

## NOTICE OF ADOPTION

### Education Requirements for Licensure in Public Accountancy

I.D. No. EDU-27-06-00009-A

Filing No. 1129

Filing date: Sept. 19, 2006

Effective date: Oct. 5, 2006

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of sections 52.13, 70.1 and 70.4(b) of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207 (not subdivided); 210 (not subdivided); 6506(1) and (6); 6507(2)(a), (3)(a) and (4)(a); and 7404(1), (2) and (2)

**Subject:** Education requirements for licensure in public accountancy and the endorsement of an out-of-state license in this field.

**Purpose:** To revise requirements for college programs leading to licensure in public accountancy, make changes in the education requirements that applicants for licensure as a certified public accountant must meet, and revise requirements for licensure in this field through the endorsement of an out-of-state license.

**Text or summary was published** in the notice of proposed rule making, I.D. No. EDU-27-06-00009-P, Issue of July 5, 2006.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Anne Marie Koschnick, Legal Assistant, Office of Counsel, Education Department, State Education Bldg., Rm. 148, Albany, NY 12234, (518) 473-8296, e-mail: legal@mail.nysed.gov

#### Assessment of Public Comment

The proposed regulation was published in the State Register on July 5, 2006. Below is a summary of comments received by the State Education Department and the Department's response.

**COMMENT:** The proposed amendment provides needed flexibility in the requirements for licensure in public accountancy, while maintaining rigorous requirements. One of the biggest challenges facing the large public accountancy firms continues to be barriers to the mobility of professionals to perform public accountancy functions in different states. We applaud the Department's ongoing efforts to increase flexibility to enable firms to bring seasoned professionals into New York State when projects require it.

**RESPONSE:** The proposed amendment is designed to remove barriers to New York State licensure in public accountancy for applicants who have

completed out-of-state programs and for experienced certified public accountancies who are practicing in other states.

**COMMENT:** I agree with the proposal to eliminate the mandatory liberal arts and sciences requirement for CPA licensure. Eliminating this requirement will remove a barrier to licensure in New York State.

**RESPONSE:** The proposed amendment deletes the 60 semester hour liberal arts and sciences requirement for registered college programs leading to licensure in public accountancy in New York State. This will provide flexibility to New York State licensure programs and also remove a barrier to licensure for certified public accountants who are licensed in other states and have completed out-of-state programs. To be licensed in New York State they have to complete an equivalent educational program to a New York State registered program and many have not taken 60 semester hours in the liberal arts and sciences because such an education requirement does not exist in most other states.

**COMMENT:** The State Education Department should accept nationally accredited programs in public accountancy as well of regionally accredited programs as programs that are licensure qualifying in New York State.

**RESPONSE:** The proposed amendment states that an applicant may meet the education requirement for licensure by completing a baccalaureate or higher degree program in accountancy that is registered by the department or accredited by an acceptable accrediting agency, or a baccalaureate or higher degree program that is substantially equivalent to such a registered or accredited program. In addition, the proposed amendment defines an acceptable accrediting agency as: "an organization accepted by the department as a reliable authority for the purpose of accreditation of accountancy programs, having accreditation standards that are substantially equivalent to the requirements for programs registered pursuant to section 52.13 of this Title, and applying its criteria for granting accreditation in a fair, consistent, and nondiscriminatory manner". The amendment does not exclude a national organization that meets this definition.

**COMMENT:** The State Education Department should use an external credentialing service to determine whether applicants for licensure who receive their education outside of New York State have met the education requirement for New York State licensure.

**RESPONSE:** The State Education Department oversees the licensing and practice of 47 regulated professions and strives to ensure a consistent level of review across all of them. The State Education Department does not use credentialing services to determine whether applicants meet educational requirements for licensure. This function is properly performed by the State Education Department as the licensing entity.

**COMMENT:** The proposed changes are beneficial. However, the State Education Department needs to make an additional change in the experience requirement for licensure. There should be no distinction between audit and tax experience for meeting the licensure requirement.

**COMMENT:** The experience requirements for licensure are too stringent. I work at a consulting firm that provides outsourced services (accounting, finance and tax) to business entities, and experience gained at our firm may not be used to meet the experience requirement. This deters many candidates from accepting positions with our firm.

**RESPONSE:** These comments do not concern the subject matter of the proposed amendment, which establishes education requirements for licensure in public accountancy and requirements for licensure by the endorsement of an out-of-state license. In any event, Education Law section 7401 defines the practice of the profession of public accountancy and establishes the scope of practice for this practice. That scope of practice includes attestation and compilation services, including auditing services provided as an independent accountant or auditor. It does not include business consultation services which are not provided as an independent accountant or auditor, or tax preparation services, as specified in the comments. Consequently, the experience requirement in section 70.2 of the Commissioner's regulations reasonably requires the applicant to demonstrate to the satisfaction of the State Board for Public Accountancy that the applicant has diversified experience as an independent accountant engaged in public practice or its equivalent, involving application of generally accepted accounting principles and the application of generally accepted auditing standards. The experience requirement specified in existing regulation helps to ensure that applicants for licensure have entry-level competency to practice as a certified public accountant.

**COMMENT:** The provision that permits the waiver of one of the two years of professional experience required for licensure is too restrictive. It should be available to applicants who meet the education and examination requirements and display a superior academic record.

**RESPONSE:** This comment concerns the requirements for the one-year waiver of the experience requirement for licensure in public accountancy, which is not the subject of the proposed amendment. In any event, the existing standard for obtaining a waiver of one of the two years of experience, contained in section 70.2 of Commissioner's regulations, is reasonable. Two years of experience in public accountancy is required for applicants who have completed a 120 semester hour undergraduate curriculum or a 60 semester graduate program in public accountancy with undergraduate preparation in a field other than accounting or business administration. The one-year waiver is available to applicants who have additional education in accounting and business administration. These applicants have completed a baccalaureate program in accounting or business administration and an additional 30 semester hours of graduate study in public accountancy, or a baccalaureate or higher degree program in public accountancy of at least 150 semester hours.

**COMMENT:** CPAs that are licensed by another state and that have two to three years of professional experience in the employ of a New York State CPA or New York State public accountancy firm should automatically obtain New York State licensure.

**RESPONSE:** This comment does not concern a change proposed in this rule making. The only change proposed in this rule making in the requirements for licensure by the endorsement of an out-of-state license reduces the number of years of professional experience, from four to five, required in the event the applicant does not fully meet the education, experience, and examination standards for licensure in section 70.4 of Commissioner's regulations. In any event, permitting automatic endorsement based upon professional experience alone would conflict with statutory requirements. Education Law section 6506 permits licensure in New York State through the endorsement of a license of another state or country. This statute requires the applicant to meet education, experience, and examination requirements specified in Commissioner's regulations. Section 70.4 of Commissioner's regulations specifies these education, experience, and examination requirements, in accordance with Education Law section 6506.