inactive license at any time, their application shall include proof of CPE completion of the required number of continuing professional education hours as follows:

<b>Accounting/Auditing</b>	<b>Ethics</b>	<b>Behavioral</b>	<b>Total Hours</b>
At least 30 hours	At least 8 hours of Florida Board-approved ethics.	No more than 30 hours	120 Hours

(4) All continuing professional education courses must be completed no more than 24 months immediately prior to the date of the application for reactivation.

(5) The first establishment period after reactivation shall commence on the following June 1st and the initial designated reestablishment date shall be the third June 30th following reactivation.

*Rulemaking Authority 455.271, 473.304, 473.312, 473.313 FS. Law Implemented 455.271, 473.312, 473.313, 559.79 FS. History—New 12-4-79, Amended 2-3-81, 11-6-83, 3-29-84, 8-20-85, Formerly 21A-33.06, Amended 4-8-86, 12-28-89, 10-16-90, Formerly 21A-33.006, Amended 12-14-93, 5-26-96, 7-23-06, 12-10-09, 7-7-10, 12-3-13, 7-29-18, 10-15-19, 12-23-21, 9-7-22.*

#### **61H1-33.0065 Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States.**

*Rulemaking Authority 455.02(2) FS. Law Implemented 455.02(2) FS. History—New 7-13-04, Amended 10-26-09, Repealed 1-12-21.*

#### **61H1-33.007 Reactivation of Inactive Licenses.**

*Rulemaking Authority 473.304, 473.313 FS. Law Implemented 473.313 FS. History—New 8-9-82, Amended 11-6-84, Formerly 21A-33.07, Amended 4-8-86, Formerly 21A-33.007, Repealed 7-23-03.*

#### **61H1-33.008 Permanent Retirement Defined.**

*Rulemaking Authority 473.304, 473.313 FS. Law Implemented 473.313 FS. History—New 10-25-84, Amended 5-12-85, Formerly 21A-33.08, Amended 12-2-92, Formerly 21A-33.008, Repealed 1-11-95.*

#### **61H1-33.009 Relicensure of Expired Licenses.**

*Rulemaking Authority 473.304, 473.313 FS. Law Implemented 473.313 FS. History—New 10-25-84, Formerly 21A-33.09, 21A-33.009, Repealed 1-30-96.*

## **CHAPTER 61H1-34: PERSONS OTHER THAN CERTIFIED PUBLIC ACCOUNTANTS**

- 61H1-34.001 Preparation of Financial Statements by Persons Other than Certified Public Accountants or Inactive Certified Public Accountants
- 61H1-34.002 Notice to Public by Non-Licensed Persons

### **61H1-34.001 Preparation of Financial Statements by Persons Other than Certified Public Accountants or Inactive Certified Public Accountants.**

(1) As provided in Section 473.322, F.S., persons other than certified public accountants or certified public accountants on inactive status may prepare financial statements and submit them to others provided that:

(a) Such financial statements are issued without attestation as an expert in accountancy as to the reliability or fairness of the presentations shown therein or expression of opinion as defined in Rule 61H1-20.005.

(b) Such financial statements, or reports, transmittal letters or other written communication issued or associated with financial statements, shall not in any manner whatsoever state, show, claim or imply that the financial statements resulted from an audit examination or review.

(c) Any report, transmittal letter or other written communication issued with such financial statements, in addition to setting forth an address, salutation and reference to the completion and submission of a tax return, may identify and list the financial statements submitted, state that the financial statements are unaudited or prepared without audit from the records or books of account, and state that such financial statements are in agreement or have been reconciled with the tax return.

(d) Any such report, transmittal letter or other written communication issued with the financial statements as provided in subparagraph (c) above may also contain a listing of procedures (as distinguished from auditing procedures or standards and accounting principles or standards) used in preparing the financial statements, provided:

1. the procedures listed are not so extensive, or the listing worded in such manner, as to claim or imply that the financial statements are the result of an audit or examination performed in accordance with generally accepted auditing standards or a review as contemplated by standards for accounting and review services; and

2. the description of the procedures does not use words or terminology which connote or relate to an audit or examination in accordance with generally accepted auditing standards or the presentation of financial statements in conformity with generally accepted accounting principles (e.g., words or terminology such as audit, examination, opinion, certificate, certify, fairly present, auditing procedure, auditing standard, audit test, test of accounting records, accounting principle or standard, generally accepted auditing standard, generally accepted accounting principle or standard).

3. the listing of such procedures is followed by the statement, "these procedures do not constitute an audit or examination of these financial statements in accordance with generally accepted auditing standards, nor do they imply either an expression of opinion, or disclaimer of opinion, as to the fairness of the presentation of the financial statements or their conformity with generally accepted accounting principles" or a statement or words to that effect.

(2) The preparation of tax returns by persons other than certified public accountants, which is permitted by Section 473.322, F.S., may not include the preparation of financial statements and submission to others except in accordance with the guidelines contained in paragraph (1) above.

*Specific Authority 473.304, 473.323 FS. Law Implemented 473.302(7)(b), 473.322 FS. History—New 12-4-79, Formerly 21A-34.01, 21A-34.001, Amended 2-3-94, 1-11-95, 10-28-98.*

### **61H1-34.002 Notice to Public by Non-Licensed Persons.**

A person or firm that is not a certified public accountant or authorized to practice public accounting pursuant to the practice privileges granted in Section 473.3141, F.S., shall not hold itself out as engaged in or as qualified to engage in the practice of public accounting; and shall not assume or use the titles or designations "certified public accountant" or "public accountant" or, a "CPA" or any other title, designation, words, letters, abbreviations, sign, card or device tending to indicate licensure to practice public accounting. Any such person or firm that is a member of, or is associated

with any association, society or other group of accountants or public accountants, shall when indicating such membership association include the words “Not registered with the Board of Accountancy,” “Not licensed by the Department of Business and Professional Regulation,” or similar words in letters of equal size and prominence to those indicating association, society or other group membership or affiliation.

*Rulemaking Authority 473.304, 473.323 FS. Law Implemented 473.322, 473.323 FS. History—New 12-4-79, Formerly 21A-34.02, 21A-34.002, Amended 12-10-09.*

## **CHAPTER 61H1-35: FOREIGN LICENSURE EXAMINATION**

- 61H1-35.001      Application for Foreign Licensure Examination (Repealed)
- 61H1-35.002      Examination to Foreign Speaking Florida Residents (Repealed)

### **61H1-35.001 Application for Foreign Licensure Examination.**

*Rulemaking Authority 455.11, 473.304 FS. Law Implemented 455.11 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-35.01, 21A-35.001, Repealed 3-7-10.*

### **61H1-35.002 Examination to Foreign Speaking Florida Residents.**

*Rulemaking Authority 455.11, 473.304, 473.306 FS. Law Implemented 455.11, 473.306 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-35.02, 21A-35.002, Amended 12-10-09, Repealed 11-11-15.*

## CHAPTER 61H1-36: DISCIPLINE

61H1-36.001	Discipline (Repealed)
61H1-36.002	Return of Certificates or Licenses (Repealed)
61H1-36.003	Time for Payment of Civil Penalties (Repealed)
61H1-36.004	Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances
61H1-36.005	Citations
61H1-36.0055	Minor Violation, Notice of Non-Compliance
61H1-36.006	Mediation

### **61H1-36.001 Discipline.**

*Rulemaking Authority 473.304, 473.322, 473.323 FS. Law Implemented 473.322, 473.323 FS. History—New 12-4-79, Amended 1-20-85, Formerly 21A-36.01, Amended 10-20-86, 1-25-87, Formerly 21A-36.001, Amended 12-7-93, Repealed 1-30-96.*

### **61H1-36.002 Return of Certificates or Licenses.**

*Rulemaking Authority 473.304, 473.322, 473.323 FS. Law Implemented 473.322, 473.323 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-36.02, 21A-36.002, Repealed 3-7-10.*

### **61H1-36.003 Time for Payment of Civil Penalties.**

*Rulemaking Authority 455.227(2), 473.304 FS. Law Implemented 455.227(2) FS. History—New 2-3-81, Formerly 21A-36.03, 21A-36.003, Repealed 11-11-15.*

### **61H1-36.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.**

(1)(a) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 473, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 473, F.S. The disciplinary guidelines are based upon a single count violation of each provision listed. The brief description of each violation is provided for quick reference and is not meant to convey all elements of any given statutory provision; the full language of each statutory provision cited must be consulted in order to determine the conduct involved. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion.

(b) Standard probationary terms will include, as applicable, a review of the licensee's practice, including analysis of selected financial statements (including working papers), restriction of the scope of the licensee's practice and review of internal controls put in place by the licensee in order to eliminate the violation. All of the above will usually include the use of a CPA consultant employed by the Department of Business and Professional Regulation or approved by the Board and will usually require the licensee to assume the cost of the consultant's activities. Additional continuing education may also be required of a licensee where deficiencies in a particular practice area are noted. In all cases of probation or suspension a report showing compliance with the terms of the final order must be received and accepted by the Board prior to the termination of the probation or suspension. Other specific terms of probation or suspension may be imposed, as necessary, by the Board.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) Attempting to procure license by bribery or fraudulent	Revocation and \$5,000 fine if licensed (denial of license and refer to State	

misrepresentation (Sections 455.227(1)(h), 473.323(1)(b), F.S.)	Attorney if not licensed)	
(b) CPA License disciplined by another jurisdiction (Sections 455.227(1)(f), 473.323(1)(c), F.S.)	Same penalty as imposed in other jurisdiction or imposition of same range of penalties as those set forth in those rules for the same type of violation	
(c) Criminal conviction relating to accountancy (Sections 455.227(1)(c), 473.323(1)(d), F.S.)	Misdemeanor: Reprimand  Felony: One (1) year suspension; two (2) year probation \$5,000 fine	Reprimand and \$5,000 fine and two (2) year probation one (1) year suspension  Revocation and \$5,000 fine
(d) Knowingly making or filing false report (Sections 455.227(1)(g), (1)(l), 473.323(1)(e), F.S.)	Reprimand one (1) year probation	Revocation and \$5,000 fine Reprimand, one (1) year probation and \$5,000 fine
(e) Fraudulent, false, deceptive or misleading advertising (Section 473.323(1)(f), F.S.) (Rule 61H1-24.001, F.A.C.)	\$250 fine	\$1,000 fine
(f) Incompetence (mental or physical impairment) (Section 473.323(1)(g), F.S.)	Suspension until ability to practice proved, followed by probation	
(g) Fraud, deceit or misleading (Sections 455.227(1)(a), (m), 473.323(1)(g), (k), F.S.)	Reprimand, one (1) year suspension; two (2) years probation and \$5,000 fine	\$5,000 fine and revocation
(h) Negligence or misconduct (Section 473.323(1)(g), F.S.)	\$250 fine	Reprimand and one (1) year probation (continuing Education and review of practice at licensee's expense and limited area of practice) and \$5,000 fine
1. Technical standards and professional competence (Sections 455.227(1)(o), 473.315, F.S.) (Rule 61H1-21.006 and Chapter 61H1-22, F.A.C.)	Reprimand, probation, and \$500 fine	Suspension and \$5,000 fine
2. Lack of independence (sections 473.315, 473.3205, F.S.) (Rule 61H1-21.001, F.A.C.)	Reprimand, one (1) year probation with review of practice and continuing education	Revocation and \$5,000 fine
3. Commissions and contingent fees (Rules 61H1-21.003, 61H1-21.005, F.A.C.)	Reprimand	One (1) year suspension, two (2) years probation and \$2,500 fine
4. Client records disposition (Rule 61H1-23.002, F.A.C.)	\$250 fine	Suspension until records are returned and \$1,000 fine
(i) Practicing on suspended or revoked license (Section 473.323(1)(i), F.S.)	Revoke if previously suspended; refer to State Attorney if previously revoked	



(j) Practicing on inactive or delinquent license (Sections 455.271, 473.323(1)(i), F.S.)	Reprimand and fine based on length of time in practice while inactive; \$100/month or \$5,000 maximum (penalty will require licensure or cease practice)	
(k) Licensees practicing in an unlicensed firm (including sole proprietors) or otherwise in violation of (Sections 473.309, 473.3101, and 473.323(1)(g), F.S.) (Rule 61H1-26.001, F.A.C.)	Reprimand and \$100 per maximum of \$5,000 and suspension of right to practice until corrected	
(l) Suspension or revocation of right to practice in front of any state or federal agency, including the Public Company Accounting Oversight Board. (Sections 455.227(1)(f), 473.323(1)(j), F.S.)	Same penalty as imposed by agency or imposition of same range of penalties as those set forth in those rules for the same type of violation	
(m) Lack of Good Moral Character (Section 473.323(1)(l), F.S.)	Reprimand; and one year probation	Revocation
(n) Failure to pay fines or administrative cost imposed by final order or citations set for in Rule 61H1-36.005, F.A.C.	\$100 per month late fee for every month the licensee is late to a maximum of \$5,000	Revocation
(o) Violation of CE requirements (Sections 473.323(1)(a) by 473.312 or 473.323(1)(h), 455.227(1)(q), F.S., by Rule 61H1-33.003 and/or 61H1-33.0035, F.A.C.)	Reprimand, probation, make up missed CEs and penalty CEs	Suspension and \$1,000 fine
(p) Violation of client Confidentiality (Section 455.227(1)(q), F.S., by Rule 61H1-23.001, F.A.C.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
(q) Misleading or deceptive name (section 473.321, F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$1,000 fine
(r) Violation of Section 473.323(1)(a), F.S. by Section 473.322, F.S.:		
1. Present license of another as one's own (Section 473.322(1)(d), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
2. Give false or forged evidence to Board or member thereof (Section 473.322(1)(e), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine

3. Use or attempt to use license that has been suspended, revoked, or placed on inactive or delinquent status (Section 473.322(1)(f), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
4. Employ unlicensed persons to practice public accounting; aiding or assisting unlicensed practice public accounting (Section 473.322(1)(g), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
5. Conceal information relative to violations of chapter 473, F.S. (Section 473.322(1)(h), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
(s) Failure to provide legally-required written disclosure to client or public (violation of Section 473.323(1)(m), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(t) Violation of Section 473.323(1)(a), F.S., by Section 455.227(1), F.S.:		
1. Improper influence on client (Section 455.227(1)(n), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
2. Improper delegation of professional responsibilities (Section 455.227(1)(p), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
3. Improper interference with investigation or disciplinary proceeding (Section 455.227(1)(r), F.S.)	Reprimand, probation, and \$1,000 fine	Revocation and \$5,000 fine
4. Failure to perform statutory/legal obligations (Section 455.227(1)(k), F.S.)	Reprimand, probation and \$1,000 fine	Suspension and \$1,000 fine
(u) Failure to maintain current address (violation of Sections 455.275, 455.227(1)(q), and 473.323(1)(h), F.S., by violating Rule 61H1-26.005, F.A.C.)	Reprimand and \$500 fine	Suspension and \$1,000 fine
(v) Violation of Sections 473.323(1)(h) and 455.227(1)(q), F.S., by Rule 61H1-25.001, F.A.C. Same as subparagraph (t)2.	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(w) Minimum capital (violation of and Sections 455.227(1)(q) and 473.323(1)(h), F.S., by Rule 61H1-26.002, F.A.C.)	Reprimand, probation, \$1,000 fine and corrective action. Must document required capital	Suspension and \$1,000 fine
(x) Licensure of firm names and changes	Reprimand, probation, \$100/ month fine and corrective action. Must document	Suspension and \$1,000 fine

(violation of Sections 455.227(1)(q) and 473.323(1)(h), F.S., by Rules 61H1-26.003 and 61H1-26.004, F.A.C.)	licensure	
(y) Failure to report discipline violation (Section 455.227(1)(i), F.S.)	Reprimand, probation, and \$1,000 fine	Suspension and \$5,000 fine
(z) Failure to timely report being convicted or found guilty of, or entering a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction (more than 30 days late) (Section 455.227(1)(t), F.S.)	Reprimand	Suspension and \$5,000 fine
(aa) Failure to obtain continuing professional education hours (section 473.312, F.S., Rule 61H1-33.003, F.A.C.)		
<b>First Offense</b>		
<b>NUMBER OF HOURS LACKING</b>	<b>Minimum</b>	<b>Maximum</b>
1 to 16 hours	\$1,000 fine, mandatory CPE audit participation for the next two re-establishment periods, and within 90 days of final order, makeup missing hours plus 20 additional penalty hours in the same category as those missed. If missing hours are ethics, penalty hours would consist of accounting/auditing.	\$2,000 fine, mandatory CPE audit participation for the next two re-establishment periods, and within 90 days of final order, makeup missing hours plus 20 additional penalty hours in the same category as those missed. If missing hours are ethics, penalty hours would consist of accounting/auditing.
17 to 80 hours	\$1,000 fine, makeup missing hours plus additional penalty hours equal to the number of those missed in the same category as those missed, suspension until all hours are completed, and mandatory CPE audit participation for the next two re-establishment periods.	Suspension, \$5,000 fine, makeup missing hours plus additional penalty hours equal to the number of those missed and within same category as those missed, and mandatory CPE audit participation for the next two re-establishment periods.

<b>Second Offense</b>		
<b>NUMBER OF HOURS LACKING</b>	<b>Minimum</b>	<b>Maximum</b>
1 to 16 hours	\$2,000 fine, mandatory CPE audit participation for the next two re-establishment periods, makeup missing hours plus 20 additional penalty hours in the same category as those missed. If missing hours are ethics, penalty hours would consist of accounting/auditing. Suspension until all hours are completed.	\$5,000 fine, mandatory CPE audit participation for the next two re-establishment periods, makeup missing hours plus 20 additional penalty hours in the same category as those missed. If missing hours are ethics, penalty hours would consist of accounting/auditing. Suspension until all hours are completed.
17 to 80 hours	\$2,500 fine, makeup missing hours plus additional penalty hours equal to the number of those missed in the same category as those missed, suspension until all hours are completed, and mandatory CPE audit participation for the next two re-establishment periods.	Suspension, \$5,000 fine, makeup missing hours plus additional penalty hours equal to the number of those missed, in the same category as those missed, and mandatory CPE audit participation for the next two re-establishment periods.
(bb) Fraudulent renewal of a license (section 473.312, F.S., Rule 61H1-33.003, F.A.C.)	Suspension, \$5,000 fine, makeup missing hours plus additional penalty hours equal to the number of those missed and in the same category as those missed, and mandatory CPE audit participation for the next two re-establishment periods.	Revocation and up to \$5,000 fine.
(cc) Failure to enroll in peer review program when required (sections 473.323(1)(a) and 473.3125(4), F.S.)	Suspension until enrollment and a reprimand	Revocation and \$5,000 fine
(dd) Utilizing CPA designation without an active license (Section 473.323(1)(a), F.S., through a violation of section 473.322(1)(b), F.S.)	Reprimand, completion of four penalty hours of Board-approved ethics continuing professional education hours	Suspension and \$5,000 fine
(ee) Performing work described in sections 473.302(8)(a), (d), F.S., (e.g. – audits, reviews, compilations, or attestation engagements) without an active individual and/or firm license (section 473.323(1)(a), F.S., through a violation of section 473.322(1)(c), F.S.)	Reprimand, \$5,000 fine, completion of four penalty hours of Board-approved ethics, and eight penalty hours of Accounting and Auditing continuing professional education hours.	Suspension, \$5,000 fine, and completion of eight penalty hours of Accounting and Auditing continuing professional education hours.
(ff) Practicing public accountancy with a retired license (Section 473.313 (2), F.S., subsection	\$1000 fine; Suspension	\$5000 fine; Revocation

(3) The Board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final penalty.

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.
2. In the case of negligence; of the magnitude and scope of the engagement and the damage inflicted upon the general public by the licensee's misfeasance.
3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.
4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 455.225(3), F.S., has previously been issued to the licensee.
5. Multiple convictions of violations of the same provision of Chapter 473, F.S., or the rules promulgated thereto contained in the same administrative complaint.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligence, the minor nature of the engagement in question and lack of danger to the public health, safety and welfare resulting from the licensee's misfeasance.
2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.
3. Restitution of any damages suffered by the licensee's client.
4. The licensee's professional standing among his peers including continuing education.
5. Steps taken by the licensee or his firm to insure the non-occurrence of similar violations in the future.
6. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.
7. Cooperation with the Department of Business and Professional Regulation and the Board including understanding and admission of the violation by the Respondent.

*Rulemaking Authority 455.2273, 473.304, 473.323 FS. Law Implemented 455.2273, 473.323 FS. History--New 1-7-87, Amended 9-16-87, 8-25-88, 6-18-91, 12-30-91, Formerly 21A-36.004, Amended 12-7-93, 5-23-94, 8-16-99, 1-31-05, 7-28-10, 5-6-15, 9-30-15, 2-6-17, 1-31-18, 6-18-18, 10-24-19, 10-30-22, 4-16-25.*

#### **61H1-36.005 Citations.**

(1) Pursuant to Section 455.224, F.S., the Board sets forth in subsection (3) of this rule, those violations for which there is no substantial threat to the public health, safety and welfare; or, if there is a substantial threat to the public health, safety and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the fine to be imposed.

(2) Prior to issuance of the citation, the Department must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.

(3) The following violations with accompanying fines may be disposed of by citation:

<b>VIOLATION</b>	<b>PENALTY RANGE</b>
(a) Practicing on an inactive or delinquent license (section 473.323(1)(i), F.S.)	Reprimand and fine based on length of time in practice while inactive; \$100/month or \$5,000 maximum (penalty will require licensure or cease practice).
(b) Licensees practicing in an unlicensed firm	Reprimand and \$100 per month fine to maximum of

(including sole proprietors) or otherwise in violation of Sections 473.309, 473.3101, and 473.323(1)(g), F.S.	\$5,000 and suspension of right to practice until corrected.
(c) Licensees who complete continuing professional education requirements timely but who are found to be deficient after December 31st of their renewal year (Rule 61H1-33.003, F.A.C.)	Submit documentation that deficient hours have been completed and pay \$50 fine within 60 days.
(d) Licensees who fail to timely submit complete documentation for a CE audit	Fined \$100 per month.
(e) Retention of client records when records are returned more than three months after the date requested and there is no evidence that the failure to return the records was due to any fees not being paid (Rule 61H1-23.002, F.A.C.)	\$500 fine.
(f) Failure to timely report being convicted or found guilty of, or entering a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction (up to 30 days late) (Section 455.227(1)(t), F.S.)	\$250 fine.

(4) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions thereof. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions pursuant to paragraph 61H1-36.004(3)(a), F.A.C.

(5) The procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 455.225, F.S., to be applied. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 455.225, F.S., shall apply.

*Rulemaking Authority 455.224, 473.304 FS. Law Implemented 455.224 FS. History—New 12-30-91, Formerly 21A-36.005, Amended 12-7-93, 5-23-94, 8-16-99, 5-11-03, 7-23-06, 7-28-10, 10-13-22.*

#### **61H1-36.0055 Minor Violation, Notice of Non-Compliance.**

(1) Pursuant to Section 455.225(3), F.S., the Department may issue a notice of non-compliance to a certified public accountant for an initial offense of a minor violation. Failure of the person to whom a notice of non-compliance is issued to take corrective action which is set forth in the notice of violation within 15 days of the receipt of the notice may result in further disciplinary action.

(2) The following violations are minor violations for which the Department may issue a notice of non-compliance:

(a) Retention of client records when records are returned within three months of the date requested and there is no evidence that the initial failure to return the records was due to any fees not being paid.

(b) Use of “& Associates” in a firm name when the firm does not have a licensee that qualifies as the “associate.”

(c) Licensees practicing in a firm which was not licensed within three months of the date the firm began doing business. Any late fees shall still apply.

(d) Practicing on a delinquent license for up to three months.

(e) Failure to timely complete required CPE if failure is due to erroneous belief that completed CPE satisfied requirements and deficiency has been completed.

(f) Failure to notify the Board in writing within 30 days of the occurrence of any of the following:

1. Admission or addition of a co-partner, shareholder or member in the Florida office;
2. Retirement or death of a co-partner, shareholder, or member in a Florida office;
3. Termination of the partnership, professional service corporation or limited liability company of any Florida

office.

(g) Failure to provide the Board with a list of all co-partners, shareholders or members in the U.S. pursuant to subsection 61H1-26.004(2), F.A.C.

(h) Employment by a CPA firm of any person with a delinquent or inactive license; or, working for a CPA firm with an inactive or delinquent license for one year or less.

(i) Issuance of a check to the Board or Department that is subsequently dishonored.

(3) The Department shall not issue a notice of non-compliance for any subsequent violations of the same provision of the law or rules to the same licensee, registrant or certificate holder, within a three-year period following the initial notice of non-compliance for violation of that provision.

*Rulemaking Authority 455.225(3), 473.304 FS. Law Implemented 455.225(3) FS. History—New 10-15-97, Amended 7-16-98, 8-16-99, 7-23-06, 7-28-10.*

#### **61H1-36.006 Mediation.**

(1) “Mediation” means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and nonadversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.

(2) The Board finds that mediation is an acceptable method of dispute resolution for the following violations as they are economic in nature or can be remedied by the certified public accountant:

(a) Failure of the certified public accountant to timely pay any assessed administrative fines or costs;

(b) Retention of client records contrary to Rule 61H1-23.002, F.A.C.;

(c) Issuance of a check to the Board or Department that is subsequently dishonored;

(d) Practicing in or as an unlicensed firm less than three months; and/or

(e) Practicing on a delinquent license less than three months.

(3) A “mediator” means a person who is certified in mediation by the Florida Bar, the Florida Supreme Court, or the Division of Administrative Hearings.

*Rulemaking Authority 455.2235 FS. Law Implemented 455.2235 FS. History—New 11-21-94, Amended 7-23-06, 12-10-09.*

## **CHAPTER 61H1-38: CERTIFIED PUBLIC ACCOUNTANT EDUCATION MINORITY ASSISTANCE PROGRAM**

61H1-38.001	Definitions
61H1-38.002	Fifth Year of Accounting Education Program
61H1-38.003	General Requirements
61H1-38.004	Eligibility Criteria
61H1-38.005	Scholarships
61H1-38.006	Terms for Council Members
61H1-38.007	Fees

### **61H1-38.001 Definitions.**

Minority Person – As used herein, the term “minority person” shall have the same meaning as set out in Section 288.703(4), F.S.

*Rulemaking Authority 473.304(1), 473.3065(3) FS. Law Implemented 473.3065 FS. History–New 9-22-99, Amended 1-12-21.*

### **61H1-38.002 Fifth Year of Accounting Education Program.**

As used in Section 473.3065(1), F.S., a student will be deemed to be enrolled in the “fifth year of accounting education program” so long as the student has completed or is in the final semester of completing a minimum of one hundred and twenty (120) semester hours of academic credit and either is in the process of matriculation in an academic program of higher learning in this state that will result in completion of at least thirty (30) semester hours in excess of that required for a baccalaureate degree or, when the scholarship authorized under Section 473.3065, F.S., will be awarded, has been accepted into and will be enrolled in a different program of higher learning at an approved institution of higher learning in this state that will result in the completion of at least thirty (30) semester hours in excess of that required for a baccalaureate degree. Any program meeting this definition must be configured such that successful completion of the program will qualify a candidate to take the CPA examination on Florida under the provisions of Chapter 473, F.S., and the rules promulgated thereto.

*Rulemaking Authority 473.304(1), 473.3065(3) FS. Law Implemented 473.3065 FS. History–New 9-22-99.*

### **61H1-38.003 General Requirements.**

Approved Institutions – Residency scholarships will only be awarded to students who are Florida residents and who are enrolled in the fifth year of an accounting education program in an institution of higher learning in this state which is accredited by one of the accrediting bodies set forth in Rule 61H1-27.001, F.A.C.

*Rulemaking Authority 473.304(1), 473.3065(3) FS. Law Implemented 473.3065 FS. History–New 9-22-99.*

### **61H1-38.004 Eligibility Criteria.**

A student who meets the foregoing general criteria shall be eligible to be chosen to receive a scholarship so long as the following criteria are met:

(1) Applicants must demonstrate a financial need which is defined as the cost of attendance at an institution of higher education less the expected family contribution and any gift aid for which the student is entitled. “Cost of attendance” is defined as a Board approved estimate of the expenses incurred by a typical financial aid student attending college. It includes direct educational costs (tuition, books, supplies, computers) as well as indirect costs (room and board, transportation, laundry, child care and personal expenses). Applicants will be required to authorize the Certified Public Accountant Education Minority Assistance Advisory Council (Council) to verify information submitted including financial assistance and educational costs. It is the intent that scholarship money from this source should not affect a student’s eligibility for other scholarships, but should reduce their self-help aid. However, the Council shall take other assistance into consideration when determining a student’s eligibility for a scholarship under this section.



(2) Applicants must be enrolled as full-time or part-time students, as designated by the academic institution, in a fifth year accounting program as defined in Section 473.3065(1), F.S., at an approved institution as defined in Rule 61H1-27.001, F.A.C., and declared a major in accounting.

(3) Applicants must demonstrate scholastic ability of a minimum undergraduate grade point average of 2.5 based on a 4.0 scale.

(4) Applicants must be academically in good standing as defined by the college or university.

(5) Applicants must be of "good moral character" as that term is defined in Section 473.306(2)(b), F.S.

(6) All applications must be postmarked by June 1 of the academic year to which the scholarship will apply.

*Rulemaking Authority 473.304(1), 473.3065(3) FS. Law Implemented 473.3065 FS. History—New 9-22-99, Amended 5-28-06, 10-9-13, 10-28-24.*

#### **61H1-38.005 Scholarships.**

(1) Scholarships for full-time students will be awarded in an amount not to exceed \$8,000.00, per semester up to a maximum of two (2) semesters.

(2) Scholarships for part-time students will be awarded at half the amount provided to full-time students, not to exceed \$4,000.00, per semester up to maximum of two (2) semesters.

(3) Scholarship awards will be made payable to the institution and will be transmitted during September for those enrolled in the fall term and during January for those enrolled in the winter term.

(4) A maximum of \$200,000.00 may be expended for all scholarships each year.

(5) A minimum of \$1,000.00 must be maintained in the program account.

*Rulemaking Authority 473.304(1), 473.3065(3) FS. Law Implemented 473.3065 FS. History—New 9-22-99, Amended 10-5-09, 10-9-13, 1-31-18, 1-26-22, 10-28-24.*

#### **61H1-38.006 Terms for Council Members.**

Initial terms will be phased in by appointing two (2) members for a two (2) year term to expire December 31, 2000, and two (2) members to a three (3) year term to expire December 31, 2001. Thereafter all terms will be three (3) years except for the Board Member who shall be appointed annually by the Board Chair.

*Rulemaking Authority 473.304(1), 473.3065(3) FS. Law Implemented 473.3065 FS. History—New 9-22-99.*

#### **61H1-38.007 Fees.**

An equal assessment per license out of existing licensing fees, as set forth in Section 473.3065, F.S., and not to exceed \$10 per license shall be made in an amount needed to collect \$200,000.00 per fiscal year in order to fund the authorized scholarships.

*Rulemaking Authority 473.304(1), 473.3065(3) FS. Law Implemented 473.3065 FS. History—New 9-22-99, Amended 10-9-13.*

## CHAPTER 61H1-39: PEER REVIEW

61H1-39.001	Definitions
61H1-39.002	Peer Review Program Standards
61H1-39.003	Peer Review Administering Entities
61H1-39.004	Peer Review Oversight Committee Composition and Responsibilities
61H1-39.005	Compliance with Peer Review Requirements

### **61H1-39.001 Definitions.**

(1) “Board” means the Florida Board of Accountancy.

(2) “Compilation” means an engagement that applies limited procedures to assist management in the presentation of financial statements and report on those statements without providing any assurance that there are no material modifications that should be made to the financial statements in order for them to be in accordance with the applicable financial reporting framework.

(3) “Firm” means a sole proprietor, partnership, corporation, limited liability company, or any other firm required to be licensed under Section 473.3101, F.S.

(4) “Peer Review Administering Entity” or “AE” means an organization approved by the board to facilitate and administer a peer review program in accordance with the peer review standards established by the board.

(5) “Peer Review Program” means the entire peer review process of a peer review administering organization.

(6) “Review” means an engagement that obtains limited assurance as a basis for reporting whether the certified public accountant firm (CPA firm) is aware of any material modifications that should be made to the financial statements in order for the statements to be in accordance with the applicable financial reporting framework. A review includes primarily analytical procedures to financial data and inquiries of management. A review engagement does not contemplate obtaining an understanding of the entity’s internal control, assessing fraud risk, testing accounting records by inspection, observation confirmation or examination of source documents or other procedures ordinarily performed in an audit engagement and accordingly does not include an expression of an opinion on the financial statements.

*Rulemaking Authority 473.3125, 473.304 FS. Law Implemented 473.3125(4) FS. History—New 5-4-14, Amended 3-1-16.*

### **61H1-39.002 Peer Review Program Standards.**

The board hereby adopts and incorporates by reference, as its minimum standards for administering, performing and reporting on peer reviews, the American Institute of Certified Public Accountants, Incorporated’s “Standards for Performing and Reporting on Peer Review” and “Peer Review Standards Interpretations,” (AICPA Standards), effective May, 2015, and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06480> or [www.aicpa.org/Research/Standards/PeerReview/DownloadableDocuments/PeerReviewStandards.pdf](http://www.aicpa.org/Research/Standards/PeerReview/DownloadableDocuments/PeerReviewStandards.pdf) and <http://www.flrules.org/Gateway/reference.asp?No=Ref-06481> or <http://www.aicpa.org/Research/Standards/PeerReview/DownloadableDocuments/PeerReviewStandardsInterpretations.pdf>, respectively.

*Rulemaking Authority 473.3125, 473.304 FS. Law Implemented 473.3125(2) FS. History—New 4-21-14, Amended 3-1-16.*

### **61H1-39.003 Peer Review Administering Entities.**

(1) Peer Review Administering Entities shall be approved by the Board.

(2) To be approved by the Board as a Peer Review Administering Entity (AE), an organization must submit an administration plan to the Board for review and approval. The plan of administration must:

(a) Establish Report Acceptance Bodies (RAB) and provide professional staff, as needed, for the operation of the review program;

(b) Establish and document a program to communicate to enrolled Firms the latest development in peer review standards and the most common findings in the reviews conducted by the AE;

(c) Establish and document procedures for resolving any disagreement which may arise out of the performance of a review;

(d) Establish procedures to resolve matters which may lead to the dismissal of a Firm from the peer review program, and conduct hearings pursuant to those procedures;

(e) Establish procedures to evaluate and document the performance of each reviewer, and conduct hearings which may lead to the disqualification of a reviewer who does not meet the standards adopted in Rule 61H1-39.002, F.A.C.;

(f) Require the maintenance of records of reviews conducted under the program in accordance with the records retention rules of standards adopted in Rule 61H1-39.002, F.A.C.; and,

(g) Provide for the periodic performance assessments and related reports to the Board's Peer Review Oversight Committee.

(3) The Board adopts the American Institute of Certified Public Accountants (AICPA) as an approved AE and its Peer Review Program and other Peer Review Programs administered by entities fully involved in the administration of the AICPA Peer Review Program. These AEs are not required to submit a plan of administration required in subsection (2), above. The Board may approve other AEs.

(4) If requested by the Board or the Peer Review Oversight Committee, a peer review administering entity shall provide a list of the Firms enrolled in its programs and the date of their last peer review.

(5) The Board shall maintain a list of Board-approved peer review administering entities.

*Rulemaking Authority 473.3125, 473.304 FS. Law Implemented 473.3125(2) FS. History—New 5-4-14, Amended 3-18-18.*

#### **61H1-39.004 Peer Review Oversight Committee Composition and Responsibilities.**

(1) The Board shall appoint a peer review oversight committee (PROC) to oversee and monitor implementation of the peer review requirement set forth in Section 473.3125, F.S. and the licensee renewal requirements of Section 473.311(2), F.S.

(2) The PROC shall consist of three members, appointed for a term of service of no less than three years and no more than five years. Board appointment shall be based upon the review of applications of those who possess the following qualifications:

(a) Current licensure in good standing as a Florida certified public accountant; and

(b) Extensive auditing experience as part of a firm or practice unit that has undergone a peer review and received a review rating of pass on the most recent review.

(3) PROC members may not:

(a) Be a current member of the Board;

(b) Be an employee of the department or AE;

(c) Be a voting member of the AE's governing board; or

(d) Perform any enforcement related work for the board/department during their term on the PROC.

(4) Responsibilities of the PROC shall include:

(a) Recommending to the Board the approval or termination of peer review administering entities, peer review programs and peer review standards;

(b) Monitoring and assessing the effectiveness of the peer review programs and peer review standards; and,

(c) Providing a written report to the Board no later than December 1, 2016, and annually thereafter, which includes:

1. A message from the PROC Chair;

2. A summary of the background and PROC responsibilities;

3. A list of PROC members;

4. A list of Board-approved AEs;

5. A summary of PROC activities and accomplishments during the prior year;

6. A chart of the number of Firms that were enrolled at the beginning of the year and at the end of the year with accompanying notes regarding newly enrolled or terminated Firms; and,

7. Findings and concluding recommendations regarding the adequacy of Florida's Peer Review Program and any suggested changes to Florida Statutes and the Florida Administrative Code.

**61H1-39.005 Compliance with Peer Review Requirements.**

(1) An individual practicing pursuant to Section 473.3141, F.S., shall determine whether or not the individual performs services as specified in Section 473.3125(4), F.S.

(2) Effective January 1, 2015, if the firm performs services as specified in Section 473.3125(4), F.S., the firm shall enroll with a board-approved AE prior to submitting an application for licensure or an application for license renewal.

(3) For firms that renew their license for periods beginning January 1, 2015, the firm shall determine whether it performed services as specified in Section 473.3125(4), F.S., for the prior license period.

(a) If the firm performed services as specified in Section 473.3125(4), F.S., during the prior license renewal period, the firm shall enroll in a board approved peer review program.

(b) If the firm did not perform services as specified in Section 473.3125(4), F.S., during the prior license renewal period, the firm is not required to be enrolled in a board approved peer review program on January 1, 2015.

(c) If a firm that has not enrolled in a board approved AE at the time of licensure renewal subsequently decides to perform the services specified in Section 473.3125(4), F.S., the firm shall enroll in a board approved AE prior to performing such services.

(4) A firm is considered enrolled when it has completed the AE's application process and paid the enrollment fee. As part of any disciplinary action relating to services performed as specified in Section 473.3125(4), F.S., the board will require confirmation of the firm's enrollment by a board approved AE.

(5) A firm that is terminated by a board approved AE shall notify the board in writing within 30 days of the effective date of the termination and provide the termination letter from the AE.