

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

**Proposed Rule
LSA Document #07-306**

DIGEST

Amends 872 IAC 1-6-2 and 872 IAC 1-6-7 through 872 IAC 1-6-11 and adds 872 IAC 1-6-13 to revise the requirements and procedures for a quality review program for CPA and PA firms. Repeals 872 IAC 1-6-12. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

872 IAC 1-6-2; 872 IAC 1-6-7; 872 IAC 1-6-8; 872 IAC 1-6-9; 872 IAC 1-6-10; 872 IAC 1-6-11; 872 IAC 1-6-12; 872 IAC 1-6-13

SECTION 1. 872 IAC 1-6-2 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-6-2 "Approved quality review program" defined

Authority: IC 25-2.1

Affected: IC 25-2.1-5-8; IC 25-2.1-5-9

Sec. 2. "Approved quality review program" means a peer review program:

(1) administered by an ~~oversight body established~~ **entity (administering entity) approved** by the board under section 7 8 of this rule; and

(2) meeting the requirements of this rule, including the

(A) AICPA document incorporated by reference in section 11 of this rule (applicable to CPA and PA firms).

or

(B) ~~NSA document incorporated by reference in section 12 of this rule (applicable to PA firms only).~~

(Indiana Board of Accountancy; 872 IAC 1-6-2; filed Oct 13, 2004, 11:30 a.m.: 28 IR 966)

SECTION 2. 872 IAC 1-6-7 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-6-7 Quality review oversight committee

Authority: IC 25-2.1

Affected: IC 25-2.1-5-8; IC 25-2.1-5-9

Sec. 7. (a) The board shall appoint a quality review oversight committee. ~~to assist it in the implementation of the quality review program.~~

(b) The oversight committee shall:

(1) consist of three (3) licensees who have an active certificate as a certified public accountant or public accountant;

(2) be composed of individuals who are not members of the board;

(3) provide the board with the names of those firms that have undergone and have had an accepted review as well as whether the firms are meeting the terms, conditions, and remedial actions, if any, required for completion of the review;

(4) along with the board, establish procedures designed to ensure confidentiality of documents furnished or generated in the course of the review; and

(5) carry out other duties as delegated by the board necessary for the administration and enforcement of this rule.

(c) An appointment under this section is for a term of three (3) years, except for an appointment to fill a vacancy shall be for the remainder of the unexpired term. A committee member may continue to serve until the member's successor is appointed and qualified. An oversight committee member may be reappointed at the end

of each term.

~~(d) Notwithstanding subsection (c), the initial appointment to the committee shall be:~~

- ~~(1) one (1) committee member for the term of one (1) year;~~
- ~~(2) one (1) committee member for the term of two (2) years; and~~
- ~~(3) one (1) committee member for a term of three (3) years.~~

~~The duration of these terms shall be calculated from July 1, 2004.~~

(Indiana Board of Accountancy; 872 IAC 1-6-7; filed Oct 13, 2004, 11:30 a.m.: 28 IR 966)

SECTION 3. 872 IAC 1-6-8 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-6-8 Responsibilities of administering entity

Authority: IC 25-2.1

Affected: IC 25-2.1-5-8; IC 25-2.1-5-9

Sec. 8. (a) **The board shall appoint an administering entity.**

~~(b) The quality review oversight committee is responsible for the following:~~ **administering entity shall:**

- ~~(1) Monitoring approved quality review programs and reporting periodically to the board on whether these programs meet the requirements~~ **administer the program in compliance with section 11 of this rule;**
 - ~~(2) Evaluating the determinations and recommendations in each quality review report submitted by the firm.~~
 - ~~(3) Submitting an annual report to the board that includes statistics on the impact and effect of the quality review program and a list of firms~~ **(2) provide the oversight committee with the names of those firms that have undergone quality reviews under this rule, and have had an accepted review as well as whether the firms are meeting the terms, conditions, and remedial actions, if any, required for completion of the review; and**
 - ~~(4) Carrying out other duties as delegated by the board necessary for the administration and enforcement of this rule.~~
- (3) periodically report on the effectiveness of the review program to the board.**

(Indiana Board of Accountancy; 872 IAC 1-6-8; filed Oct 13, 2004, 11:30 a.m.: 28 IR 967)

SECTION 4. 872 IAC 1-6-9 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-6-9 Requirements for firms

Authority: IC 25-2.1

Affected: IC 25-2.1-5

Sec. 9. (a) This section applies to renewal of firm permits that expire on or after June 30, 2006.

(b) During the three (3) year period preceding a firm's application for renewal of a permit under IC 25-2.1-5, a firm shall complete a quality review in compliance with this rule, unless the firm is not required to have a quality review under subsection (d)(2). Failure of a firm to complete a quality review may result in the denial of the renewal of the firm's permit under IC 25-2.1-5.

(c) Each firm where attest or compilation services are performed shall be covered by a quality review. A single quality review report covering all locations may be submitted for firms with multiple firm locations.

(d) Each application for renewal of a permit under IC 25-2.1-5 shall include: **certify:**

- ~~(1) a letter certifying~~ **under the penalty of perjury, acceptance of the quality review report issued to the firm by the oversight committee administering entity; or**
- ~~(2) a certification that the firm is not required to have a quality review because it has not performed any attest or compilation engagements since the last expiration of the firm permit.~~

~~(e)~~ For the 2006 renewal, the period under subsection (d)(2) shall be since June 30, 2006, rather than since the last expiration of the firm permit.

~~(f)~~ **(e)** Before commencement of an attest or compilation engagement, a firm that was not required to obtain a quality review under subsection (d)(2) shall:

- (1) notify the board; and shall
- (2) complete a quality review within eighteen (18) months of such the notification.

~~(g)~~ **(f)** In order to renew an expired firm permit, a firm shall complete a quality review in compliance with this rule. An exemption under subsection (d)(2) shall be calculated as if the firm permit had been renewed before its expiration.

~~(h)~~ **(g)** Each firm is responsible for the cost of the quality reviews under this rule.

~~(i)~~ A quality review obtained after June 30, 2003, but before the effective date of this rule, shall fulfill the requirements for obtaining a quality review for the 2006 renewal as long as the quality review was done in a manner consistent with this rule.

(Indiana Board of Accountancy; 872 IAC 1-6-9; filed Oct 13, 2004, 11:30 a.m.: 28 IR 967)

SECTION 5. 872 IAC 1-6-10 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-6-10 Reports; confidentiality

Authority: IC 25-2.1

Affected: IC 25-2.1-5-8; IC 25-2.1-5-9

Sec. 10. (a) An approved quality review program ~~administrator~~ **administering entity** shall determine and report the following to the oversight committee with respect to each firm that is reviewed:

- (1) Any recommendations concerning the possible improvement of the quality of the firm location's professional services.
- (2) Whether the firm is not in general conformity with applicable professional standards.
- (3) If the firm is not in general conformity, any significant departures from applicable professional standards.

(b) A firm that is the subject of a quality review may submit to the ~~oversight committee~~ **administering entity** a response to the determinations and recommendations contained in the quality review report.

(c) Quality review reports and related comments ~~and work papers~~ shall be retained by the ~~oversight committee~~ **administering entity**:

- (1) for a period of at least three (3) years from the date of submission; or
- (2) until acceptance by the ~~oversight committee~~ **administering entity** of the firm location's next quality review report;

whichever is later.

(d) All proceedings, records, and work papers related to a quality review performed under this rule are:

- (1) privileged as provided in IC 25-2.1-5-8; and are
- (2) not subject to discovery, subpoena, or other means of legal process or introduction into evidence unto a civil action, arbitration, administrative proceeding, or board proceeding.

(e) Subject to IC 25-2.1-5-9, a member of the ~~review oversight committee~~, **the administering entity**, or an individual who was involved with or who performed a quality review may not testify in a civil action, arbitration, administrative proceeding, or board proceeding to matters:

- (1) produced, presented, disclosed, or discussed during, or in connection with, the quality review process; or
- (2) that involve findings, recommendations, evaluations, opinions, or other actions of the approved quality review program, the ~~oversight committee~~, **administering entity**, or individual reviewers. ~~or committee~~

(Indiana Board of Accountancy; 872 IAC 1-6-10; filed Oct 13, 2004, 11:30 a.m.: 28 IR 967)

SECTION 6. 872 IAC 1-6-11 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-6-11 AICPA standards for peer/quality review program

Authority: IC 25-2.1

Affected: IC 25-2.1

Sec. 11. (a) That certain document being titled Standards for Performing and Reporting on Peer Reviews (copyright 2000, 2008, effective January 1, 2004), 2009), as published by the American Institute of Certified Public Accountants (AICPA), 1211 Avenue of the Americas, New York, New York 10036-8775, is hereby incorporated by reference as if fully set out in this rule except for the revision stated in this section. This document applies to quality reviews performed ~~before January 1, 2005.~~ **after December 31, 2008.**

(b) That certain document being titled Standards for Performing and Reporting on Peer Reviews (copyright 2004, effective January 1, 2005), as published by the American Institute of Certified Public Accountants (AICPA), 1211 Avenue of the Americas, New York, New York 10036-8775, is hereby incorporated by reference as if fully set out in this rule except for the revision stated in this section. This document applies to quality reviews performed ~~after December 31, 2004.~~ **before January 1, 2009.**

(c) Notwithstanding the use of the word "should" in the Standards for Performing and Reporting on Peer Reviews, a reviewer must:

- (1) comply with the standards; or must
- (2) justify any departure therefrom.

(d) The Standards for Performing and Reporting on Peer Reviews is incorporated by reference in this rule to establish substantive standards for quality reviews. Any requirement for membership in the AICPA or other organization or the involvement of any AICPA entity or state CPA society in the quality review process shall not apply. The quality review program under this rule is administered by the board and the ~~quality review oversight committee~~ **administering entity** established under section ~~7~~ **8** of this rule. However, this subsection shall not be construed to limit the involvement of either the AICPA or the state CPA society in any quality review activity involving their members as long as the resulting quality review complies with this rule.

(e) If any provision of the Standards for Performing and Reporting on Peer Reviews conflict in any way with IC 25-2.1 or this title, it shall not apply.

(Indiana Board of Accountancy; 872 IAC 1-6-11; filed Oct 13, 2004, 11:30 a.m.: 28 IR 968)

SECTION 7. 872 IAC 1-6-13 IS ADDED TO READ AS FOLLOWS:

872 IAC 1-6-13 Informal dispute resolution

Authority: IC 25-2.1

Affected: IC 4-21.5-3-13

Sec. 13. (a) This section addresses informal dispute resolution that may be taken by the board as the result of a dispute between the administering entity or a reviewer and the firm being reviewed.

(b) This section does not increase or diminish hearings that may be required by IC 4-21.5-3 or other applicable statute and is not providing for hearings under IC 4-21.5-3. A dispute that has been addressed in an informal dispute resolution may still be a topic of a hearing under IC 4-21.5-3. In the event of such a hearing, the participation of the board and its members in an informal dispute resolution shall be considered a preliminary determination under IC 4-21.5-3-13(c).

(c) When a dispute occurs regarding the peer review report or corrective actions, or both, required as the result of a quality review, the administering entity shall notify the board in writing within thirty (30) days of the notification from the firm subject to the peer review report or corrective action, or both. The notification to the board from the administering entity, a copy of which shall be sent to the firm, shall include the name of the firm and the peer review report and the correction action, as appropriate, and a discussion memorandum addressing the dispute. The board shall:

- (1) set the matter for an informal hearing;
- (2) notify the parties to the dispute;
- (3) provide the parties with an opportunity to present evidence at the hearing; and
- (4) make a determination on the dispute.

(d) The board's determination in an informal dispute resolution shall govern how the administering entity and reviewer proceed regarding the issues involved but in no way limit the firm from arguing to the contrary in any proceeding under IC 4-21.5-3 and the determination shall not be considered to be final in any way for a proceeding under IC 4-21.5-3.

(e) The board may delegate an informal dispute resolution under this section to one (1) of its members.

(Indiana Board of Accountancy; 872 IAC 1-6-13)

SECTION 8. 872 IAC 1-6-12 IS REPEALED.

Notice of Public Hearing

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