

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 71

CERTIFIED PUBLIC ACCOUNTANTS AND PUBLIC ACCOUNTANTS

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SUBCHAPTER I

GENERAL PROVISIONS

§16-71-1 Objective. This chapter has been adopted by the board of public accountancy, hereafter referred to as "board," and is intended to clarify chapter 466, Hawaii Revised Statutes, and to implement the administration thereof to the end that chapter 466, HRS, may be best effectuated and the public interest most effectively served. [Eff 1/1/74; am and ren §16-71-1, 6/25/81; am and comp; 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-2 Biennial renewal of certificate or registration. The certificate or registration of each certified public accountant, each registered public accountant, and each public accounting firm shall be renewed biennially by paying the renewal fee on or before December 31 of each odd-numbered year. [Eff 11/21/74; ren §1.02, 3/6/80; am and ren §16-71-2, 6/25/81; am and comp 6/8/84, am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-5, 466-6)

§16-71-3 Notification and filing of names and addresses and changes. The current mailing address of each certified public accountant, registered public accountant, public accounting firm, and permit holder shall be registered with the board. The board shall be immediately notified in writing, of all changes. [Eff 1/1/74; ren §1.03, 3/6/80; am and ren §16-71-3, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-4

§16-71-4 Evidence of authority to practice. Each permit holder and public accounting firm shall at all times display evidence of the authority to practice, together with the certificate or registration and other evidence of current validation, in the permit holder's and public accounting firm's place of business. [Eff 1/1/74; ren §1.05, 11/21/74; ren §1.04, 3/6/80; am and ren §16-71-4, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-7)

SUBCHAPTER 2

DEFINITIONS

§16-71-8 Public accounting practice. (a) The term, "public accounting practice," referred to as "public practice," as used in chapter 466, HRS, and in this chapter means performing for a client, on a fee basis, one or more types of services rendered by public accountants and holding oneself out to the public to be a certified public accountant, licensed under section 466-5, HRS, or a public accountant, licensed under section 466-6, HRS, or a public accounting firm, including but not limited to:

- (1) A sole practitioner;
- (2) A partner in a partnership of certified public accountants or of public accountants or a combination of both;
- (3) A principal in a professional accounting corporation;
- (4) A professional accounting corporation; or
- (5) A member in a professional accounting corporation.

(b) The term shall also include a certified public accountant or public accountant employed as a staff employee of the public accounting firm as described in subsection (a). [Eff 1/1/74; am and ren §16-71-8, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-5, 466-6)

§16-71-9 Not in a public accounting practice. (a) Any certified public accountant, licensed under section 466-5, HRS, or any public accountant licensed under section 466-6, HRS, shall be considered not to be in public practice if the person does not obtain a permit to practice under section 466-7, HRS. This group shall include:

- (1) Any certified public accountant or public accountant who is retired from active participation as a sole practitioner or as a partner in a partnership or as a principal in a professional accounting corporation, but who is receiving retirement compensation for past services; and
 - (2) Any certified public accountant or public accountant who is gainfully employed solely in a capacity or capacities other than those described in section 16-71-8.
- (b) Any certified public accountant or public accountant not in public practice as defined in this section shall clearly indicate in any display or utterance that the certified public accountant or public accountant does not hold oneself out as being in public practice by adding to one's "CPA" or "PA" designation the words "not in public practice." [Eff 1/1/74; am and ren §16-71-9, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §§466-5, 466-6, 466-7)

§16-71-10 Incidental to person's practice in such other state or country. The phrase "incidental to the person's practice in such other state or country" used in section 466-7(c)(4), HRS, shall mean services rendered in this State by a non-licensee for work performed for a client outside the State such as the audit of a Hawaii subsidiary of an out-of-state parent corporation, or an audit of a Hawaii branch or division of an out-of-state partnership, joint venture, or individual proprietorship. [Eff 5/12/78; am and ren §16-71-10, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

SUBCHAPTER 3

CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT

§16-71-14 Issuance. A person shall be entitled to the issuance of a certificate of certified public accountant upon application to the board and upon the satisfactory fulfillment of the requirements set forth in section 466-5(a), HRS. [Eff 1/1/74; am and ren §16-71-14, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-5)

§16-71-15

§16-71-15 Application for certificate. After satisfactorily fulfilling the requirements of section 466-5(a), HRS, an application for a certificate of certified public accountant shall be filed in accordance with deadline dates established by the board and be accompanied by a fee as provided by the department of commerce and consumer affairs in chapter 16-53. [Eff 1/1/74; am and ren §16-71-15, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; am and comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §§466-5, 466-8)

§16-71-16 Competence, trustworthiness, and fairness (references). Each applicant for a certificate of a certified public accountant shall submit three letters of reference, from persons not related to the applicant, attesting to the applicant's competence, trustworthiness, and fairness. [Eff 1/1/74; am and ren §16-71-16, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-5)

§16-71-17 Education. (a) An applicant for a certificate of certified public accountant shall:

- (1) Present satisfactory evidence that the applicant has received a baccalaureate degree from a university, college, or other four-year institution of learning accredited by a regional or national accrediting agency or association included in a list of those agencies or associations published by the Secretary of Education under the requirements of 38 United States Code §1775, as amended; or
- (2) Present satisfactory evidence that the applicant has received a baccalaureate or comparable degree from a foreign or U.S. university, college, or other four-year institution and, in addition, provide evidence that the baccalaureate or comparable degree qualifies the applicant for acceptance for an advanced degree at an accredited university, college, or other four-year institution as specified in paragraph (1).

(b) An applicant, in addition to meeting the requirements in subsection (a), shall present evidence of satisfactory completion of at least thirty semester hours of upper division or graduate level study comprised of such subjects as:

- (1) Accounting and auditing;
- (2) Taxation;
- (3) Management services;

- (4) Computer science;
- (5) Economics;
- (6) Business law;
- (7) Functional fields of business (finance, production, marketing, personnel relations, business organization, and business management); or
- (8) Other business related subjects as approved by the board, at an accredited university, college, or four-year institution as specified in subsection (a).

The baccalaureate degree and the thirty semester hours of additional study, shall have included a minimum of eighteen semester hours of upper division or graduate level accounting and auditing subjects.

In the event the additional studies of thirty semester hours are completed before the baccalaureate degree is conferred, the applicant shall furnish the board a letter from the university, college, or four-year institution indicating that the additional studies were not counted toward the baccalaureate degree.

(c) Each applicant shall present evidence satisfactory to the board that the requirements set forth in section 466-5(f), HRS, have been met. Satisfactory evidence shall take the form of a certified copy of a diploma, a certified transcript (date and degree granted), or a statement from a college official indicating that the candidate will graduate within one hundred twenty days after the examination.

(d) An applicant requesting exemption from educational requirements pursuant to section 466-5(c), HRS, shall arrange to provide direct confirmation to the board, from an appropriate source, that the applicant meets the requirements stated therein. [Eff 1/1/74; am 5/12/78; am 3/6/80; am and ren §16-71-17, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; am and comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-5)

§16-71-18 Examination. The examination prescribed in section 466-5(e), HRS, shall consist of the American Institute of Certified Public Accountants (AICPA) examination. [Eff 1/1/74; am and ren §16-71-18, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; am and comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-5)

§16-71-19 AICPA examination. (a) The board shall use the examination prescribed by the AICPA, and shall make all necessary arrangements with the

institute including the grading of the examination papers. The grades issued by the AICPA are advisory and must be ratified by the board to be official.

(b) Applications for the examination shall be:

- (1) Filed by March 1, immediately preceding the May examination and by September 1, immediately preceding the November examination;
- 2) Accompanied by the examination fee as provided by the department of commerce and consumer affairs in chapter 16-53, which shall not be refundable. An application shall not be accepted for consideration unless the application is completed properly, and the correct fee and documents as required by section 16-71-17(d) are attached to the application. In the case of an applicant who will complete the educational requirements in one hundred twenty days after the first examination, a transcript of the last semester shall be sent to the board immediately upon the school's release of the grades.

(c) A candidate who, subsequent to filing an application, wishes to postpone taking the examination, shall notify the board in writing at least thirty days prior to the date of the examination, and the fee paid with the application shall be applied to the next succeeding examination. Only one postponement shall be allowed.

Failure to notify the board in writing within the prescribed time, or otherwise failing to obtain a postponement from the board shall cause the examination fee to be forfeited. For good cause shown, the board may waive the thirty day written notice and the postponement limitation.

(d) Each applicant shall present evidence satisfactory to the board that the requirements set forth in section 466-5(f), HRS, have been met. Satisfactory evidence shall take the form of a certified copy of a diploma, a certified transcript (date and degree granted), or a statement from a college official indicating that the candidate will graduate within one hundred twenty days after the examination.

(e) In the case of an applicant admitted to the examination on the expectation that the applicant will complete the educational requirements within one hundred twenty days, no grades shall be released and no credit shall be given for any part of the examination unless the educational requirement is met within one hundred twenty days of the examination and evidence of completion is submitted to the board.

(f) The examination for the certificate of certified public accountant shall be held in the State at places designated by the board.

(g) The board may apply reasonable security measures which are deemed necessary to confirm the identification of the candidates for examination.

(h) A candidate shall attain a grade of at least seventy-five per cent in each of the parts of the examination in order to satisfactorily complete the entire examination.

(i) An applicant who has applied for a certificate of certified public accountant in another state, and who requests to sit for the examination in Hawaii, shall file a letter from an appropriate official from the other state, requesting that the applicant be allowed to take the examination in Hawaii. This request shall be filed with the board at least thirty days before the examination and shall be accompanied by a proctoring fee as provided in chapter 16-53, which shall not be refundable and shall not be applied to any subsequent examinations.

(j) Conditional credits shall be allowed at the first examination in which the candidate obtains a grade of seventy-five per cent or more in two or more parts and a grade of at least fifty per cent on all parts not passed. For candidates who have earned conditional credits prior to May 1994, the following shall apply:

- (1) A candidate awarded conditional credit in accounting theory shall be awarded conditional credit in financial accounting and reporting-business enterprises;
- (2) A candidate awarded conditional credit in accounting practice shall be awarded conditional credit in accounting and reporting-taxation, managerial, and governmental and not-for-profit organizations;
- (3) A candidate awarded conditional credit in business law shall be awarded conditional credit in business law and professional responsibilities; and
- (4) A candidate awarded conditional credit in auditing shall retain conditional credit in auditing.

To add to this conditional status the candidate shall obtain a grade of seventy-five per cent or more in at least one part and a grade of at least fifty per cent in all parts not passed. While a grade of less than fifty per cent prevents the candidate from adding to the candidate's conditional status, it alone does not remove or cancel a conditional status previously attained. A conditional status shall expire at the end of the sixth succeeding examination from that examination which first placed the candidate on conditional status.

(k) The board shall accept conditional credits for any part or parts of the AICPA examination earned by the candidate and given under the authority of another state; provided, the candidate meets the educational requirements set forth in section 466-5(b), HRS; and provided further, that the candidate had received the grade of at least seventy-five per cent in each part. However, recognition of conditional credits shall be subject to the limitation set forth in subsection (j).

(l) An application for re-examination shall be filed by March 1, immediately preceding the May examination and by September 1, immediately preceding the November examination and shall be accompanied by the re-examination fee as provided in chapter 16-53, which shall not be refundable. Re-examination means repeating the examination after the candidate has earned conditional credits as prescribed under subsection (j). All other applicants shall be covered under subsections (b) and (c).

(m) The board shall waive the examination for a certificate of certified public accountant in accordance with section 466-5(h), HRS, provided that:

- (1) With respect to the holder of a valid certificate of CPA issued under the laws of another state, the board shall obtain direct confirmation from an appropriate source that the certificate upon which an application for exemption is based is currently valid and unrevoked; and
- (2) With respect to a holder of a certificate, license, or degree issued by a foreign country, the applicant shall meet the requirements of section 16-71-17(a)(2) and furnish evidence that the applicant passed an examination which meets the requirements of the examination described in section 466-5(e), HRS.

(n) Any misconduct by an applicant during an examination shall be prohibited and subject to action by the board. Acts of misconduct during an examination include, but are not limited to, any of the following:

- (1) Failure to follow examination instructions or procedures;
- (2) Communication between candidates or with others inside or outside of the examination room;
- (3) Copying another candidate's answers or allowing one's answers to be copied;
- (4) Allowing another person to sit in the examination room and take the examination for the applicant;
- (5) Reference to crib sheets, outlines, textbooks, or other material inside or outside the examination room;
- (6) Leaving the examination room without prior approval; or
- (7) Removal of any examination booklet, answer booklet, answer sheet, or workpapers from the examination room at any time.

Action by the board may include invalidating the entire examination and suspending an applicant from taking the examination again for a period of up to three years. Prior to imposing any action under this subsection, the applicant shall be afforded an opportunity to appear before the board. [Eff 1/1/74; am 11/21/74; am 3/11/76; am 5/12/79; am and ren §16-71-19, 6/25/81; am and comp 6/8/84;

am and comp 10/23/87; am and comp 2/22/94; am and comp 6/3/95; comp 1/22/01] (Auth: §466-4) (Imp: HRS §§466-5, 466-8)

§16-71-20 Repealed. [R 6/3/95]

§16-71-21 Experience. (a) All experience required under chapter 466, HRS, and this chapter shall:

- (1) Be gained in:
 - (A) At least one of the areas described in the "practice of public accountancy" provided in section 466-3, HRS, or any combination thereof; or
 - (B) Other areas of work experience which are recognized as non-routine accounting work, as determined by the board;
- (2) Be of a non-clerical or non-ministerial accounting or auditing nature which continually requires independent thought and judgment on important accounting or auditing matters;
- (3) Be obtained in one of the following categories, or any combination thereof; provided that the applicant has at least two years of acceptable experience:
 - (A) Public practice (i.e., working for a CPA firm);
 - (B) Private or industry (i.e., working for a private business that is not a CPA firm);
 - (C) Government (i.e., federal, state, county, etc.); or
 - (D) Education (i.e., an instructor who teaches upper division or graduate level accounting or auditing subjects at a college or university approved by the board);

and provided further that the experience described in this subparagraph shall not be credited toward or apply to the thirty months of experience specified in section 466-5(b)(2), HRS. The thirty months of experience shall be gained in public practice and shall be applicable to the extent provided in section 466-5.5, HRS;

- (4) Involve the application of generally accepted accounting principles or an other comprehensive basis of accounting, of the United States and approved by the board; or in the case of tax preparers or tax consultants, the applicant's experience shall consist of the preparation of tax returns or provision of tax consulting services in accordance with applicable tax laws of the United States;

- (5) Be gained under the supervision of an individual who holds or has held a license in this State, or the equivalent in another jurisdiction, during the period of supervision; provided that an applicant may be immediately supervised by a non-licensee as long as the applicant ultimately reports to, is instructed by, is reviewed by, and is evaluated directly by an individual who holds or has held a license in this State, or the equivalent in another jurisdiction, during the period of supervision.
 - (A) The applicant's supervisor shall have supervised, reviewed, and evaluated the applicant's work on a routine and recurring basis.
 - (B) Supervision may be facilitated through telecommunications systems and devices, and computers; provided that this shall not be the primary method of supervision. A majority of the supervision shall be of a personal nature.
 - (C) To be acceptable, the supervision shall have been provided while the applicant was an employee of the same CPA firm, entity, or agency that employed or otherwise engaged the professional services of the supervisor; and
- (6) Have been of a full-time nature, measured in terms of weeks. Full-time employment shall constitute at least thirty-five hours a week.
 - (b) Each applicant shall submit a detailed statement or form prescribed by the board which fully describes the applicant's experience to the satisfaction of the board. The statement or form shall be signed and certified by the applicant's present or former supervisor who holds or has held a license in this State, or its equivalent in another jurisdiction, during the period of supervision. [Eff and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; am and comp 6/3/95; am and comp 1/22/01] (Auth: §466-4) (Imp: HRS §466-5)

§16-71-22 Knowledge of laws and rules. On the application, each applicant for a certificate of certified public accountant shall attest that the applicant has read and shall abide by the provisions of chapter 466, HRS, and this chapter. [Eff and comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-5)

SUBCHAPTER 4

PERMIT TO PRACTICE

§16-71-24 Requirements. For a permit to practice public accountancy in any calendar year, a certified public accountant, licensed under section 466-5, HRS, or public accountant, licensed under section 466-6, HRS, shall file an application which shall include a certificate of continuing education as specified under subchapter 5. [Eff 1/1/74; am and ren §16-71-24, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-25 Repealed. [R 6/8/84]

§16-71-26 Control and reporting. (a) For the purpose of this section, a permit shall be obtained whether or not the public accounting practice is:

- (1) One of continuation from the prior year;
- (2) One to be entered into for the first time; or
- (3) One to be resumed after the permit to practice for the prior year or prior years has lapsed.

(b) For a 1974 permit, an applicant shall file an application prior to the commencement date of the applicant's public practice. For a permit to practice public accountancy for the year 1975 and each year thereafter, the applicant shall file an application, on a form prescribed by the board, at least thirty days prior to the date on which the permit shall become effective. [Eff 1/1/74; am and ren §16-71-26, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-7)

§16-71-27 Temporary permit to practice. An application for a temporary permit to practice, pursuant to section 466-7(c), HRS, shall be filed on a form prescribed by the board not later than sixty days prior to the commencement of the period covered by the application and shall be accompanied by a statement signed by an official of the jurisdiction which issued the certificate or registration, attesting that the same is currently valid, and unrevoked. The board may waive the filing deadline requirement for good cause. [Eff 1/1/74; am and ren §16-71-27, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94;

comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

SUBCHAPTER 5

CONTINUING EDUCATION

§16-71-31 Basic concept. The overriding consideration in determining whether or not a specific program qualifies as acceptable continuing education is whether the program is a formal program of learning which will contribute directly to the professional competence of a licensee in public practice. Each licensee shall determine the course of study to be pursued by the licensee within the guidelines established by this chapter. [Eff 1/1/74; am and ren §16-71-31, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-32 Persons covered. Any person in public accounting practice, regardless of the extent or degree of the practice, shall be covered by this chapter. [Eff 1/1/74; am and ren §16-71-32, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-33 Basic requirements of study hours. (a) For a permit to practice public accountancy covering the calendar year 1975, and for each biennium thereafter, an applicant shall file, together with the application for a permit to practice, a certification as to the completion of at least eighty hours in continuing education programs. The eighty hours shall have been earned by the applicant within a twenty-four month period, and within twenty-four months of the date of the application for a permit to practice.

(b) The continuing education credit requirement of eighty credits may be prorated only for the permit obtained for the biennium period immediately following an individual's first permit to practice. The proration schedule is ten credits per three month period of the biennium. The number of credits required shall be determined by the date on which the individual's first permit to practice was approved. Applicants whose first permits were approved in the first three months of the biennium shall earn eighty credits to obtain the subsequent permit; applicants whose first permits were approved in the second three months of the

biennium shall earn seventy credits to obtain the subsequent permit; and the total hours required shall decrease by ten credits for each three month period to a minimum of ten credits for applicants whose first permits were approved in the last three months of the biennium period. [Eff 1/1/74; am and ren §16-71-33, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-34 Hours which qualify. A minimum of fifty minutes shall constitute one continuing education hour. No credit for continuing education hours shall be allowed for time expended for study outside of the classroom nor shall additional credits be allowed for programs or courses repeated in any single year. The hours spent in continuing education programs shall be measured, as follows:

- (1) A one-day program, other than a university or college course, of not less than six hours shall equal eight continuing education hours;
- (2) One hour of attendance in a group program, other than a university or college course, shall equal one continuing education hour;
- (3) Each hour certified by the sponsor of an individual self-study program shall equal one continuing education hour;
- (4) An academic credit hour for a semester earned from an accredited university or college as specified in section 16-71-17(a)(1) shall equal fifteen continuing education hours, provided the credits were not counted toward certification;
- (5) An academic credit hour for a quarter earned from an accredited university or college as specified in section 16-71-17(a)(l) shall equal ten continuing education hours, provided the credits were not counted toward certification;
- (6) Each university or college classroom hour in noncredit study shall equal one continuing education hour;
- (7) Each hour of university or college classroom work as a teacher, instructor, or lecturer shall equal one continuing education hour; however, the total cumulative continuing education hours earned by this method shall not exceed forty credit hours towards continuing education in any biennium; credit for the same course shall be awarded only once during a three year period;
- (8) Each hour spent at a group program, other than a university or college course, as a lecturer, discussion leader, or speaker shall equal one continuing education hour if the attendees of the group

program shall be able to earn continuing education credit as a result of the attendance; and provided that the total cumulative hours earned by this method shall not exceed forty credit hours toward continuing education in any biennium; credit for the same course shall be awarded only once during a three-year period;

- (9) Fifty per cent of each hour spent as a reviewer at a formally sponsored inter-office or inter-firm quality review program; and provided that the credit shall not exceed twenty continuing education hours in any biennium;
- (10) Credit may be allowed for authoring articles and books published in any one year, provided that they contribute to the professional competence of the licensee. Credit for the publications may be given on a self-declaration basis; provided the credit shall not exceed twenty continuing education hours in any biennium; and
- (11) An applicant for a permit to practice shall be allowed eighty hours of continuing education credit for passing the AICPA examination for the two years following the date the applicant is notified of passing the examination. If an applicant has not taken credit in the two years following notification, the applicant shall be allowed to take credit for forty hours of continuing education during the third year following notification. Credit for passing the AICPA examination shall not be taken more than once. [Eff 1/1/74; am 11/21/74; am and ren §16-71-34, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-35 Deficiency in hours and carryover hours. (a) In the event an applicant, except as provided in section 16-71-46, is found to be lacking in the eighty required continuing education hours as of December 31 of any odd-numbered year, the applicant shall be required to make up the deficient hours before the board approves the permit to practice.

(b) In the event the total continuing education hours is found to be in excess of the minimum requirements in any biennium, the applicant may carryover the excess to the following biennium's requirements, provided that the carryover shall be limited to forty hours. It shall be the responsibility of the licensee to maintain a record of any carryover credits. [Eff 1/1/74; am and ren §16-71-35, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-36 Program classifications. (a) The continuing education programs are classified into two categories, as follows:

- (1) Group programs as prescribed in section 16-71-37; and
 - (2) Individual self-study programs as prescribed in section 16-71-38.
- (b) Programs may include the following subjects:
- (1) Accounting and auditing subjects directly related to the application of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records or the preparation of financial statements in accordance with generally accepted accounting principles, or both;
 - (2) Taxation;
 - (3) Management services;
 - (4) Computer science;
 - (5) Communication arts;
 - (6) Mathematics, statistics, probability, and quantitative applications to business;
 - (7) Economics;
 - (8) Business law;
 - (9) Functional fields of business (finance, production, marketing, personnel relations, business organization, and business management);
 - (10) Social environment of business;
 - (11) Administrative practice (engagement letters, fees structure, personnel, etc.); or
 - (12) Specialized financial areas of business, industry, and the profession. [Eff 1/1/74; am and ren §16-71-36, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-37 Requirements for group programs. Each group program shall:

- (1) Require attendance;
- (2) Be at least fifty minutes in duration;
- (3) Be conducted by a qualified instructor or discussion leader;
- (4) Through its sponsor, maintain written records of its attendees and of the program outline for a period of two years immediately following the conclusion of the program;
- (5) Through its sponsor, issue to each attendee written evidence of attendance with the suggested continuing education credit hours shown thereon, exclusive of any study or preparation time; and

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- (6) Have a board approved sponsor. [Eff 1/1/74; am and ren §16-71-37, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-38 Requirements for individual self-study programs. Each individual self-study program shall:

- (1) Be conducted by a qualified board approved sponsor;
- (2) Through its sponsor, issue a certificate of completion, specifying subject matter and recommended continuing education credit hours; and
- (3) Through its sponsor, maintain written records of each student and of the program outline for a period of two years immediately following the conclusion of the program. [Eff 1/1/74; am and ren §16-71-38, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-39 Sponsors whose programs automatically qualify. Subject to compliance with the requirements of sections 16-71-37 and 16-71-38, the program sponsors who automatically qualify shall include:

- (1) All non-profit nationally recognized accounting and auditing associations, such as the American Institute of Certified Public Accountants, the National Society of Public Accountants, the American Society of Women Accountants, the National Association of Accountants, the National Association of State Boards of Accountancy, and their respective state societies, state boards, chapters, or branches;
- (2) Universities and colleges, provided that the institutions are accredited as specified under section 16-71-17(a)(1); or
- (3) Sponsors approved by another state board or by the National Association of State Boards of Accountancy's National Registry. [Eff 1/1/74; am 5/12/78; am and ren §16-71-39, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-40 Repealed. [R 2/22/94]

§16-71-41 Requirements for approval by the board. Sponsors who do not automatically qualify shall be required to apply to the board on a form prescribed by the board prior to the program event. The sponsor shall comply with all requirements, policies, and standards set forth by the board. [Eff 1/1/74; am 11/21/74; am and ren §16-71-41, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-42 Repealed. [R 2/22/94]

§16-71-43 Duration of approval. The approval by the board of each group program sponsor and each individual self-study program sponsor shall expire two years from the date of approval. Approval may be withdrawn by the board at any time for good cause. [Eff 1/1/74; am and ren §16-71-43, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-44 Repealed. [R 2/22/94]

§16-71-45 Information requirements. Accompanying an application for a permit to practice, each certified public accountant and each public accountant shall also file, on a form prescribed by the board, a certification relating to the applicant's continuing education setting forth the following:

- (1) Name of course sponsor;
- (2) Address at which the course was given;
- (3) Title of course;
- (4) Date attended;
- (5) Hours claimed; and

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- (6) Written evidence of attendance at group programs or completion of individual self-study programs. [Eff 1/1/74; am and ren §16-71-45, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-46 Exceptions. The board may issue a permit to practice to any applicant who has not fully complied with the continuing education requirement in cases where failure by the applicant to fulfill the requirement has been caused by reason of:

- (1) Health, as certified by a medical doctor;
- (2) Military service on extended active duty with the armed forces of the United States; or
- (3) Other good and valid causes, as determined and approved by the board. [Eff 1/1/74; am and ren §16-71-46, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-47 Certification to other jurisdiction. The board shall certify, upon request, to any state as to the compliance with continuing education requirements under the laws of the State by any of its licensees. [Eff 1/1/74; am and ren §16-71-47, 6/25/81; comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-48 Exception for temporary permits. This subchapter governing continuing education shall not apply to any applicant for a temporary permit to be issued under section 466-7(c), HRS. [Eff 1/1/74; am and ren §16-71-48, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-7)

SUBCHAPTER 6

§16-71-52 Repealed. [R 2/22/94]

§16-71-53 Repealed. [R 2/22/94]

§16-71-54 Repealed. [R 2/22/94]

§16-71-55 Repealed. [R 2/22/94]

§16-71-56 Repealed. [R 2/22/94]

§16-71-57 Repealed. [R 8/25/88]

SUBCHAPTER 7

RULES OF CONDUCT

§16-71-61 Independence, integrity, and objectivity. (a) A licensee shall not express an opinion on financial statements of an enterprise in a manner as to imply that the licensee is acting as an independent public accountant with respect thereto unless the licensee is independent with respect to the enterprise.

Independence shall be considered to be impaired if, for example:

- (1) During the period of the licensee's professional engagement, or at the time of expressing an opinion, the licensee:
 - (A) Had acquired or was committed to acquire any direct or material indirect financial interest in the enterprise;
 - (B) Was a trustee, executor, or administrator of any trust or estate which had acquired or was committed to acquire any direct or material indirect financial interest in the enterprise;
 - (C) Had any joint closely-held business investment with the enterprise or any officer, director, or principal stockholder

- thereof which was material in relation to the net worth of either the licensee or the enterprise; or
- (D) Had any loan to or from the enterprise or any officer, director, or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms, and requirements:
 - (i) Loans obtained by the licensee which are not material in relation to the net worth of the borrower;
 - (ii) Home mortgages; and
 - (iii) Other secured loans, except those secured solely by a guarantee of the licensee;
- (2) During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the licensee:
- (A) Was connected with the enterprise as a promoter, underwriter, voting trustee, director, or officer, or in any capacity equivalent to a member of management or of an employee; or
 - (B) Was a trustee of any pension or profit-sharing trust of the enterprise.

Paragraphs (1) and (2) are not intended to be all-inclusive examples.

(b) A licensee, in the performance of professional services shall not knowingly misrepresent facts, and shall not subordinate the licensee's judgment to others. In tax practice, however, a licensee may resolve doubt in favor of a client as long as there is reasonable support for the position.

(c) A licensee shall not pay a commission to obtain a client, nor accept a commission for a referral to a client of products or services of others. This subsection shall not prohibit payments for the purpose of all, or a material part, of an accounting practice or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of those persons.

(d) A licensee shall not offer or perform professional services for a fee which is contingent upon the findings or results of those services; provided this subsection shall not apply to professional services involving federal, state, or other taxes in which the findings are those of the tax authorities and not those of the licensee, nor shall it apply to professional services for which the fees are to be fixed by courts or other public authorities, and which are, therefore, indeterminate in amount at the time the professional services are undertaken.

(e) A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence or objectivity in rendering professional services. [Eff 3/6/80; am and ren §16-71-61, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-62 Competence and technical standards. (a) A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with subsections (b) and (c).

(b) A licensee's name shall not be permitted to be associated with financial statements in a manner as to imply that the licensee is acting as an independent public accountant with respect to the financial statements unless the licensee is in compliance with applicable generally accepted auditing standards. Statement on Auditing Standards issued by the American Institute of Certified Public Accountants, and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures therefrom shall be justified by those who do not follow them.

(c) A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if the financial statements contain any departure from an accounting principle which has a material effect on the statements taken as a whole, unless the licensee can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In that case, the licensee's report shall describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principles would result in a misleading statement.

(d) A licensee, in the performance of professional services, shall not permit the licensee's name to be used in conjunction with any forecast of future transactions in a manner which may reasonably lead to the belief that the licensee vouches for the achievability of the forecast. [Eff 3/6/80; am and ren §16-71-62, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-63

§16-71-63 Responsibilities to clients. (a) A licensee, without the consent of the client, shall not disclose any confidential information pertaining to the client obtained in the course of performing professional services.

(b) Subsection (a) shall not:

- (1) Relieve a licensee of any obligations under section 16-71-62(b) and (c);
- (2) Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court;
- (3) Prohibit disclosures in the course of a quality review of a licensee's professional services; or
- (4) Preclude a licensee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board.

(c) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish the information to an investigative or disciplinary body of the kind referred to in subsection (b).

(d) When an engagement is completed, a licensee shall furnish to a client or former client, upon request made within a reasonable time after original issuance or preparation of the document in question:

- (1) A copy of a tax return of the client;
- (2) A copy of any report, or other document, issued by the licensee to or for the client;
- (3) Any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of the documents when they form the basis of work done; and
- (4) A copy of the licensee's working papers, to the extent that the working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client, provided that a licensee may require that any fees due and owing from the client to the licensee for the licensee's services, where the client has agreed in advance to pay such fees, be paid before a copy of the licensee's working papers is provided to the client. [Eff 1/1/74; am and ren §16-71-63, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-64 Other responsibilities and practices. (a) A licensee shall not commit any act which reflects adversely on the licensee's fitness to engage in the practice of public accountancy.

(b) A licensee shall not permit others to carry out on the licensee's behalf, either with or without compensation, acts which, if carried out by the licensee, would place the licensee in violation of the rules of conduct.

(c) A licensee shall not use or participate in the use of any form of public communication having reference to the licensee's professional services which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes, but is not limited to, a statement or claim which:

- (1) Contains a misrepresentation of fact;
- (2) Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;
- (3) Contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality;
- (4) Is intended or likely to create false or unjustified expectations of favorable results;
- (5) Implies educational or professional attainments or licensing recognition not supported in fact;
- (6) States or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case;
- (7) 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 be charged; or
- (8) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(d) A licensee shall not by any direct personal communication solicit an engagement to perform professional services:

- (1) If the communication would violate subsection (c) and it is a public communication; or
- (2) By the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct.

(e) A licensee shall not practice public accountancy under a firm name which is misleading in any way, as to the legal form of the firm, or as to the persons who are sole practitioners, partners, officers, or shareholders of the firm,

or as to any matter with respect to which public communications are restricted by subsection (c). A firm name shall not be used by a licensee in the practice of public accountancy unless the name has been registered with and approved by the board and the registration of the firm has been approved by the business registration division of the department of commerce and consumer affairs. However, names of one or more past partners or shareholders may be included in the firm name of a partnership or corporation or its successor, and a partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two years after becoming a sole practitioner.

(f) A licensee, when requested, shall respond to communications from the board within thirty days of the mailing of the communications by registered or certified mail. [Eff 1/1/74; am and ren §16-71-64, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §466-4)

SUBCHAPTER 8

PRACTICE AND PROCEDURE

§16-71-66 Administrative practice and procedure. The rules of practice and procedure for certified public accountants and public accountants shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §§91-2, 466-4) (Imp: HRS §§91-2, 466-4)

SUBCHAPTER 9

ORAL TESTIMONY

§16-71-69 Oral testimony. (a) The board shall accept oral testimony on any item which is on the agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony shall notify the board not later than forty-eight hours prior to the meeting, and at that time shall state the item on which testimony is to be presented;

- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purposes of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another pending proceeding, subject to the declaratory relief or rule relief provisions of chapter 16-201.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01] (Auth: HRS §466-4) (Imp: HRS §92-3)

Amendments to and compilation of chapter 16-71, Hawaii Administrative Rules, on the Summary page dated January 5, 2001, were adopted on January 5, 2001, following a public hearing held on the same date, after public notices were given in the Hawaii State and County Public Notices for the City and County of Honolulu, County of Kauai, County of Maui and the County of Hawaii on December 4, 2000.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Arthur C. Tokin
ARTHUR C. TOKIN, Chairperson
Board of Public Accountancy

APPROVED AS TO FORM: Date 1/8/01

/s/ Rodney J. Tam
Deputy Attorney General

APPROVED: Date 1/10/01

/s/ Kathryn S. Matayoshi
KATHRYN S. MATAYOSHI, Director
Commerce and Consumer Affairs

APPROVED: Date 1/11/01

/s/ Benjamin J. Cayetano
BENJAMIN J. CAYETANO
Governor
State of Hawaii

January 11, 2001
Filed

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-71,
Hawaii Administrative Rules

January 5, 2001

SUMMARY

1. §16-71-21 is amended.
2. Chapter 71 is compiled.

This material can be made available for individuals with special needs. Please call the Program Specialist, Professional and Vocational Licensing Division, DCCA, at 586-2692, to submit your request.