

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 60 PUBLIC ACCOUNTANTS
PART 1 GENERAL PROVISIONS

16.60.1.1 ISSUING AGENCY: State of New Mexico Public Accountancy Board.
[16.60.1.1 NMAC - Rp 16 NMAC 60.1.1, 02-14-2002]

16.60.1.2 SCOPE: General public, all individuals certified/licensed as a certified public accountant (CPA) or registered public accountant (RPA), individuals seeking to be a CPA and all CPA/RPA business entities registered as a firm or seeking registration as a CPA/RPA firm with the board.
[16.60.1.2 NMAC - Rp 16 NMAC 60.1.2, 02-14-2002]

16.60.1.3 STATUTORY AUTHORITY: Public Accountancy Act, Sections 61-28B-1 to 61-28B-29 NMSA 1978.
[16.60.1.3 NMAC - Rp 16 NMAC 60.1.3, 02-14-2002]

16.60.1.4 DURATION: Permanent.
[16.60.1.4 NMAC - Rp 16 NMAC 60.1.4, 02-14-2002]

16.60.1.5 EFFECTIVE DATE: February 14, 2002, unless a later date is cited at the end of a section.
[16.60.1.5 NMAC - Rp 16 NMAC 60.1.5, 02-14-2002]

16.60.1.6 OBJECTIVE: The objective of Chapter 16, Part 1 is to establish the general provisions for the rules filed in this chapter; provide definitions of terms for rules filed in this chapter; delineate the headquarters location of the board and board operations; and prescribe board fees for public accountancy board certification, licensing and firm registration actions, and board services.
[16.60.1.6 NMAC - Rp 16 NMAC 60.1.6, 02-14-2002]

16.60.1.7 DEFINITIONS:

A. “Acceptance letter” means a document issued by the sponsoring organization indicating the peer review report has been accepted and, if applicable, any remedial/corrective actions to be agreed to and completed by the firm.

B. “Accounting and auditing services” for peer review purposes means providing any one or more of the following:

- (1) engagements performed in accordance with the “statements on auditing standards”;
- (2) engagements, other than preparation services, performed in accordance with the “statements on standards for accounting and review services”;
- (3) examination, review or agreed upon procedures engagements performed in accordance with the “statements on standards for attestation engagements”; or
- (4) engagements performed in accordance with public company accounting oversight board (PCAOB) standards that are not subject to PCOAB permanent inspection.

C. “Act” means the New Mexico 1999 Public Accountancy Act, Sections 61-28B-1 to 61-28B-29 NMSA1978.

D. “Agreed upon procedures” are those which are to be performed in accordance with applicable attestation standards. They are also those in which a license is engaged to issue a written finding that is based on specific procedures that the specified parties agreed are sufficient for their purpose, is restricted to the specified parties, and does not provide an opinion or negative assurance.

E. “Attest” means to provide the following services:
(1) an audit or other engagement performed in accordance with the statements on auditing standards;
(2) a review of a financial statement performed in accordance with the statement on standards for accounting and review services;
(3) an engagement performed in accordance with the statements on standards for attestation engagements adopted by the board; and
(4) an engagement to be performed in accordance with the auditing standards of the public company accounting oversight board;

F. “Blended learning” is an educational program incorporating different learning or instructional delivery methods, both asynchronous and synchronous learning activities, or different levels of guidance.

~~[E.]~~ **G.** **Client**” means the person or entity who retains a licensee for the performance of professional services.

~~[F.]~~ **H.** **“Completion letter”** means a document issued by the sponsoring organization after a firm has provided evidence of remedial/ corrective actions taken, which were specified in the acceptance letter, and its peer review committee has determined no further actions are required.

I. “Electronic mail or an Email” means an electronic mail message created in or received through an electronic mail system, including all attachments that are sent over a communications network, using a computer or other electronic device.

J. “Electronic Signature” means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~[G.]~~ **K.** **“Enterprise”** means any person or entity who retains a licensee for the performance of professional services.

~~[H.]~~ **L.** **“Financial statements”** means statements and footnotes related thereto that purport to show an actual or anticipated financial position or results of operations, cash flow, or changes in financial position based on generally accepted accounting principles or another comprehensive basis of accounting. The term includes specific elements, accounts, or items of such statements, but it does not include incidental financial data included in management advisory service reports which support recommendations made to clients. In addition, it does not include tax returns and supporting schedules.

~~[I.]~~ **M.** **“He, his, him”** means masculine pronouns when used herein also include the feminine and the neuter.

~~[J.]~~ **N.** **“Holding out to the public as a permit holder or registered firm”** means the phrase “holding himself out to the public as a permit holder or registered firm” as used in the definition of “practice of public accountancy” in Section 3L of the act, and in these rules it means any representation, other than by an individual holding a certificate or firm registration issued by this board pursuant to the 1999 Public Accountancy Act, Sections 61-28B-7 thru 61-28B-9, 61-28B-1 or 61-28B-13, of the fact that a certificate holder holds a permit, certificate or is a registered firm in connection with the performance of, or an offer to perform, services for the public, except as allowed under the practice privilege pursuant to the 1999 Public Accountancy Act, Sections 61-28B-26. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate, registration, or permit in connection with the professional services offered to be performed. For the purpose of this rule, a representation shall be deemed to include any oral or written communication conveying the fact that the person holds a certificate, permit or firm registration, including without limitation the use of titles or legends on letterheads, business cards, office doors, advertisements, internet, email, or other electronic media.

~~[K.]~~ **O.** **“Mail” as used in the rules shall include mail sent by the United States Postal Service or commercial courier.**

~~[K.]~~ **P.** **“Manager”** has, when used in these rules, the same meaning as the term “manager” in a limited liability company.

~~[L.]~~ **Q.** **“Member”** has, when used in these rules, the same meaning as the term “member” in a limited liability company.

R. “Nano learning program” is a program designed to permit a participant to learn a given subject in a minimum of 10 minutes and less than 20 minutes through the use of electronic media (including technology applications and processes and computer-based or web-based technology) and without interaction with a real-time instructor. A nano learning program differs from a self-study program in that it is typically focused on a single learning objective and is not paper-based. A nano learning program is not a group program. Nano learning is not a substitute for comprehensive programs addressing complex issues.

S. “Non-technical” fields of study are subjects that contribute to the maintenance and/or improvement of the competence of a CPA in areas that indirectly relate to the CPA’s field of business and subject to board determination. These fields of study include, but are not limited to:

- (a) Behavioral ethics
- (b) Business management & organization
- (c) Communications and marketing
- (d) Computer software and applications
- (e) Personal development
- (f) Personnel/human resources;

(g) Production

~~[M.]~~ **T.** “PCAOB” means the public company accounting oversight board.

~~[N.]~~ **U.** “Peer review program” means the sponsoring organization’s entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance and materials.

~~[O.]~~ **V.** “Peer review committee” means a committee comprised exclusively of CPAs practicing public accountancy and formed by a sponsoring organization for the purpose of overseeing the administration, acceptance, and completion of peer reviews.

~~[P.]~~ **W.** “Peer review oversight committee” means a board appointed committee to provide oversight of the sponsoring organization in order to provide reasonable assurance that peer reviews are being administered, conducted, and reported on in accordance with the minimum standards for performing and reporting on peer reviews.

X. “Practice” means performing or offering to perform public accountancy for a client or potential client by a person who makes a representation to the public as a certified public accountant or a registered firm.

Y. “Public Accountancy” means the performance of one or more kinds of services involving accounting or auditing skills, including the issuance of reports on financial statements, the performance of one or more kinds of management, financial advisory or consulting services, the preparation of tax returns or the furnishing of advice on tax matters.

~~[Q.]~~ **Z.** “Practice Privilege” as defined in the 1999 Public Accountancy Act, Section 61-28B-26, a person whose principal place of business or residence is not in New Mexico shall be presumed to have qualifications substantially similar to New Mexico’s requirements, may exercise all the practice privileges of certificate holders of New Mexico without the need to obtain a certificate pursuant to the 1999 Public Accountancy Act, Sections 61-28B-9 NMSA 1978, if the individual meets the requirements of the 1999 Public Accountancy Act, Section 61-28B-26.

~~[R.]~~ **AA.** “Professional engagement” means a written or oral agreement between a client and a licensee relative to the performance of professional services and the services performed under this agreement. Oral agreements may only be used when allowed by professional standards.

~~[S.]~~ **BB.** “Professional services” means any service performed or offered to be performed by a licensee for a client in the course of the practice of public accountancy.

~~[T.]~~ **CC.** “Public communication” means a communication made in identical form to multiple persons or to the world at large, including but not limited to television, radio, motion pictures, newspaper, pamphlet, mass mailing, letterhead, business card, the internet, email or directory.

~~[U.]~~ **DD.** “Quality review” means an interchangeable term for peer review.

~~[V.]~~ **EE.** “Report” As provided in Section 61-28B-3 N of the act, the term “report” includes the issuance of reports in conjunction with an accounting and auditing practice using the forms of language set out in the American institute of certified public accountants (AICPA) “statements on auditing standards,” “statements on standards of accounting and review services,” “statements on standards for attestation engagements,” and PCOAB standards.

~~[W.]~~ **EE.** “Services involving accounting or auditing skills” means “services involving accounting or auditing skills” as used in the definition of “practice of public accountancy” in Sections 3K and L of the act. It includes the provision of advice or recommendations in connection with the sale or offer for sale of products, when the advice or recommendations require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting.

~~[X.]~~ **GG.** “Sponsoring Organization” means a board approved professional society, or other organization responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.

~~[Y.]~~ **HH.** “Statement of compliance” means a certified statement from the human services department (HSD) stating that an applicant or licensee is in compliance with a judgment and order for support.

~~[Z.]~~ **II.** “Statement of non-compliance” means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and order for support.

JJ. “Technical” fields of study are technical subjects that contribute to the maintenance and/or improvement of the competence of a CPA in the profession of accountancy and that directly relate to the CPA’s field of business. These fields of study include, but are not limited to:

- (a) Accounting
- (b) Government accounting
- (c) Auditing
- (d) Government auditing
- (e) Business law

- (f) Economics
- (g) Finance
- (h) Information technology
- (i) Management services
- (j) Regulatory ethics
- (k) Specialized knowledge
- (l) Statistics
- (m) Taxes

[16.60.1.7 NMAC - Rp 16 NMAC 60.1.7 and 16 NMAC 60.11.7, 02-14-2002; A, 11-30-2007; A, 4-15-2008; A, 06-30-2008; A, 01-17-2013; A, 09-15-2015; A, 10-1-2016]

16.60.1.8 HEADQUARTERS OF THE BOARD: The headquarters, administrative offices, and staff of the board shall be physically located at 5500 San Antonio Dr. NE, Suite A, Albuquerque, New Mexico, 87109 or a subsequent location subject to the board's approval and ratification.

[16.60.1.8 NMAC - Rp 16 NMAC 60.1-8, 02-14-2002; A, 12-30-2004; A, 03-03-2017]

16.60.1.9 BOARD OPERATION:

A. The board ~~shall~~ may meet at least 6 times each year. The chair or a quorum of the board shall have the authority to call meetings of the board. The board shall follow and apply the rules of procedure of the State of New Mexico Open Meetings Act, Sections 10-15-1 to 10-15-4, as regards notice and conduct of meetings.

B. The board shall elect annually from among its members a chair, vice-chair, secretary/treasurer and such other officers as the board may require. The officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected. Board officers shall serve a term of 1 year but shall be eligible for reelection.

C. The chair or, in the event of the chair's absence or inability to act, the vice-chair shall preside at all meetings of the board. The board shall determine duties of other officers.

[16.60.1.9 NMAC - Rp 16 NMAC 60.1.9, 02-14-2002]

16.60.1.10 FEES AND OBLIGATIONS: Fees charged by the board shall be as follows.

A. Fees set by the board for CPA examination applicants shall not unreasonably exceed the amount required for the board to operate CPA examination administration on a break even basis, but in no case shall the fee be less than the state's cost of procuring and administering the exam.

B. Initial examination qualification review under Section 27F of the act shall be \$75.

C. Delinquency fee for incomplete or delinquent continuing education reports, certificate/license or firm permit renewals under Section 27D of the act shall be \$100.

D. Certificate application under Section 27B of the act shall be: initial certificate, \$175; certificate renewal, \$130.

E. No annual renewal fee shall be assessed for an individual who holds an inactive certificate and who has reached the age of 70.

F. Firm permit application or renewal fee under Section 27C of the act shall be \$75 for each firm, regardless of form of entity.

G. Firm permit renewal delinquency fee under Section 27C of the act shall be \$100 and includes all practitioners whose renewal applications are delinquent.

H. Certificate/license/ firm permit reinstatement fee under Section 27H of the act shall be \$175. For certificate/individual license reinstatements only, reinstatement fee and an additional fee of the current year's renewal fee. No delinquency fee shall be assessed.

I. Continuing professional education waiver and reentry into active certificate status and to comply with continuing professional education under Sections 27H and 27I of the act shall not exceed \$75 each occurrence.

J. Administrative fees for services under Section 27F shall be:

- (1) list of certificate or permit holders, \$250;
- (2) duplicate or replacement certificate card or permit card, \$10 each;
- (3) duplicate or replacement wall certificate, \$25 each;
- (4) board evaluation of coursework for continuing professional education credit, \$50 per hour of board staff research and study;
- (5) certificate application package for reciprocity, \$20 each;
- (6) grade transfer candidates, \$75 each;

- (7) replacement packages for by-examination candidates, \$75 each;
- (8) copies of combined Accountancy Act and board rules, \$10 each;
- (9) copies of records and documents, \$.25 per page; and

~~[(10) — name change due to marriage, divorce, legal name change, etc. for replacement license shall be \$130; and]~~

~~[(11)]~~ (10) the board may, at its discretion, charge for other administrative costs as it deems appropriate.

K. Fee for the transfer of licensure or examination information to a third party under Section 27E of the act shall be \$75.

L. Fee for criminal history background check under Section 8.1 of the act shall be the amount established by the department of public safety for the processing of criminal history background checks.

M. The board may waive charges as it deems appropriate.

N. All fees are non-refundable.

[16.60.1.10 NMAC - Rp 16 NMAC 60.2.8, 02-14-2002; A, 01-15-2004; A, 04-29-2005; A, 11-30-2007; A, 06-30-2008; A, 05-29-2009; A, 11-13-2009; A, 9-15-2010; A, 01-17-2013, A, 12-01-2014; A, 9-15-2015; A, 10-1-2016]

16.60.1.11 PRESCRIBED FORMS: All requests for licensure transactions and all documentation for licensure purposes must be made on prescribed forms.

- A.** PAB 1 - Application for a New Mexico CPA Certificate by Examination.
- B.** PAB 2 - Application for a New Mexico CPA Certificate by Grade Transfer.
- C.** PAB 3 - Application for a New Mexico CPA Certificate by Reciprocity.
- D.** PAB 4 - Application for Renewal of a Current New Mexico CPA Certificate.
- E.** PAB 5 - Application for Reinstatement of a Cancelled New Mexico CPA Certificate.
- F.** PAB 6 - Application for Change of Certificate Status.
- G.** PAB 7 - Application for Firm Permit.
- H.** PAB 8 - Firm Permit Renewal Application.
- I.** PAB 9 - Application for Reinstatement of an Expired Firm Permit.
- J.** PAB 11 - Interstate Exchange of Information Form.
- K.** PAB 12 - Work Experience Verification Form.
- L.** PAB 13 - Interstate Notification of Verifying CPA's License.
- M.** PAB 14 - Report of Continuing Professional Education.
- N.** PAB 15 - Interstate Verification of Examination Scores.

[16.60.1.11 NMAC - N, 07-30-2004; A, 05-15-2006; A, 06-30-2008]

HISTORY OF 16.60.1 NMAC:

Pre-NMAC History: Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

BPA 84-2, Purpose, filed 07-09-84;

BPA 95-3, Definitions, filed 04-21-95;

BPA 95-8, Board, Powers and Duties, filed 04-21-95.

History of Repealed Material:

16 NMAC 60.1, General Provisions, filed 09-27-95; 16 NMAC 60.2, Fees, Obligations, and Communications, filed 09-27-95; and Amendment to 16 NMAC 60.2, Fees, Obligations, and Communication, filed 12-23-99, repealed effective 02-14-2002.

Other History:

16 NMAC 60.1 General Provisions, filed 09-27-95; 16 NMAC 60.2, Fees, Obligations, and Communication, filed 09-27-95; and Amendment to 16 NMAC 60.2, Fees, Obligations, and Communications (filed 12-23-99), replaced by 16.60.1 NMAC, General Provisions effective 02-14-2002.