



TO: The Honorable Members of the Board of Regents
FROM: Sarah S. Benson *Sarah S. Benson*
SUBJECT: Proposed Technical Amendment of Section 52.13 of the Regulations of the Commissioner of Education Relating to Licensure in the Profession of Public Accountancy
DATE: December 29, 2022
AUTHORIZATION(S): *Tom M. G. Bennett*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment of section 52.13 of the Regulations of the Commissioner of Education relating to licensure in the profession of public accountancy?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as an emergency rule at the January 2023 Regents meeting. A copy of the proposed rule (Attachment A) and a statement of facts and circumstances justifying emergency action (Attachment B) are included.

Procedural History

The proposed amendment was presented to the Full Board for adoption as an emergency rule at the November 2022 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on November 30, 2022.

Because the November 2022 emergency action will expire on February 12, 2023, a second emergency action is necessary to ensure the emergency rule remains continuously in effect until it can be permanently adopted at the March 2023 Regents

meeting. A Notice of Emergency Adoption will be published in the State Register on January 25, 2023. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

At its September 2022 Regents meeting, the Board of Regents voted to permanently adopt amendments to sections 52.13, 70.2, 70.3 and 70.4 of the Commissioner's regulations relating to the education, examinations, and experience requirements for licensure in the profession of public accountancy. This amendment updated such requirements effective August 1, 2027.

Due to a clerical error, the September 2022 amendments to the Commissioner's regulations filed with the Department of State inadvertently contained an error in section 52.13(b)(1)(i) of the Commissioner's regulations. The filed text of the regulation stated, "**On or before** August 1, 2027..." in reference to the current professional accountancy content area requirements, rather than "**Prior to** August 1, 2027..." Additionally, the filed text of the September 2022 amendments to section 52.13(c)(2) of the Commissioner's regulations inadvertently included the phrase "recognized as" in reference to programs leading to licensure in public accountancy, and the term "**which**" instead of "**that**." Therefore, the proposed amendment is necessary to resolve this clerical error.

Related Regents Items

November 2022: [Proposed Technical Amendment of Section 52.13 of the Regulations of the Commissioner of Education Relating to Licensure in the Profession of Public Accountancy](https://www.regents.nysed.gov/common/regents/files/1122brca14.pdf)

(<https://www.regents.nysed.gov/common/regents/files/1122brca14.pdf>)

September 2022: [Proposed Amendment of Sections 52.13, 70.2, 70.3 and 70.4 of the Regulations of the Commissioner of Education Relating to Education, Examinations, and Experience Requirements for Licensure in the Profession of Public Accountancy](https://www.regents.nysed.gov/common/regents/files/922brca19.pdf)

(<https://www.regents.nysed.gov/common/regents/files/922brca19.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 52.13 of the Regulations of the Commissioner of Education be amended, as submitted, effective February, 2023, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to immediately make a technical correction to ensure that the amendments to the Commissioner's regulations adopted at the September 2022 meeting are properly administered pursuant to the policies established by the Board of Regents and to ensure the emergency action taken at the November 2022 meeting remains continuously in effect.

Timetable for Implementation

If adopted as an emergency rule at the January 2023 Regents meeting, the emergency rule will become effective February 13, 2023. It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the March 2023 Regents meeting, after publication of the proposed rule in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the March meeting, the proposed rule will become effective as a permanent rule on March 29, 2023.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 7401 and 7404 of the Education Law.

1. Subparagraph (i) of paragraph (1) of subdivision (b) of section 52.13 of the Regulations of the Commissioner of Education is amended to read as follows:

(i) [On or before] Prior to August 1, 2027, professional accountancy content area shall mean curricular content in professional accountancy that includes but is not limited to each of the subjects identified in clauses (a) through (d) of this subparagraph and may also include but need not be limited to the subjects identified in clauses (e) through (g) of this subparagraph:

2. Paragraph (2) of subdivision (c) of section 52.13 of the Regulations of the Commissioner of Education is amended to read as follows:

(2) Curriculum. On or after August 1, 2027, in addition to meeting all applicable provisions of this Part, to be registered as a program [recognized as] leading to licensure in public accountancy [which] that meets the requirements in section 70.2 of this Title, such program shall be a baccalaureate or higher program in accountancy or its equivalent that, by requisites or prerequisites, shall ensure completion of at least 150 semester hours or its equivalent, including a minimum of 33 semester hours or its equivalent in the professional accounting content area and a minimum of 36 semester hours or its equivalent in the general business content area.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH
NECESSITATE EMERGENCY ACTION

At its September 2022 Regents meeting, the Board of Regents voted to permanently adopt amendments to section 52.13, 70.2, 70.3 and 70.4 of the Commissioner's regulations relating to the education, examinations, and experience requirements for licensure in the profession of public accountancy. This amendment updated such requirements effective August 1, 2027.

Due to a clerical error, the September 2022 amendments to the Commissioner's regulations filed with the Department of State inadvertently contained an error in section 52.13(b)(1)(i) of the Commissioner's regulations. The filed text of the regulation stated, "**On or before** August 1, 2027..." in reference to the current professional accountancy content area requirements, rather than "**Prior to** August 1, 2027...." Additionally, the filed text of the September 2022 amendments to section 52.13(c)(2) of the Commissioner's regulations inadvertently included the phrase "recognized as" in reference to programs leading to licensure in public accountancy, and the term "**which**" instead of "**that**." Therefore, the proposed amendment is necessary to resolve this clerical error.

The proposed amendment was presented to the Full Board for adoption as an emergency rule at the November 2022 meeting of the Board of Regents, effective November 15, 2022. Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (non-emergency) action, after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the March 2023 Regents

meeting. Furthermore, pursuant to SAPA section 203(1), the earlier effective date of the proposed rule, if adopted at the March 2023 meeting, would be March 29, 2023, the date the Notice of Adoption would be published in the State Register.

However, the emergency rule will expire on February 12, 2023. Therefore, a second emergency action is necessary at the January 2023 meeting for the preservation of the general welfare in order to immediately make a technical correction to ensure that the amendments to the Commissioner's regulations adopted at the September 2022 meeting are properly administered pursuant to the policies established by the Board of Regents and to ensure that the emergency action taken at the November 2022 meeting remains continuously in effect until the rule can be permanently adopted.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the March 2023 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making.