

ARTICLE 149 of the Education Laws of New York

PUBLIC ACCOUNTANCY

- Section 7400. Introduction.
7401. Definition of practice of public accountancy.
7401-a. Definitions.
7402. Practice of public accountancy and use of title "certified public accountant" or "public accountant".
7403. State board for public accountancy.
7404. Requirements for a license as a certified public accountant.
7405. Requirements for a license as a public accountant.
7406. Limited permits and temporary practice permits.
7406-a. Non-attest services by out-of-state certified public accountants.
7407. Exempt persons.
7408. Special provisions.
7409. Mandatory continuing education.
7410. Mandatory quality review.

§ 7400. Introduction. This article applies to the profession of public accountancy. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7401. Definition of practice of public accountancy. The practice of the profession of public accountancy is defined as:

1. offering to perform or performing attest and/or compilation services, as defined in section seventy-four hundred one-a of this article;
2. incident to the services described in subdivision one of this section, offering to perform or performing professional services for clients, in any or all matters relating to accounting concepts and to the recording, presentation, or certification of financial information or data; or
3. offering to perform or performing, for other persons one or more types of the following services including but not limited to accounting, management advisory, financial advisory, and tax exclusive of services within subdivisions one and two of this section, involving the use of professional skills or competencies of the licensed accountant as described in the rules of the board of regents, including professional services rendered to one's employer not required to register under section seventy-four hundred eight of this article, in any and all matters related to accounting concepts and to the recording of financial data or information or the preparation or presentation of financial statements.

§ 7401-a. Definitions. As used in this article:

1. "Attest" means providing the following public accountancy services which all require the independence of licensees:
 - a. any audit to be performed in accordance with generally accepted auditing standards or other similar standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;
 - b. any review of a financial statement to be performed in accordance with standards, developed by a federal governmental agency, commission or board or a recognized international or national professional

accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;

c. any examination to be performed in accordance with attestation standards developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations; or

d. any engagement to be performed in accordance with the auditing standards of the public company accounting oversight board.

2. "Certified public accountant" or "CPA" means any person who has received a license from the department or any other state as a certified public accountant for the practice of public accountancy.

3. "Compilation" means providing a service that presents, in the form of financial statements, information that is the representation of the management or owners of the client without undertaking to express any assurance of the accuracy of the information in the statements, to be performed in accordance with standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations.

4. "Firm" means a domestic or foreign entity organized as a sole proprietorship, a professional service corporation, a partnership, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign registered limited liability partnership, or any other form of organization that is established for the business purpose of lawfully engaging in the practice of public accountancy.

5. "Principal place of business" means the office location designated by the licensee from which the person directs, controls, and coordinates his or her professional services.

6. "Public accountant" or "PA" means any person who has received a license from the department as a public accountant for the practice of public accountancy.

7. "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

§ 7402. Practice of public accountancy and use of title "certified public accountant" or "public accountant". Only a person licensed or otherwise authorized to practice under this article shall practice public accountancy or use the title "certified public accountant" or the designation CPA or "public accountant" or the designation PA or any other derivative or designation provided in section seventy-four hundred eight of this article.

§ 7403. State board for public accountancy. A state board for public accountancy shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than twenty licensed accountants, not less than fifteen of whom shall be licensed as certified public accountants in this state, and the board should be kept in such proportion if it is ever increased. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a certified public accountant licensed in this state.

§ 7404. Requirements for a license as a certified public accountant.

1. To qualify for a license as a certified public accountant, an applicant shall fulfill the following requirements:

- (1) Application: file an application with the department;
- (2) Education: have received an education, including a bachelor's or higher degree or a foreign equivalent based on a program in accountancy, in accordance with the commissioner's regulations;
- (3) Experience: have experience satisfactory to the board of regents and in accordance with the commissioner's regulations;
- (4) Examination: pass a written examination satisfactory to the board and in accordance with the commissioner's regulations and the requirement with respect to such examination may not be waived;
- (5) Age: be at least twenty-one years of age;
- (6) Citizenship: meet no requirements as to United States citizenship;
- (7) Character: be of good moral character as determined by the department; and
- (8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

2. In lieu of professional requirements specified in paragraphs two and three of subdivision one of this section, fifteen years in the practice of public accountancy satisfactory to the board may be accepted by the department.

§ 7405. Requirements for a license as a public accountant. To qualify for a license as a public accountant, an applicant shall fulfill the following requirements:

- (1) Application: file an application with the department;
- (2) Declaration of intention: a. Have filed a declaration of intention to practice as a public accountant with the department on or before October first, nineteen hundred fifty-nine, on the basis of evidence that the applicant was engaged for a total of six years during the ten years immediately preceding April twenty-third, nineteen hundred fifty-nine, in the practice of public accountancy as an individual practitioner or as a partner of a partnership or as an employee of such an individual practitioner or partnership engaged in the practice of public accountancy or as an employee of a department, agency or instrumentality of the United States, the state, or a political subdivision of the state in which employment his duties entailed the performance of all or some of the services which would constitute the practice of public accountancy, or a combination of the foregoing duties, or in the opinion of the board the equivalent thereof;
b. Establish by evidence satisfactory to the board that at the date of the filing of said declaration of intention, the applicant had complied with the conditions established by law on April twenty-third, nineteen hundred fifty-nine, has not violated the provisions relating to practice in public accountancy, and is about to engage in the practice of public accountancy as his principal occupation as an individual practitioner or as a partner of a partnership;
- (3) Character: be of good moral character as determined by the department; and
- (4) Fees: pay a fee to the department for an initial license of two hundred twenty dollars, and a fee of two hundred ten dollars for each

triennial registration period.

§ 7406. Limited permits and temporary practice permits. 1. Limited permits. On recommendation of the board, the department may issue a limited permit to an applicant of good moral character, who is the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the performance in such country of the acts set forth in section seventy-four hundred one of this article, provided the applicant has professional qualifications that are determined by the board to be significantly comparable to the licensure requirements for certified public accountancy pursuant to this article, and the applicant resides or has a place for the regular transaction of business within the state, and equal recognition is granted by the foreign country concerned to certified public accountants or public accountants licensed in the United States. Such limited permit shall be valid for a period of two years and may be renewed on recommendation of the board. Such permit shall authorize the applicant to use only the title or designation under which he or she is generally known in his or her own country, followed by the name of the country from which he or she received his or her certificate, license or degree, notwithstanding the provisions of subdivision two of section seventy-four hundred eight of this article.

2. Temporary practice permits. a. On recommendation of the board, a certified public accountant, licensed by another state which the board of regents has determined to have significantly comparable certified public accountant licensure requirements, or whose individual licensure qualifications are verified by the department to be significantly comparable to New York's requirements, and in good standing, who intends to perform the services in subdivisions one and two of section seventy-four hundred one of this article may temporarily practice public accountancy in this state, if the certified public accountant:

(1) holds a valid license to practice public accountancy in the other state,

(2) practices public accountancy in another state that is his or her principal place of business, and

(3) obtains from the department a temporary practice permit.

b. The temporary practice permit allows such certified public accountant, who meets the requirements of paragraph a of this subdivision to practice public accountancy in this state. Each temporary practice permit shall allow the holder to practice in this state for an aggregate total of one hundred eighty days during the twelve month period beginning on the effective date of the permit.

c. Applications for the temporary practice permit shall be submitted to the department through an electronic means as prescribed by the commissioner. After the department renders a timely initial determination that the applicant has submitted the information necessary to verify that the requirements of paragraph a of this subdivision are satisfied, applications for temporary practice permits shall be processed by the department within thirty days. During such thirty day processing period, the applicant may practice; provided, however, that if the application is denied the applicant shall cease the practice of public accountancy in the state of New York.

d. Any certified public accountant who practices in this state pursuant to this section, and any firm that employs such certified public accountant to provide such services in New York, consents to all of the following as a condition of the exercise of such temporary practice privilege:

(1) to the personal and subject matter jurisdiction and disciplinary authority of the board of regents;

(2) to comply with this article, the rules of the board of regents and the regulations of the commissioner; and

(3) to the appointment of the secretary of state or other public official acceptable to the department, in the certified public accountant's state of licensure or the state in which the firm has its principal place of business, as the certified public accountant or firm's agent upon whom process may be served in any action or proceeding by the department against such certified public accountant or firm.

e. No more than one temporary practice permit may be issued to any individual applicant provided that each permit may be renewed by the department up to three times such that an individual shall practice for no more than four years within a five year time period under the provisions of this section. Such renewals may be granted upon receipt of written notice from the permit holder, provided that the applicant remains in good standing and in compliance with all applicable laws, rules and regulations.

f. (1) A person who wishes to practice public accountancy in this state but does not meet the requirements of paragraph a of this subdivision is subject to the full licensing and registration requirements of this article.

(2) In the event the license from the other state of the certified public accountant's principal place of business is no longer valid or in good standing, or that the certified public accountant has had any final disciplinary action taken against his or her license by the licensing or disciplinary authority of any other state concerning the practice of public accountancy, the certified public accountant shall cease offering to perform or performing such services in this state individually and on behalf of his or her firm.

g. (1) Notwithstanding subparagraph two of paragraph a of this subdivision or any other inconsistent law or rule to the contrary, a certified public accountant licensed by another state and in good standing who obtains a temporary practice permit under this section and files an application for licensure under section seventy-four hundred four of this article on or before the expiration date of such temporary practice permit may continue to practice under such permit for a period coterminous with the period during which his or her application for licensure remains pending with the department.

(2) Nothing in this section shall limit the applicability of section seventy-four hundred seven of this article.

h. Fees. The fee for each limited permit and temporary practice permit and each renewal shall be established in regulation by the board of regents.

§ 7406-a. Non-attest services by out-of-state certified public accountants. 1. Notwithstanding any other provision of law to the contrary, a certified public accountant, licensed by another state and in good standing, may perform the services described in subdivision three of section seventy-four hundred one of this article within this state, if the certified public accountant:

a. holds a valid license to practice public accountancy in the other state; and

b. practices public accountancy in another state that is his or her principal place of business.

2. Any certified public accountant licensed by another state performing services pursuant to subdivision one of this section and any

firm that employs such certified public accountant to provide such services in this state consents to all of the following:

a. to be subject to the disciplinary authority of the board of regents;

b. to comply with this article, the rules of the board of regents and the regulations of the commissioner;

c. to the appointment of the secretary of state or other public official acceptable to the department, in the certified public accountant's state of licensure or the state in which the firm has its principal place of business, as the certified public accountant or firm's agent upon whom process may be served in any action or proceeding by the department against such certified public accountant or firm; and

d. that in the event the license from the other state of the certified public accountant's principal place of business is no longer valid or in good standing, or that the certified public accountant has had any final disciplinary action taken against his or her license by the licensing or disciplinary authority of any other state concerning the practice of public accountancy, the certified public accountant shall cease offering to perform or performing such services in this state individually and on behalf of his or her firm.

§ 7407. Exempt persons. Nothing contained in this article shall be construed to prohibit:

a. Any individual other than a certified public accountant or public accountant who is an officer of a corporation or partner of a partnership or sole proprietor of a business enterprise or member of a joint venture or member of a committee appointed by stockholders, creditors, courts, trustees, executors or administrators, or an employee of any of the foregoing, in his capacity as such, from signing, delivering, or issuing any financial, accounting or related statement or report thereon, relating to said corporation, partnership, business venture, joint venture, committee, trust or estate, provided, however, that in so doing such person does not hold himself or herself out to be a certified public accountant or public accountant;

b. An attorney-at-law, or a partnership, limited liability partnership, limited liability company or professional service corporation of attorneys-at-law from signing a financial, accounting or related statement or report thereon, prepared by such attorney or organizations of attorneys as incidental to the practice of law;

c. Any individual from serving as an employee of a certified public accountant, public accountant or firm licensed under this article;

d. Any individual, not engaged in practice as a certified public accountant or public accountant within the state, from performing services within the state which are incidental to the practice conducted by him outside the state;

e. Any official or employee of a governmental unit, agency or instrumentality other than a certified public accountant or public accountant in the performance of his official duties from signing, delivering or issuing any financial, accounting, or related statement or report thereon relating to said unit, agency or instrumentality; or

f. A corporation chartered in the state of New York to engage in the practice of public accountancy and so engaged as its principal activity on and before the first day of July, nineteen hundred fifty-nine, from continuing in such practice as long as its corporate acts comply with the board of regents rules, provided all employees of such corporation performing any acts constituting the practice of public accountancy as defined herein and who are not certified public accountants or public

accountants licensed under this article shall in the performance of such acts be under the supervision of certified public accountants or public accountants licensed in this state; or

g. An individual other than a certified public accountant or public accountant, or an entity not required to register under paragraph a of subdivision three of section seventy-four hundred eight of this article, from offering to perform or performing the types of services set forth in subdivision three of section seventy-four hundred one of this article or preparing financial statements in accordance with subdivision five of section seventy-four hundred eight of this article.

§ 7408. Special provisions. 1. Nothing contained in this article shall be deemed to prohibit one or more certified public accountants or one or more public accountants, or any combination thereof, from forming a firm.

2. No firm shall use the words "certified public accountant" or "certified public accountants" or the letters "CPA" or "CPAs" in connection with its name unless the sole proprietor of such firm or each partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation engaged within the United States in the practice of public accountancy is in good standing as a certified public accountant of one or more of the states of the United States.

3. a. Any firm that is established for the business purpose of lawfully engaging in the practice of public accountancy pursuant to subdivisions one and two of section seventy-four hundred one of this article or uses the title "CPA" or "CPA firm" or the title "PA" or "PA firm" must register with the department. A firm of certified public accountants or public accountants engaged in the practice of public accountancy pursuant to subdivision three of section seventy-four hundred one of this article, but not engaged in the practice of public accountancy pursuant to subdivisions one and two of section seventy-four hundred one of this article, may register with the department under this subdivision. As a condition of registration or renewal, the firm shall affirm that it has not violated the provisions of this article, any other applicable laws and such other requirements as the department may impose, consistent with this article, except that the provisions of section seventy-four hundred ten of this article shall not apply on initial registration.

b. A registration shall be issued to a firm upon payment of the fee prescribed by the commissioner upon application showing that:

(1) At least one partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation or the sole proprietor is licensed or otherwise authorized to practice under this article and his or her license to practice is not currently suspended, annulled or revoked in any jurisdiction and he or she is regularly engaged in practice on behalf of the firm within the state;

(2) The firm, other than a sole proprietorship, consists of at least two present partners, members or shareholders;

(3) The firm, other than a sole proprietorship, contains at least as many present partners, members or shareholders as the total number of names in the firm name, or, where the word "company" or abbreviation "co." is used, the number of present partners, members or shareholders shall be greater than the number of names in the firm name;

(4) Such application includes a list of the location of all offices

within this state, including the names of the persons in charge of such offices; and

(5) Such application includes a list of all states in which the firm has applied for or holds registrations, licenses, or permits as a public accounting firm and a list of any past denial, revocation, or suspension of a license, registration or permit by any other state or jurisdiction within the last three years.

c. In addition to authority granted under any other provision of law, the board of regents may revoke such registration or take other action pursuant to a consent order or surrender of registration in accordance with this title and the rules of the board of regents, in the same manner and to the same extent as is provided with respect to individuals licensed pursuant to this article, or pursuant to a settlement in which the firm neither admits nor denies the allegations of professional misconduct, or after a hearing conducted in accordance with the provisions of section sixty-five hundred ten of this title upon proof:

(1) That the registration was obtained by either misrepresentation or suppression of any material fact;

(2) That the license or authorization to practice of any sole proprietor, partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation is suspended, annulled or revoked in any jurisdiction;

(3) That any sole proprietor, partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation in such firm is or has been engaged in the practice of public accountancy in this state who is not licensed or otherwise authorized to practice in this state;

(4) That the firm failed to file the written notification required pursuant to paragraph e of this subdivision;

(5) That the firm failed to undergo a quality review of its attest services pursuant to section seventy-four hundred ten of this article at least once every three years; or

(6) That the firm has engaged in professional misconduct pursuant to section sixty-five hundred nine of this title.

d. Personal service on a sole proprietor, any general partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation licensed in this state of a notice of a hearing to revoke the registration of, or take other disciplinary action against a firm registered hereunder shall be deemed service on the firm.

e. A firm registered to practice pursuant to this section shall file with the department annually on or before the anniversary of the date of the firm's first registration written notification of:

(1) Any admission of a partner, member or shareholder,

(2) Any resignation, termination, retirement or death of a partner, member or shareholder,

(3) Any termination of a firm,

(4) Any change in the number or location of offices within this state and any change in the identity of the persons in charge of such offices, or

(5) Any occurrence of any event or events which would eliminate as to such firm conformity with the applicable requirements of this section.

f. The commissioner shall establish in regulations a registration process for certified public accountancy firms and public accountancy firms, including the imposition of application and registration fees and procedures to suspend or revoke a registration or take other

disciplinary action for cause.

g. Firms shall register triennially.

4. Any person shall be guilty of a class A misdemeanor who shall use, in connection with the practice of public accountancy, or in any manner tending to imply that he or she is an independent accountant or auditor, the designations "chartered accountant", "certified accountant", "expert accountant", "certified tax accountant", "tax accountant", "enrolled accountant", "enrolled public accountant", "registered accountant", "licensed accountant", "incorporated accountant", "registered public accountant", "licensed public accountant", or any abbreviation thereof, or the letters "C.A.", "E.A.", "C.T.A.", "T.A.", "E.P.A.", "R.A.", "L.A.", "I.A.", "P.A.", "R.P.A.", or, "L.P.A.", except as provided elsewhere in this article, or any other designation tending to imply that he or she has expert knowledge in accounting or auditing. The title "enrolled agent" or the designation "E.A." may only be used by individuals so designated by the United States Internal Revenue Service.

5. An individual not licensed as a certified public accountant or public accountant or otherwise authorized to practice public accountancy, or an entity not required to register under this section may prepare a financial statement so long as it is not accompanied by any statement, report, or wording indicating such individual is a certified public accountant or public accountant or that such entity is registered to practice public accountancy under this article. Such non-licensed individuals and non-registered entities shall include the following written language when preparing financial statements:

a. "(I, We) have prepared the accompanying financial statement(s) of (name of business or organization) as of the (time period) and for the (period) then ended. This presentation is limited to preparing, in the form of a financial statement(s), information that is the representation of (name of business or organization)"; and

b. "(I, We) have not audited or reviewed the accompanying financial statement(s) and accordingly do not express an opinion or any other form of assurance on them."

§ 7409. Mandatory continuing education. 1. a. Each certified public accountant and public accountant required under article one hundred thirty of this title to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements except as set forth in paragraphs (b) and (c) of this subdivision. Such certified public accountants and public accountants who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, they have paid all applicable fees, and they have been issued a registration or conditional registration certificate.

b. Certified public accountants and public accountants shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed by the department. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health certified by a physician, for extended active duty with armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. Certified public accountants or public accountants not engaged in practice as defined in section seventy-four hundred one of this article, shall be exempt from the mandatory continuing education requirement upon the filing of a written statement with the department declaring such

status pursuant to subdivision four of section sixty-five hundred two of this title. Any certified public accountant or public accountant who resumes practice during the triennial registration period shall notify the department prior to resuming practice and shall pay the current mandatory continuing education fee and shall meet such mandatory continuing education requirements as shall be prescribed by regulations of the commissioner.

2. a. During each year of the triennial registration period beginning September first, nineteen hundred ninety and ending September first, nineteen hundred ninety-three and each registration period thereafter but ending on the period that ends on December thirty-first, two thousand ten, an applicant for registration shall have the option of: (1) completing a minimum of forty contact hours of acceptable formal continuing education in recognized areas of study, or (2) completing a minimum of twenty-four contact hours of acceptable formal continuing education concentrated in any one of the following three subject areas: auditing, accounting, or taxation.

b. For applicants whose triennial registration date occurs on or after January first, two thousand nine, for each calendar year beginning with the two thousand nine calendar year, an applicant for registration shall have the option of (1) completing a minimum of forty contact hours of acceptable formal continuing education in recognized areas of study pursuant to subdivision four of this section, or (2) completing a minimum of twenty-four contact hours of acceptable formal continuing education concentrated in any one of the recognized areas of study pursuant to subdivision four of this section; provided, however, that any continuing education contact hours earned between September first, two thousand eight and December thirty-first, two thousand eight may be credited toward the minimum contact hours required for the calendar year beginning January first, two thousand nine.

c. A certified public accountant or public accountant who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a registration or conditional registration certificate is issued as provided in subdivision three of this section. No hourly credits may be transferred from one year to a subsequent year except as provided in paragraph b of this subdivision. The individual certified public accountant or public accountant shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a certified public accountant or public accountant who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any certified public accountant or public accountant who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices public accountancy without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to the growth in the professional knowledge and professional

competence of the licensee which meet the standards prescribed by regulations of the commissioner. Recognized areas of study shall include but not be limited to: accounting, attest, auditing, taxation, advisory services, specialized knowledge and applications related to specialized industries, and such other areas appropriately related to the practice of accounting as may be acceptable to the department. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee shall be determined by the regents, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-four hundred four of this article.

* § 7410. Mandatory quality review. 1. The department shall require as a condition to renewal of registrations under section seventy-four hundred eight of this article, that unless otherwise exempted by the department, applicants for firm registrations, with the exception of sole proprietorship firms or firms with two or fewer accounting professionals, including certified public accountants or public accountants, or any combination thereof, undergo, no more frequently than once every three years, except pursuant to a disciplinary action brought under section seventy-four hundred eight of this article, quality reviews of the firm's attest services conducted in such manner as the commissioner shall specify in regulations, and such review shall include a verification that individuals in the firm who are responsible for supervising attest services sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such regulations:

a. shall include reasonable provisions for compliance by an applicant for firm registration showing that it has, within the preceding three years, undergone a quality review in this state or a peer review in another state that is a satisfactory equivalent to quality review required pursuant to this section;

b. shall require, with respect to any organization administering quality review programs contemplated by paragraph a of this subdivision, that it be subject to evaluations by the department or its designee, to periodically assess the effectiveness of the quality review program under its charge;

c. shall require the quality review to be conducted by reviewers acceptable to the department in accordance with the commissioner's regulations, from a roster of qualified reviewers established by the department; and

d. may require with respect to quality reviews contemplated by paragraph a of this subdivision that firms undergoing quality reviews and organizations administering quality review programs timely remit such quality review reports to the state board for public accountancy and such reports shall be maintained by the board in a manner consistent with subdivision three of this section.

2. Except as provided for in subdivision four of this section, nothing in this section shall be construed to require sole proprietorship firms or firms with two or fewer accounting professionals, including certified public accountants or public accountants, or any combination thereof, to undergo quality review, however, such firms may choose to voluntarily

undergo quality review in accordance with this section.

3. Notwithstanding any provision of law to the contrary, the reports submitted in accordance with subdivision one of this section shall be confidential and shall not constitute a public record and shall not be subject to disclosure under articles six and six-A of the public officers law. However, when any such report is admitted into evidence in a hearing held by the department, it shall then be a public record subject to disclosure under articles six and six-A of the public officers law.

4. Notwithstanding any provision of law or regulation to the contrary, a firm that performs attest services for any New York state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office, or other governmental entity performing a governmental or proprietary function for New York state or any one or more municipalities thereof, or performs attest services specifically required to be performed pursuant to New York state law, shall be required to undergo an external peer review in conformity with the requirements pursuant to the government auditing standards of the comptroller general of the United States.

* NB Effective January 1, 2012