

TITLE 31 – PROFESSIONS

Chapters:

- 01 Contractors
- 02 Professional Surveyors
- 03 Tradesmen
- 04 Health Services
- 05 Territorial Board of Public Accountancy-Rules for Certified Public Accountants and Public Accountants
- 06 American Samoa Board of Cosmetology

TITLE 31 – CHAPTER 01 – CONTRACTORS

Sections:

- I. LICENSING BOARD AND LICENSES*
- 31.0101 Authority.
 - 31.0102 Purpose.
 - 31.0103 Board-tradesmen board jurisdiction-Laborer supervision.
 - 31.0104 Responsibilities of board and administrator.
 - 31.0105 Definitions.
 - 31.0106 License required-Penalty for violation.
 - 31.0107 Classifications of licences-Bid classifications.
 - 31.0108 Maximum bid class determination.
 - 31.0109 Application for license.
 - 31.0110 Inability to bind contractually bars license.
 - 31.0111 Insufficient application denial-Reasons-Notice.
 - 31.0112 Insufficient application denial-Appeal.
 - 31.0113 Supplemental Licenses.
 - 31.0114 Examination.
 - 31.0115 Experience.
 - 31.0116 Denial of license.
 - 31.0117 Financial statements.
 - 31.0118 Joint ventures.
 - 31.0119 Advertising as contractor-Applicability of provisions.
 - 31.0120 Departure of qualifying individual.
 - 31.0121 Fees.
 - 31.0122 Previously licensed persons-Requirements waiver.
 - 31.0123 Changes-Required notice to administrator.
 - 31.0124 Term of license-Lapsed licenses.
 - 31.0125 Renewal-Form mailing.
 - 31.0126 Renewal-Deadline.
 - 31.0127 Renewal-Insufficient application.
 - 31.0128 Renewal-Minor defects in application.
 - 31.0129 Renewal-Fee payment.
 - 31.0130 Administrator powers.
 - 31.0131 Revocation, suspension and renewal of licenses.
 - 31.0132 Adverse actions-Notice-Hearing right.

- 31.0133 Hearing before board-Request deadline-Procedure.
- 31.0134 Hearing before board-Board powers, action.
- 31.0135 Hearing before board-Decision content-Record of proceedings.
- 31.0136 Hearing before board-Judicial review.
- 31.0137 Reinstatement of suspended license.
- 31.0138 Reinstatement of revoked license.

II. SCOPE OF LICENSED ACTIVITIES

- 31.0140 Limitation-Work out of class or qualifications.
- 31.0141 General engineering contractor.
- 31.0142 General building contractor-Work authorized.
- 31.0143 General building contractor-Limitation of classification.
- 31.0144 Specialty contractors-Work authorized.
- 31.0145 Specialty contractors-Classification.
- 31.0146 Boilers, steamfitting.
- 31.0147 Cabinet work and millwork.
- 31.0148 Carpentry.
- 31.0149 Carpet.
- 31.0150 Cement and concrete.
- 31.0151 Ceramic tile.
- 31.0152 Electrical.
- 31.0153 Excavating and grading.
- 31.0154 Floor coverings.
- 31.0155 Masonry.
- 31.0156 Painting.
- 31.0157 Pest control, structural.
- 31.0158 Plaster and lathing.
- 31.0159 Plumbing.
- 31.0160 Refrigeration and air-conditioning.
- 31.0161 Roofing, siding, insulation, waterproofing.
- 31.0162 Sewer installation.
- 31.0163 Sheet metal.
- 31.0164 Steel reinforcing and erection.
- 31.0165 Stone masonry.
- 31.0166 Tanks, structural.
- 31.0167 Welding.

III. PAYROLL TAXES

- 31.0170 Employer identification number.
- 31.0171 Withholdings required.
- 31.0172 Employer social security contribution.
- 31.0173 Quarterly payment deadlines and reports.
- 31.0174 Settling before licensing required.

IV. WORKMEN'S COMPENSATION INSURANCE

- 31.0180 Required before business licensing.
- 31.0181 Where obtained-Employer to pay.
- 31.0182 Noncompliance.
- 31.0183 Information sources.

- V. **ALIEN WORKERS**
- 31.0185 Permission to work required-Limitation to sponsoring employer.
- 31.0186 Sponsoring employer.
- 31.0187 American Samoan preference.
- 31.0188 Repealed.

- V. **EXCEPTIONS TO CHAPTER**
- 31.0190 Exceptions to chapter.

I. LICENSING BOARD AND LICENSES

31.0101. Authority.

The contractors licensing board and contractor license administrator derive their authority from Chapter 31.05 A.S.C.A., in general, and 31.0503 and 31.0504 A.S.C.A., in particular. The rules codified in this article are promulgated pursuant to 31.0503 (1) and (2) A.S.C.A.

History: Contractors Lic. Bd. Reg. 1.01, eff 12Feb73.

31.0102 Purpose.

The contractors board interprets the interest of the legislature in enacting Chapter 31.05 A.S.C.A., to be the protection of the health, safety, and general welfare of all those persons dealing with individuals engaged in the contracting vocation and the affording to such individuals an effective and practical protection against incompetent, inexperienced, unlawful, and fraudulent acts of contractors with whom they contract. Also, the board’s goal is to upgrade and cultivate responsibility within the contracting vocation as well as the promotion of craftsmanship and financial stability.

History: Contractors Lic. Bd. Reg. 1.02, eff 12 Feb 73.

31.0103 Board-tradesmen board jurisdiction-Laborer supervision.

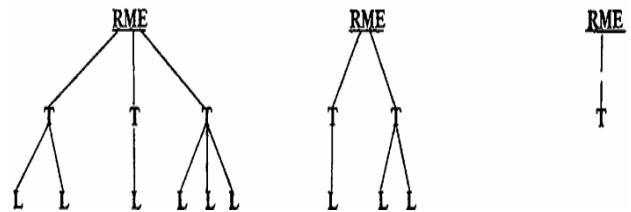
The contractors licensing board views the responsibilities of the contractors licensing board in relation to the board of tradesmen examiners as follows:

- (a) The contractors licensing board’s primary interest is as set out in 31.0102. It thus is concerned with the protection of the general public from unqualified or unscrupulous contractors. Of primary importance, then, is the:
 - (1) contractor’s business skill and knowledge of legal requirements to engage in business;
 - (2) integrity and character of contractors; and
 - (3) the professional competency of the contractor if holder of a specialty license, or

the competency of those responsible managing employees who qualify the contractor for license by taking and passing the specific examinations provided for in this chapter.

- (b) Next, the board of tradesmen examiners is interested in the tradesmen who are foremen and general foremen licensed by them and who work at a trade immediately under the contractor or the responsible managing employee.
- (c) All employees who are not contractors, responsible managing employees, or tradesmen, foremen or general foremen, shall be designated as laborers. All laborers shall be under the direct supervision of the tradesmen, responsible managing employee, or the contractor.

GENERAL CONTRACTOR



RME: Responsible Managing Employee, those employees who take and pass the “specific” examination by the contractors licensing board which qualify the contractor to obtain a license if such contractor has passed the general examination;

T tradesmen licensed by the board of tradesmen examiners;

L : laborers.

- (d) A pyramid of the employees described in subsection (c) of this section is as follows:

- (1) General engineering contractor:
 - (A) Engineer;
 - (B) Tradesmen;
 - (C) Laborer;
- (2) General building contractor:
 - (A) Responsible managing employee;
 - (B) Tradesmen;
 - (C) Laborers;
- (3) Specialty contractor:

- (A) The holder of a specialty license;
- (B) Tradesmen;
- (C) Laborers.

History: Contractors Lic. Bd. Reg. 1.03. eff 12 Feb 73.

31.0104 Responsibilities of board and administrator.

The board interprets its functions and the function of the administrator as follows:

- (a) Administrator. The administrator is responsible for the day-to-day administration of the contractors licensing law and this chapter. His authority is set out in 31.0505 A.S.C.A., and 31.0530 of this article.
- (b) Boards. The board's function-is to promulgate this chapter to guide the administrator in his day-to-day administration then, the board's responsibility is to hear an appeal from an adverse decision of the administrator (see 31.0501 A.S.C.A., and 31.0134, 31.0135, and 31.0136 of this article). Therefore, the administrator acts first and the board, after passing the rules, acts only if an applicant or licensee appeals an adverse decision of the administrator.

History: Contractors Lic. Bd. Reg. 1.04, eff 12 Feb 73.

31.0105 Definitions.

For purposes of this chapter, the words below shall be defined as follows:

- (a) "Administrator" means the contractor license administrator.
- (b) "Board" means the contractors licensing board.
- (c) "Contractor" means any person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who for a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes with another for the construction, alteration, repair, addition to, or improvement of any building, highway road excavation, or other structure, project, development, or improvement, other than to personality, or any part thereof. The terms includes anyone who builds more than 1 structure on his own property during any 1 year for the purpose of sale and any subcontractor, but does not include anyone who merely furnished materials or supplies without fabricating the same into or consuming the same

in the performance of the work of the contractor as herein defined. The term also includes any person who, by advertising or otherwise, holds himself out as a contractor, but does not include persons regularly engaged as maintenance personnel who do casual, isolated, or incidental repairs.

- (d) "General examination" refers to that examination given by the administrator which is required of every applicant for a contractor's license, or a management member, if the applicant is a copartnership, corporation, combination, or other association.
- (e) "Person" means an individual, partnership, joint-venture, corporation, or any combination thereof "Corporation" includes an association, business trust or any organized trust or any organized group of persons.
- (f) "Responsible managing employee" (RME) means those employees who take and pass the specific examination dealing with craftsmanship and knowledge of building trades. RME's shall be superintendents for the job and shall be responsible for the work done in relation to the type of specific examination taken and passed.
- (g) "Responsible managing member" (RMM) means that bona fide member of a copartnership, corporation, combination, or other association, so designated to take the general examination for such copartnership, corporation, combination, or other association, which shall be noted on any license issued.
- (h) "Specific examination" means that examination given by the administrator or his designee which tests the applicant or his responsible managing employee regarding a specific building trade or trades, knowledge of construction methods, and knowledge of relevant building codes, laws, and regulations.

History: Contractors Lic. Bd. Reg. 1.05. eff 12 Feb 73; and Rule 12-84. eff 25 Dec 84 § 1.

31.0106 License required-Penalty for violation.

Pursuant to 31.0506 A.S.C.A., no person, firm, copartnership, corporation, association, or other association, or any combination of any thereof, whether locally or foreign in origin, shall engage in the business or ace in the capacity of a contractor without having a contractor's license issued by the board. Any person who violates this section shall,

upon conviction, be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.

History: Contractors Lic. Bd. Reg. 2.01, eff 12 Feb 73.

31.0107 Classifications of licenses-Bid classifications.

- (a) Pursuant to 31.0507 A.S.C.A., there shall be 3 classifications of contractors' licenses:
 - (1) General engineering contractor's license;
 - (2) General building contractor's license;
 - (3) Specialty contractor's license.
- (b) Maximum bid classifications are established for general engineering and general building contractors' licenses as set out in this subsection. There shall be no maximum bid classifications for specialty contractors.
 - (1) Class 1 unlimited;
 - (2) Class 2 not to exceed \$150,000;
 - (3) Class 3 not to exceed 75,000;
 - (4) Class 4 not to exceed 25,000.

History: Contractors Lic. Bd. Reg. 2.02, eff 12 Feb 73.

31.0108 Maximum bid class determination.

A contractor's net worth, as reflected on his financial statement, multiplied by 4 shall be the basis for ascertaining the bid classification which shall apply to each general engineering or general building contractor. Such contractor may contract within the maximum amount of his maximum bid classification. In other words, if a contractor's net worth is \$12,000 and is multiplied by 4, giving a total of \$48,000, he may contract within the \$75,000 maximum bid classification.

The money amount for classes 2,3 and 4 shall be the total of all goods and services supplied by contractor pursuant to contract with other persons.

The money amounts for classes 2, 3, and 4 is the maximum amount for the respective contractors, and contractor shall add the amounts of all work currently engaged in to ascertain if he is still within the maximum amount allowed. For work in progress contractor shall add the balance remaining on such work with any new work when obtaining a total. In this context, the protection of the contractor's creditors is of utmost importance and the administrator may demand full and complete financial records of the relevant work then in progress

and shall have full and complete discretion in setting the amount of the balance of work then in progress. The administrator's decision shall be final. In addition, the administrator may disapprove of any contract in excess of the net worth of the contractor multiplied by 4 if, in the opinion of the administrator, the contractor is nor financially responsible for such additional amount. Since such a decision necessarily involves a value judgment based upon consideration of business acumen of the contractor, trustworthiness, monetary integrity, and the competence of contractor's employees, such decision by the administrator may he appealed only to the board, and the board's decision shall be final, and no appeal shall lie whatsoever beyond the board.

History: Contractors' Lic. Bd. Reg. 2.03, eff 12 Feb 73.

31.0109 Application for license.

All applications for a general contractor's license or specialty contractor's license shall be submitted to the administrator and shall be made upon a form supplied by the administrator. Such application shall contain the following information or items and such other and further information deemed necessary by the administrator:

- (1) The required fee as set out in 31.0121;
- (2) A certified financial statement for the previous year, detailing all of the applicant's income, expenses, and debts in sufficient detail so as to fully apprise the administrator of the applicant's financial condition in addition, the administrator may require a certified financial statement for the year the application is made if such application is made 3 or more months past 1 Jan of such year;
- (3) The names and addresses of 3 references, known by applicant for a substantial period of time, of which the administrator may obtain information regarding the applicant's financial ability, business knowledge, and integrity;
- (4) information regarding whomever the applicant has been associated with in joint ventures, partnerships, corporations, or any other combination or association within the last 3 years, the length of such association, the date of disassociation, any outstanding debts from such association, and such other and further information as the administrator deems relevant regarding such association;

- (5) The amount of experience, either business, professional, supervisory, of applicant, in such detail as the administrator deems necessary;
- (6) The names and amount of experience of the applicant's qualifying responsible managing employees, if any, in such detail as the administrator deems necessary.

History: Contractors' Lic. Bd. Reg. 2-04, eff 12 Feb 73.

31.0110 Inability to bind contractually bars license.

No license shall be issued to any person not legally eligible to enter into a contract binding on all parties, or to any copartnership of which a member is so ineligible, or to any corporation, officer, director which is not eligible, or to any other type of business organization of which an ineligible person is designated as a responsible managing member.

History: Contractors Lic. Bd. Reg. 2-05, eff 12 Feb 73.

31.0111 Insufficient application denial-Reasons-Notice.

The administrator may deny any application, if insufficient, for the following reasons: the applicant has not supplied the required information, references, or financial statement. In this event, the administrator shall return the application form and fee with a letter advising the applicant of his denial of the application, stating the reason therefor.

History: Contractors Lic. Bd. Reg. 2.06, eff 12 Feb. 73.

31.0112 Insufficient application denial-Appeal.

Since the administrator shall advise the applicant by letter if he finds that the application is insufficient for any reason set out in 31.0111, there shall be no review whatsoever of the administrator's decision in this context except for arbitrary or capricious denial by the administrator. If arbitrary and capricious action of the administrator is alleged and supported by specific facts, such action may be appealed to the contractors licensing board for hearing as to whether license should issue.

History: Contractor Lic. Bd. Reg. 2.07, eff 12 Feb 73.

31.0113 Supplemental licenses.

- (a) Licensees may obtain supplemental licenses authorizing contract work beyond that covered by the original license. For example, a license to do plumbing contracting may be taken out as a supplemental license to a general building

license. It should also be noted that more than 1 supplemental license may be obtained. The examination for a supplemental license is the same specific one given for the original license. No general examination will be given in this context because the applicant will have already passed such examination to obtain his original license.

- (b) Application forms for supplemental licenses are available from the administrator upon request.

History: Contractors Lic. Bd. Reg. 2.08, eff 12 Feb 73.

31.0114 Examination.

- (a) Every applicant for an original contractor's license shall be required to take the examination prepared and administered by the administrator or his designee.
- (b) There shall be 2 types of examinations: a specific examination which shall be one approved and required for a particular classification, and a general examination which shall be approved and required for all classifications.

(1) Specific Examination. Specific examinations shall be administered either by the administrator or his designee and shall be concerned with the particular specialty applied for (31.0510 A.S.C.A., specialty contractor) or one or more unrelated and generally recognized building trades (31.0509 A.S.C.A., general building contractor; 3 trades required) or engineering (31.0508 A.S.C.A., general engineering contractor).

- (A) Specialty contractor's license: For a specialty contractor's license the applicant must personally take and pass the examination for the specialty applied for in addition to the general examination as set out in subsection (2) of this section. On application by the specialty contractor for supplemental specialty licenses, an employee of the specialty contractor may take the specific test. Such employee will then be designated a responsible managing employee. (Note: An individual who is not employed may not take a specific examination from the contractors license board to obtain a supplemental specialty license, as such license is supplemental to the specialty license.

He may, of course, take the general and specific examinations on application for a specialty contractor's license or he may be tested by the board of tradesmen examiners pursuant to Chapter 31.05 A.S.C.A., and rules promulgated thereto for a tradesmen certificate.)

- (B) General building contractor's license: The applicant for a general building contractor's license need not take the specific examination personally as long as 1 or more of his employees take and pass examinations administered by the administrator or his designee for 3 unrelated and generally recognized building trades, and such employees are designated responsible managing employees, and the general contractor engages in only those trades as licensed.
 - (C) General engineering licenses: An applicant for a general engineering contractor's license need not take the specific examination personally as long as 1 or more of his employees take and pass such examination and are responsible managing employees, and all work done by such general engineering contractor is the type of work which was the subject of the examination taken and passed by the responsible managing employee or general engineering contractor.
 - (D) The administrator may substitute part of the specific examination required in this subsection by on-the-job inspections of the applicants ability and by the requiring of work samples, blueprint discussions, or other practical discussions or demonstrations.
- (2) General Examination. Every applicant operating a sole proprietorship shall personally take and pass a general knowledge examination approved and administered by the administrator. Every copartnership, corporation, or other combination or association shall designate a member of its management to take such general knowledge examination. Such

examination shall cover the following subjects:

- (A) General knowledge of labor and alien laws in American Samoa;
 - (B) General knowledge of safety and health laws;
 - (C) Such general knowledge of administrative principles of the contracting business as the board deems necessary for the health, safety, and protection of the public;
 - (D) General knowledge of tax and social security requirements, Workmen's Compensation Act requirements, and immigration law and rules regarding employment of aliens.
- (c) Examinations shall be given at least once each quarter of the calendar year.

History: Contractors Lic. Bd. Reg. 2.09. eff 12 Feb 73; and 7-87. Eff 18 May 87 1.

31.0115 Experience.

Applicants for contracting licenses must possess the following experience and provide satisfactory proof thereof to the administrator.

- (a) Every applicant for a contractor's license or the applicant's responsible managing employee in the care of a general building contractor's license must have had, within the last 10 years immediately preceding the filing of the application, not less than 4 years' experience as a journeyman, foreman, supervising employee, or contractor in the particular class within which the applicant intends to engages a contractor. Acceptable technical training in an accredited school will be counted as experience for the purposes of this section but in no case will technical training count for more than 3 years' experience. If the applicant designates a responsible managing employee who takes and passes the specific examination in the applicant's stead, such information shall be noticed on the license issued, and all work done by the general contractor shall be done under the direct control and supervision of the responsible managing employee and shall be of the type of work for which such employee was examined in the specific examination.

- (b) The required experience for a general contractor’s license may be possessed by no more than 3 separate individuals.
- (c) The required experience for a specialty contractor’s license shall be possessed by a member of the applicant entity or the responsible managing employee who shall be required to take the specific examination.
- (d) Qualification for experience:
 - (1) If an individual, he may qualify by a personal appearance or by the appearance of his responsible managing employee(s).
 - (2) If a copartnership, a corporation, or any other combination or organization, it may qualify by the appearance of the responsible managing employee(s) for purposes of taking and passing the specific examination and a member of the applicant entity of such firm for purposes of taking and passing the general examination.
 - (3) The individual(s) qualifying on behalf of individual or firm under this section shall allege and prove to the satisfaction of the administrator that he is a bona fide managing member or employee of such individual, copartnership, corporation, or other combination or association, and, at all times when the principal or employer is actively engaged as a contractor, shall exercise authority in connection with his individual firm, copartnership, corporation, combination, or association or in connection with the employer’s contracting business, as the case may be.
 - (4) The exercise of authority so as to qualify for a license for the. firm, copartnership, corporation, combination, or association shall be as, or similar to, the following:
 - (A) Responsible managing employees: be superintendents of the work and other employees, be responsible for the technical competence of the work, be responsible for integrity of work done in relation to the blueprints, specifications, or other drawings of work;
 - (B) Member of management qualifying the firm: make administrative decisions, etc.

History: Contractors Lic. Bd. Reg. 2.10, eff 12 Feb 73.

31.0116 Denial of license.

- (a) The administrator shall deny an application for a contractor’s license:
 - (1) if the applicant fails to make a sufficient application as more fully explained in 31.0109;
 - (2) if the applicant fails either the general or specific examination or the person designated as the responsible managing employee fails the specific examination; or
 - (3) if the applicant or his responsible managing employee has insufficient experience as required by 31.0115; or
 - (4) if the responsible managing employee or responsible managing member is not a bona fide employee or member;
 - (5) if the applicant is an ineligible individual as defined by 31.0110; or
 - (6) if the applicant provides false or fraudulent information in his application for a license; or
 - (7) for any other matter deemed sufficient by the administrator considering the Contractors Licensing Law and this chapter; or
 - (8) for any other reason set out in 31.0131, suspension or revocation grounds.

Any denial of an application for the above set-out reasons may be appealed to the board for a hearing de novo. Such appeal must be brought within ten days of the notice of denial by the administrator.

History: Contractors Lic. Bd. Reg.. 2.11, eff 12 Feb 73; and Rule 7-87, eff 18 May 87, § 2.

31.0117 Financial statements.

- (a) Each contractor shall submit to the administrator, for his and the board’s use, a certified yearly financial statement. Such statement shall be due and submitted in conjunction with the contractor’s application for a business license pursuant to Chapter 27.02 A.S.C.A.
- (b) In addition, the administrator may require a financial statement for any contract in which contractor has agreed to supply goods or services, and the administrator may require

financial statements at any time he believes that contractor may be contracting beyond the maximum bid classification in which the contractor has been placed by the administrator or board.

History: Contractors Lic. Bd. Reg. 2.12, eff 12 Feb 73.

31.0118 Joint ventures.

(a) A joint venture on a construction project is permissible and joint ventures are divided into 2 classifications:

(1) Joint venture on performance of work:

This type of joint venture is permissible provided all parties to the joint venture hold contractor's licenses in the proper classification for the principal work to be bid or contracted.

(2) Joint venture on financing: A holder of a general building contractor's license may join himself with another person, firm, partnership, corporation, or association for purposes of obtaining credit or to obtain a cosigner for its obligations, or to obtain a higher maximum bid classification by use of the other's financial statement, provided all joint venturers are residents or conduct their business in the United States. Such person, firm, partnership, corporation, or association shall appoint an agent within American Samoa so that service of process and other notices, papers, and communications may be effected.

(b) Notice of intent to enter into either type of joint venture or partnership shall be filed with the administrator before a bid is submitted, and the administrator shall have complete discretion to accept or reject such joint venture. The administrator may demand a financial statement from such person, firm, copartnership, corporation, or association or other information he deems necessary. Such decision by the administrator shall be final and binding on the parties and no appeal shall lie whatsoever.

History: Contractors Lic. Bd. Reg. 2.13, eff 12 Feb 73.

31.0119 Advertising as contractor-Applicability of provisions.

(a) Any person who advertises or puts out any sign or card or other device which would indicate to the public that he is, within the meaning of the law, a contractor, who causes his name or

business name style to be included in a classified advertisement or directory under a classification which includes the word "contractor" is subject to the provisions of 31.0501 A.S.C.A.

(b) Any person who advertises as described in subsection (a) of this section under a classification other than his license classification is subject to the provision of this section regardless of whether his operations as a contractor are otherwise exempted.

(c) "Advertising" as used in this section includes, but not by way of limitation, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper, magazine, or by airwave transmission, or in any directory under a listing of contractor, with or without any limiting qualifications.

History: Contractors Lic. Bd. Reg. 2.14, eff 32 Feb 73.

31.0120 Departure of qualifying individual.

If the individual qualifying by an examination of his experience and knowledge ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the administrator in writing within 10 days from such cessation, disassociation, or unemployment. If a notice is given within the prescribed time, the license shall remain in force for a length of time to be determined necessary by the administrator for another individual to so qualify.

If the licensee fails to notify the administrator within the 10-day period, at the end of such period his license shall be ipso facto suspended. The license shall be reinstated upon the filing of an affidavit, executed by the licensee or a member of the licentiate firm and filed with the administrator, to the effect that the person originally appearing for examination on behalf of the licensee has been replaced by another individual and that the individual has been qualified by examination and that he can comply with the provisions of this chapter and that he has not been connected with a licensee who has had his license suspended or revoked for reasons that would preclude this individual from personally qualifying as to the good character required of an applicant.

History: Contractors Lic. Bd. Reg. 2.15, eff 12 Feb 73.

31.0121 Fees.

(a) Pursuant to 31.0505(3) A.S.C.A., the following fees are established as guidelines for the administrator:

- (1) application fee for an original contractor’s license \$25;
- (2) Annual renewal fee for contractor’s use \$25;
- (3) Renewal fee if renewal application is made after 1 January and before 30 June of the year applied for \$75;
- (4) Renewal fee if renewal application is made after 30 June of the year applied for plus one and a half years \$150;
- (5) Original and annual renewal fee for supplemental specialty contractor’s license (after the initial fee of \$25) \$5;
- (6) Copy of contractor’s license or supplementary specialty contractor’s license \$1;
- (7) Examination fees set by the administrator shall not exceed \$100 per person per examination. Outside testing firms may be contracted with by the administrator to give the examination.

(b) The sums set out in subsection (a) of this section shall be paid by applicant to the revenue division of the government treasury. In the event the applicant for a license withdraws his application prior to testing of such applicant by the administrator, one-half of the application fee shall be returned to such applicant. If the applicant is refused such license or withdraws his application after tests have been administered, there shall be no refund of the fee.

History: Contractors Lic. Bd. Reg. 2.16. eff 12 Feb 73; and Rule 7-87, eff 18 May 87, § 3.

31.0122 Previously licensed persons-Requirements waiver.

In cases where an applicant for an original license has previously been licensed either as an individual, a member of a license partnership, or as an officer of a licensed corporation and the prior license has never been suspended or revoked and there is no disciplinary proceeding pending against the applicant or any licensee with whom he has been associated, the administrator may waive the requirement for written examination or the information requested in the prescribed application form or any part thereof be given, or that references be furnished.

History: Contractors Lic. Bd. Reg. 2.17, eff 12 Feb 73.

31.0123 Changes-Required notice to administrator.

In addition to duties otherwise provided for by the contractors law and this chapter, the licensee is responsible for the following:

- (a) Licensees shall advise the administrator within 30 days of any change of address.
- (b) A contractor’s license issued under the provisions of the licensing law is not transferable. A change in name, business designation, or personnel of a licensee may have the legal effect of attempting to transfer the license and of operating without a license. Therefore, all such changes must be reported to the administrator within 10 days after making any such change.
- (c) Creation of a partnership creates a new legal entity which requires all partners to the partnership to hold proper individual licenses or the partnership itself must be licensed.
- (d) Creation of a corporation creates a new legal person which requires a new license even though 1 or more stockholders have a contractor’s license. A license held by a stockholder cannot be authority for the corporation to engage in contracting.
- (e) The dissolution of a corporation which has been licensed operates to terminate the license, and no individual or firm may operate under such license.
- (f) The change of members of a partnership, either by the addition of a partner or partners or by the withdrawal of a partner or partners, creates a new legal entity which cannot operate on the license of the former partnership.
- (g) The administrator must be notified of any change in the officers of a corporation within 10 days after the effective date of such change. The failure of a licensee to notify the administrator of any such change will subject licensee to the revocation or suspension of his license.

History: Contractors Lic. Bd. Reg. 2.18. eff 12 Feb 73.

31.0124 Term of license-Lapsed licenses.

- (a) Each license issued under this article shall be in effect, unless suspended, modified, or revoked pursuant to Chapter 31.05 A.S.C.A., or this article, until 31 December of the year issued. At that date all licenses lapse automatically unless

renewal application has been made and fee tendered as prescribed in this article.

- (b) Should a licensee allow a license to lapse by failure to reapply or should a licensee fail to provide the necessary information on such application form or information requested by the administrator, or fail to tender the required fee, such license may be renewed on or before 30 June of the following year without the licensee being required to retake the examinations provided for in this chapter for new applications, provided all other requirements of the law and rules are complied with. Failure to renew on or before 30 June of the following year and to pay the appropriate renewal fee shall subject the applicant to all procedures set out in this chapter for new applicants.

History: Contractors Lic. Bd. Reg. 2.19. eff 12 Feb 73; and Rule 7-87. eff 18 May 87. § 4.

31.0125 Renewal-Form-Mailing.

The administrator shall mail to every licensee, between 15 Nov and 15 Dec each year, at such licensee’s address of record with the administrator, a renewal application form approved by the board. The renewal application form or any accompanying sheet shall contain instructions to the licensee for the completion of said application and the conditions and requirements for a valid renewal of the license. Except as provided in this chapter, the licensee seeking renewal of the license shall answer all questions in the renewal form and comply with all instructions therein; failure to do so may be grounds for refusal to renew such license.

History: Contractors Lic. Bd. Reg.. 3.01, eff 12 Feb 73.

31.0126 Renewal-Deadline.

- (a) All licensees must file a renewal application on or before 31 Dec of each year in order to keep the license in good standing. Filing an application after 31 Dec will require payment of double the regular renewal fee. Delinquent renewals may be redeemed on such a basis for 6 months, after which a new application, together with the double fee, is necessary in order to obtain the license.
- (b) The date upon which a renewal application is filed with the administrator shall be determined, if the same is sent by mail, by the date of the postmark appearing upon the envelope containing the application; if personally

delivered to the administrator, filing date shall be determined by the date on which the-application is received by the administrator.

History: Contractors Lic. Bd. Reg. 3.02, eff 12 Feb 73.

31.0127 Renewal-Insufficient applications.

In cases in which a renewal application on file as of 1 Jan of any year is insufficient in the respect that it is not accompanied by the proper fee, or the fee if sent is not accompanied by the prescribed renewal application form, the license shall be suspended and no renewal license issued unless the insufficiency is corrected on or before 30 Jun of the same year. The administrator in such cases shall notify the licensee of such insufficiency, return the fee tendered if improper the renewal application or both, and advise in what respect his renewal application is insufficient.

History: Contractors Lic. Bd. Reg. 3.03, eff 12 Feb 73.

31.0128 Minor defects in application.

In cases in which the renewal application has a minor defect such as where the applicant has failed to sign the application form or to complete it in some minor respect, the applicant shall be deemed to have substantially complied with the requirements for filing renewal applications pending the correction of the discrepancy.

In such cases, the administrator shall hold the tendered fee and notify the licensee of the deduct in his application form, and shall not issue the renewal license until the insufficiency in the renewal form has been corrected. If after a reasonable time, the licensee has still failed to correct such insufficiency, the administrators may return the tendered fee and such license shall be ipso facto suspended.

History: Contractors Lic. Bd. Reg. 3.04, eff 12 Feb 73.

31.0129 Renewal-Fee Payment.

Renewal fees shall be paid at the revenue division of the ASG and shall be according to schedule set out in 31.0121.

History: Contractors Lic. Bd. Reg. 3.05, eff 12 Feb 73.

31.0130 Administrator powers.

Pursuant to 31.0505 (4) A.S.C.A., the administrator may take any lawful administrative action necessary to accomplish the purpose of the Contractors Licensing Law and this chapter. Such action may be, but is not limited to, the follow

- (1) To investigate the qualifications and business operation of applicants for licenses under this

chapter or any licensee, including the use of any examination designed to test the qualifications and competence of applicants and their appointed responsible managing employees;

- (2) To issue or renew or to refuse to issue or renew, to limit or modify, or to suspend or revoke any license provided for in this chapter;
- (3) To prescribe forms for completion by applicant to ascertain such information as needed to enforce the provisions of the Contractors Licensing Law and this chapter;
- (4) To prescribe examinations for the testing of applicants and their responsible managing employees;
- (5) To appoint a person, persons, or a department or agency to examine applicants or their responsible managing employees as to their professional competence;
- (6) To require applicants to provide references so that the administrator may obtain information from others regarding the competence or character of the applicant or his responsible managing employee;
- (7) To investigate any complaints or any matters otherwise known to the administrator regarding the competency, character, working habits, or ethics of any licensee or his responsible managing employee and to require an answer from such person or persons regarding such complaints, and to take such action as the administrator may feel justified and as provided in the Contractors Licensing Law and this article after investigation of the complaint or other matter;
- (8) To make such orders as are provided for in the Contractors Licensing Law and this chapter;
- (9) To grant a temporary contractor's license and certify the responsible managing employee for churches and other charitable organizations. A responsible managing employee approved for a temporary license holder may work on no more than one project in a 2 year period. The administrator shall give an oral examination to the contractor and responsible managing employee applicants based on the law, and the plans and specifications of the project. The fees as established by 31.0121 ASAC shall apply to a temporary license. Approval shall be for a class 4 license only. The following sections of this

chapter shall apply to a temporary license: 31.0101 through 31.0106, 31.0109 through 31.0116, 31.0120 through 31.0124, 31.0128, and 31.0130 through 31.0138 inclusive; 31.0124 shall apply but is limited to the project. The license holder shall not advertise nor in any way hold him or herself out to others as an approved contractor or responsible managing employee except as a temporary licensee for this one project. There must be a demonstration that the church or other charity has the required nonprofit status with the tax office of the government treasury.

History: Contractors Lic. Bd. Reg. 4.01, eff 12 Feb 73; and Rule 7-87. eff 18 May 87. § 5.

31.0131 Revocation, suspension, and renewal of licenses.

- (a) The administrator may revoke any license issued hereunder, or suspend the right of the licensee to use such licenses, or refuse to renew any such license for any of the following causes:
 - (1) Knowingly contracting beyond the scope of the license or licenses of licensee;
 - (2) Knowingly entering into a contract with a contractor for work to be performed for which a license is required with a person not duly licensed in the required classification;
 - (3) Workmanship not meeting minimum standards as set out by the Federal Housing Administration or the U.S. National Board of Fire Underwriters, the department of environmental health, or similar recognized bodies, or the administrator;
 - (4) Acting in the capacity of a contractor under any license issued in a name other than as set forth upon the license;
 - (5) The filing of a petition by or against the licensee or adjudication as a bankrupt, for reorganization of or for an arrangement within the meaning of the bankruptcy laws, or the appointment of a receiver or trustee of licensee' property;
 - (6) Conviction of a felony;
 - (7) Any dishonest or fraudulent or deceitful act as a contractor which causes a substantial damage to another;
 - (8) Engaging in any unfair or deceptive act or practice as prohibited by law;
 - (9) Abandonment of any construction project or operation without reasonable or legal excuse;

- (10) Willful diversion of funds or property received for prosecution or completion of a specific construction project or operation; or for a specified purpose in the prosecution or completion of any construction project or operation, and the use thereof for any other purposes;
 - (11) Willful departure from, or willful disregard of plans or specifications in any material respect without consent of the owner or his duly authorized representative, which is prejudicial to a person entitled to have the construction project or operation completed in accordance with such plans and specifications;
 - (12) Willful violation of any law of the territory, or of any political subdivision thereof, relating to building, including any violation of any applicable rule or regulation of the department of health, or of any applicable safety or labor law;
 - (13) Failure to make and keep records showing all contracts, documents, records, receipts, and disbursements by a licensee of all his transactions as a contractor for a period of not less than three years after completion of any construction project or operation to which the records refer or to permit inspection of such records by the board;
 - (14) When the licensee being a co-partnership or a joint venture permits any member or employee of such copartnership or joint venture who does not hold a license to have the direct management of the contracting business thereof;
 - (15) When the licensee being a corporation permits any officer or employee of such corporation who does not hold a license to have the direct management of the contracting business thereof;
 - (16) Misrepresentation of a material fact by an applicant in obtaining a license;
 - (17) Failure of a licensee to complete in a material respect any construction project or operation for the agreed price if such failure is without legal excuse;
 - (18) Willful failure in any material respect to comply with this chapter or the rules and regulations promulgated pursuant thereto;
 - (19) Willful failure or refusal to prosecute a subject or operation to completion with reasonable diligence;
 - (20) Willful failure to pay when due a debt incurred for services or materials rendered or purchased in connection with his operations as a contractor when he has the ability to pay or when he has received sufficient funds therefor as payment for the particular operation for which the services or materials were rendered or purchased;
 - (21) The false denial of any debt due or the validity of the claim therefor with intent to secure for licensee, his employer, or other person, any discount of such debt or with intent to hinder, delay, or defraud the person to whom such debt is due;
 - (22) Failure to secure or maintain workers' compensation insurance;
 - (23) Knowingly entering into a contract with an unlicensed contractor involving work or activity for the performance of which licensing is required under this chapter.
- (b) No license shall be suspended for longer than two years and no person whose license is revoked shall be eligible to apply for a new license until the expiration of two years.

History: Contractors Lic. Bd. Reg. 4.02, eff 12 Feb 73; and Rule 12.84. eff 25 Dec 84. § 2.

31.0132 Adverse actions-Notice-Hearing right.

Pursuant to 31.0515 A.S.C.A., any applicant or licensee whose license is refused, revoked, suspended, modified, or limited by the administrator, or who receives other adverse action by the administrator, shall be entitled to a written copy of the administrator's decision setting forth the facts and reasons on which the refusal, revocation, suspension, modification, or limitation, or other adverse action, is based. The decision shall also advise the applicant or licensee of his right to a hearing before the board as provided in this article.

History: Contractors Lic. Bd. Reg. 4.03. eff 12 Feb 73.

31.0133 Hearing before board-Request deadline-Procedure.

Pursuant to 31.516 A.S.C.A., any applicant or licensee who receives any adverse action by the administrator as provided in 31.0515 A.S.C.A., shall be entitled to a hearing before the board if he files a written request for a hearing with the board within 10 days after receiving a copy of the administrator's decision. A request for a hearing shall state which specific findings of fact and reasons of the administrator are contested, and the hearing shall be

confined to the issue raised by the request. If no timely request is filed, the administrator’s decision shall be final and effective and the case shall not thereafter be heard by the board or reviewed by the court under 31.0136. After a hearing has been held, the board shall dispose of the case on the basis of the evidence adduced.

History: Contractors Lic. Bd. Reg. 4.04, eff 12 Feb 73.

31.0134 Hearing before board-Board powers, action.

- (a) Pursuant to 31.0503(d) A.S.C.A., the board has power to hold hearings, to compel the attendance and testimony of witnesses, to order the production of documents and other tangible evidence, to administer oaths, and to cite for contempt.
- (b) Subsequent to a hearing upon an appeal by a licensee or applicant from an adverse decision by the administrator, the board, pursuant to 31.0503(c) A.S.C.A., has the power to issue or renew or to refuse to issue or renew, to limit or modify, or to suspend or revoke any license provided for in the Contractors Licensing Law. (Note: The board interprets its power in this respect to hold a hearing de novo of any matter decided by the administrator.) The board may then affirm the decision of the administrator of may decide otherwise as provided by law and this article. The board’s policy is to afford great weight to the administrator’s decision due to his day-to-day association and contact with the licensees and his administration of the law and rules, giving weight to his experience, competence, and expertise.

History: Contractors Lic. Bd. Reg. 4.05, eff 12 Feb 73.

31.0135 Hearing before board-Decision content-Record of proceedings.

Pursuant to 31.0517 A.S.C.A., any applicant or licensee whose license is limited, refused, suspended, or revoked by the board or who receives other adverse action by the board shall be entitled to a written copy of the board’s decision setting forth the facts and reasons on which the limitation, refusal, suspension, revocation, or other adverse action is based. The decision shall also contain a summary of the evidence on which the board’s findings of fact are based. This decision, together with the decision of the administrator and any application or other papers filed by the applicant or licensee, shall constitute the record of proceedings before the board. The board

may, in its discretion, include in the record any other material property received at the hearing.

History: Contractors Lic. Bd. Reg. 4.06, eff 12 Feb 73.

31.0136 Hearing before board-Judicial review.

Pursuant to 31.0518 A.S.C.A., any applicant or licensee aggrieved by a decision of the board may petition the appellate division of the High Court of American Samoa to review the decision. A copy of the petition shall be served on the board within 30 days. After service of the petition, the board shall file the record of proceedings with the court. The review by the court shall be confined to the record. Upon request by any party, the court shall receive briefs and hear oral argument. On motion of any party, the court may, in its discretion, receive any evidence necessary to supplement the record. A petition for review may be filed no later than 10 days after a copy of the board’s decision has been served on the applicant or licensee. The filing of a petition shall not stay the action of the board, but the board may order a stay on appropriate terms.

History: Contractors Lic. Bd. Reg. 4.07, eff 12 Feb 73.

31.0137 Reinstatement of suspended-license.

After suspension of the license upon any of the grounds set forth in this article or in the Contractors Licensing Law, the administrator may reinstate the license upon proof of compliance by the contractor with all provisions or reinstatement.

History: Contractors Lic. Bd. Reg. 4.08, eff 12 Feb. 73.

31.0138 Reinstatement of revoked license.

After revocation of a license upon any of the grounds set forth in this article or in the Contractors Licensing Law, the license shall not be reinstated or reissued within a period of 1 year after the final decision of revocation, and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

History: Contractor Lic. Bd. Reg. 4.09, eff 12 Feb 73.

II. SCOPE OF LICENSED ACTIVITIES

31.0140 Limitation-Work out of class or qualifications.

- (a) It should be pointed out that licenses issued by the administrator relate only to the contracting of the work itself and have nothing to do with other sections of the territorial law requiring specific professional or trade qualification to do certain

types of work. For example, a license as a plumbing contractor does not preclude the necessity of a journeyman plumber doing the actual work nor does a general contractor license preclude the necessity of a journeyman mason, electrician, or plumber from doing the actual work related to those trades, etc. in brief, contractors' licenses are only licenses to contract and as such carry with them no other privileges or rights.

- (b) Nothing in this chapter shall be construed to extend the field and scope of the operations of a licensed contractor to those in which he is not classified and qualified to engage. Failure on the part of a licensee to observe this rule shall constitute grounds for suspension or revocation of license.

History: Contractors Lic. Bd. Classification of Contractors Licenses. eff 12 Feb 73, (part).

31.0141 General engineering contractor.

A general engineering contractor's license shall authorize the licensee to engage principally in the contracting business in connection with fixed works for any or all of the following: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports, airways, sewers, and bridges.

History: Contractors Lic. Bd. Classification of Contractors' Licenses. eff 12 Feb 73, (part).

31.0142 General building contractor-Work authorized.

A general building contractor's license shall authorize the licensee to engage principally in the building or superintendence of the building of any structure for support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. A general building contractor licensee shall be competent in at least 3 unrelated and generally recognized building trades, all of which shall be specified in the license.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73, (part).

31.0143 General building contractor-Limitation of classification.

A licensee classified as a general building contractor, as defined in 31.0509 A.S.C.A., shall not enter into a contract unless the same requires more than 2 unrelated building trades or crafts or unless he has qualified for the particular specialty classification or

classifications by acquiring a specialty license for the trade or craft.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73. (part).

31.0144 Specialty contractors-Work authorized.

- (a) A specialty contractor's license may be issued the licensee to engage in contracting for 1 or more unrelated and generally recognized building trades for which he is competent, each of which shall be specified in the license. A specialty contractor's license may also be issued authorizing and licensee to engage in contracting for the building of specific types of structures or fixtures for which he is competent, each of which shall be specified in the license.
- (b) A licensee classified as a specialty contractor shall not act in the capacity of a contractor in any classification other than the one in which he is licensed unless the work is incidental and supplemental to the performance of a contract in a classification in which the contractor is licensed

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73, (part).

31.0145 Specialty contractors-Classification.

- (a) The construction industry has untold specialized trades and crafts; to establish separate classifications would require the establishment of many more classifications than set forth in this article. Therefore, the declared policy of the administrator and the board is to establish the classifications set out in 31.0146 et seq. which are more common in the trade and defined the scope of these respective operations. Other specialty classifications not listed in this article will be issued to applicants if their operations are not included in the classifications defined when they meet the qualifications prescribed by the administrator.
- (b) From time to time, as the need arises, the administrator may establish other specialty classifications not included in this article.

History: Contractors Lic. Bd. Classification of Contractors Licenses. eff 12 Feb 73, (part).

31.0146 Boilers, steamfitting.

Steam-fitting and boiler work means to install fire-tube and water-tube steel power boilers, including all steam filling and piping, fittings, valves, gauges,

pumps, radiators, convectors, fuel oil tanks, fuel oil lines, chimneys, flues, heat insulation, and all other devices, apparatus, and equipment appurtenant thereto, in such a manner that power boiler installations and steam fitting can be executed, fabricated, and installed or to do any part or any combination of any thereof.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12 Feb 73, (part).

31.0147 Cabinet work and millwork.

Cabinet work and millwork means to select, cut, surface, join, stick, glue, and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as cabinet and millwork, can be executed, including the placing, erecting, fabricating, and finishing in buildings, structures, and elsewhere of such cabinet and millwork, or to do any part of any combination of any thereof.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12 Feb 73, (part).

31.0148 Carpentry.

Carpentry means to select, grade, cut, join, fabricate, combine, and frame wood and wood products for structural and finish purposes in a structure or building, including forming and pouring concrete foundations, hanging doors and windows, fabricating cabinets and fixtures relative to the structure or building, including any repair thereof, and such other carpentry work and limited remodeling work as is by custom and usage accepted in the building and construction industry as carpentry, or to do any part or combination of any thereof. No plumbing, electrical, or work of any other established contractor can be done under this classification.

History: Contractors Lic. Bd. Licenses, eff 12 Feb 73, (part).

31.0149 Carpet.

Carpet work means specify the preliminary necessary to bring such surfaces to a condition where, under an agreed specification, acceptable fabric floor coverings can be executed thereon to form an acceptable finished floor and to use other materials as are by custom and usage accepted in the building and construction industry as carpet, or to do any part or combination of any thereof.

History: Contractors Lic. Licenses, eff 12 Feb 73, (parts).

31.0150 Cement and Concrete

Cement and concrete work means to proportion, batch, and mix aggregates consisting of sand, gravel, crushed rock, or other inert materials having clean uncoated grains of strong and durable minerals, cement, and water or to do any part or any combination of any thereof, in such a manner that under an agreed specification, acceptable mass, pavement, flat, and other cement and concrete work can be poured, placed, finished, and installed, including the placing of forms and formwork necessary for the performance of work deformed in this section.

History: Contractors Lic. Licenses, eff 12 Feb 73 (parts).

31.0154 Floor coverings.

Floor covering work means to examine surfaces and specify the preliminary and preparatory work necessary to bring such surfaces to a condition where, under an agreed specification, acceptable finished floors can be installed with the use of composition materials and fabrics and such other materials as are by custom and usage accepted in the building and construction industry as floor coverings, or to do any part or combination of any thereof, not to include fabric carpeting.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12 Feb 73, (part).

31.0155 Masonry.

Masonry means to select, cut, and lay precast cinder or concrete blocks, brick, and other baked clay products, rough, cut, and dressed stone, artificial stone, structural glass brick or block, laid at random or in courses, with or without mortar, or to do any part, or any combination of any thereof, in such a manner that under an agreed specification, acceptable brick and other baked clay products, stone, and structural glass brick or block masonry can be executed, fabricated, and erected, but shall not include those contractors whose sole contracting business is the application of tile to existing surfaces or the execution, fabrication and erection of poured cement and concrete masonry.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12 Feb 73, (part).

31.0156 Painting.

Painting means to examine surfaces and specify and execute the preliminary and preparatory work

necessary to bring such surfaces to a condition where, under an agreed specification, acceptable work can be executed thereon with the use of any or all of the following: paints, pigments, oils, turpentine's, japans, driers, thinners, varnishes, shellacs, stains, fillers, waxes, cement, water, plastics, and other vehicles, mediums, and materials that may be mixed, used, and applied to the surfaces of buildings, edifices, structures, monuments, and the appurtenances thereto, of every kind, type, and description in their natural state or condition, or constructed or fabricated of any material or materials whatsoever that can be painted as are by custom and usage accepted in the building and construction industry as painting.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73, (part).

31.0157 Pest control, structural.

Structural pest control means to examine a building or structure for damage effected by termites and other similar pests, and to specify the work necessary to bring the building or structure into an adequate condition for occupancy and usage by the removal, treatment, repair, and replacement of the damaged portion into a position commensurate with the quality and condition of the building or structure before such damage occurred, or to do any part or any combination of any thereof in connection therewith.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12 Feb 73, (part).

31.0158 Plaster and lathing.

Plastering and lathing means the coating of surfaces with a mixture of sand, gypsum, plaster, quicklime or hydrated lime and water, or sand and cement and water, or a combination of such other materials as create a permanent surface coating, and which coatings are usually applied with a plasterer's trowel or other mechanical means over any surface which offers a mechanical key for the support of such coating, or to which such coating will adhere by suction or which has been manufactured to provide a base for such coating. Also, to examine surfaces and specify, select, apply, and affix wood, gypsum, and metal lath, or any other materials or product prepared or manufactured to provide key or suction bases for the support of plaster coatings, in such a manner that, under an agreed specification, acceptable lathing can be executed and installed, including the channel iron work for the support of metal or other fireproof lath work for solid plaster partitions, but plastering and lathing shall not include the erection of any wall,

ceiling, or soffit to which such key or suction plaster bases are applied.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73. (part).

31.0159 Plumbing.

Plumbing means the creating and maintaining of sanitary conditions in buildings, structures, and works where people or animals live, work, and assemble, by providing a permanent means for a supply of safe, pure, and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, and cleaning, and to cleanse all waste receptacles and like means for the reception and speedy and complete removal from the premises of all fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73, (part).

31.0160 Refrigeration and air-conditioning.

Refrigeration and air-conditioning means to examine, specify, lay out, install, and maintain devices, machinery, and all such pertinent and appropriate units and parts necessary to the operation and control and/or regulation of air temperatures in refrigerators, refrigerated rooms, and residential, commercial, and industrial buildings.

History: Contractors Lic. Bd. Classification of Contractors' Licenses. eff 12 Feb 73. (part).

31.0161 Roofing, siding, insulation, waterproofing.

Roofing, siding, insulation, and waterproofing means to examine surfaces and specify the preliminary and preparatory work necessary to bring such surfaces to a condition where, under an agreed specification, acceptable work can be executed and fabricated thereon with such materials or material as to seal, waterproof, and weatherproof such surfaces by such means in such manner as to prevent, hold, keep, and stop water, its derivatives, compounds, and solids from penetrating and passing any such protective material, membrane, roof, siding, surface, or seal, thereby gaining access to material or space beyond such weatherproof, waterproof, or watertight material, membrane, roof, siding, surface, or seal with the use of any or all of the following: asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials or any combination of any thereof, that use and custom has established as usable for, or which material or

materials are now used as, such waterproof, weatherproof, or watertight seal for such membranes, roofs, and surfaces, but shall not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions. insulation means to install any insulation media in buildings and structures for the sole purpose of temperature control, in such a manner that buildings and construction insulation can be executed and installed, but shall not include any work other than those processes solely incident to the installation of the insulation media, Waterproofing means to select and apply solutions of rubber, latex, asphaltum, pitch, tar, or other material c'~ materials, or any combination of any thereof, to surfaces to prevent, hold, keep, and stop water, its derivatives, compounds, and solids from penetrating and passing such materials, thereby gaining access to material or space beyond such waterproofing.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73, (part).

31.0162 Sewer installation.

Sewer installation means to fabricate and lay cast-iron, steel, concrete, vitreous, and nonvitreous pipe which receives the discharge of the building drain at a point 3 feet beyond the outside wall of a building and conveys it to a public sewer, private sewer, or individual sewage disposal system, including the installation of septic tanks and cesspools and the appurtenances thereto, but sewer installation shall not include the work of a plumbing contractor or general engineering contractor as defined in this article.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12 Feb 73, (part).

31.0163 Sheet metal.

- (a) Sheet metal work means to lay out, design, fabricate, and install ducts, registers, air filters, humidity and thermostatic controls, ventilating systems complete with blowers, ducts, plenum chambers, and registers, with or without air filters and humidity and thermostatic controls, in such a manner that air-conditioning and ventilating systems can be executed and installed.
- (b) Sheet metal work means, also, to select, cut, shape, fabricate, and install sheet metal such as cornices, flashings, gutters, leaders, rainwater downspouts, pans, kitchen equipment, duct work, metal flues, etc., or to do any part or any combination of any thereof. Licenses may be obtained for the sheet metal category only.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73. (part).

31.0164 Steel reinforcing and erection.

Steel reinforcing and erection means to fabricate, place, and tie steel reinforcing bard (rod) and to erect structural steel shapes and plates, of any profile, perimeter, or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding, and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected.

History: Contractors Lic. Bd. Classification of Contractors' Licenses, eff 12 Feb 73, (part).

31.0165 Stone masonry.

Stone masonry means to select, cut, and lay natural or artificial stone, either rough or cut-and-dressed stone, laid at random, with or without mortar, or to do any part or any combination of any thereof, in such a manner that, under an agreed specification, acceptable stone masonry can be executed, fabricated, and erected.

History: Contractors Lic. Ed. Classification Contractors' Licenses, eff 12 Feb 73. (part).

31.0166 Tanks, structural.

Structural tank work means to fabricate, place, and erect structures for the purpose of retaining liquids, solids, or gasses either above or below the ground, but shall not include the work of a general engineering contractor: as defined in this article.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12 Feb 73, (part).

31.0167 Welding.

Welding means to use gases and electrical energy to create temperatures of sufficient heat to cause metals to become permanently affixed, attached, joined, and fabricated in such manner that welding can be executed.

History: Contractors Lic. Bd. Classification of Contractors Licenses, eff 12Feb73. (part).

III. PAYROLL TAXES

31.0170 Employer identification number.

Building contractors who engage the services of others as employees are required to have an employer identification number (EIN). Apply for such a number at the tax office.

History: Contractors Lic. Bd. Tax and Social Security Requirements, eff 12 Feb 73, § 1.

31.0171 Withholdings required.

- (a) Samoan. Employers are required by law to withhold from wages of employees Samoan taxes in accordance with prescribed rates. Rates are obtainable from the tax office.
- (b) Social Security. Employers are required to withhold from wages of employees social security taxes. Contractors shall contact the local Social Security office.

History: Contractors Lic. Bd. Tax and Social Security Requirements, eff 12 Feb 73, § 2.

31.0172 Employer social security contribution.

The social security laws which are applicable in American Samoa require employers to contribute toward the social security benefits of the employees. Rates of employer contributions are equal to rates of taxes withheld from employees. For more detailed explanation consult the local Social Security office.

History: Contractors Lic. Bd. Tax and Social Security Requirement. eff 12 Feb 73, § 3.

31.0173 Quarterly payment deadlines and reports.

All employers are required by law to file reports and pay taxes to the tax office on or before the last day of the month following the end of each quarter. The quarters end on 31 Mar, 30 Jun, 30 Sep, and 31 Dec. Employers registered with the tax office will be provided quarterly with the necessary reporting forms. Negative reports must be filed even though there has been no reportable activity.

History: Contractors Lic. Bd. Tax and Social Security Requirements, eff 12 Feb 73. § 4.

31.0174 Settling before licensing required.

For licensing purposes it is required that all back tax returns be filed and taxes which have not been paid to the government be paid in full.

History: Contractors Lic. Bd. Tax and Social Security Requirements, eff 12 Feb 73, § 5.

IV. WORKMEN'S COMPENSATION INSURANCE

31.0180 Required before business licensing.

Before obtaining or renewing a business license, any person, partnership, or corporation must first secure workmen's compensation insurance. This type of insurance provides for salary compensation or awards for employees who are injured on the job or while traveling between work and home.

History: Contractors Lic. Bd. Workmen's Compensation Act, eff 12 Feb 73. (part)

31.0181 Where obtained-Employer to pay.

The insurance may be obtained from any insurance carrier licensed to do business in the territory of American Samoa. The cost of the insurance is computed on the basis of the type of work or service to be performed and an estimate of the total annual payroll. The total cost of the insurance must be borne by the employer. The law prohibits any portion of the cost to be collected from or paid by the employees.

History: Contractors Lic. Bd. Workmen's Compensation Act, eff 12Feb73. (part).

31.0182 Noncompliance.

Failure to obtain the compensation insurance or comply with the provisions of the Workmen's Compensation Act may result in the revocation of the business license or a severe fine.

History: Contractors Lic. Bd. Workmen's Compensation Act. eff 12Feb73, (part).

31.0183 Information sources.

More detailed information for employees and employers may be obtained from the workmen's compensation commission or any insurance carrier who handles compensation insurance.

History: Contractors Lic. Bd. Workmen's Compensation Act. eff 12 Feb 73, (part).

V. ALIEN WORKERS

31.0185 Permission to work required-limitation to sponsoring employer.

No alien shall engage in any employment unless the immigration board has previously granted him entry permission for the purpose of the specific employment involved. An alien shall not work for any employer other than his sponsoring employer.

History: Contractors Lic. Bd. Immigration Regulations for Employment of Aliens, eff prior to 1975, § 3.010.

31.0186 Sponsoring employer.

A sponsoring employer may be a U.S. national or an established business in American Samoa. Every alien who receives entry permission from the immigration board for the purpose of engaging in employment must be sponsored by his employer. The alien and his sponsoring employer shall be subject to all requirements, conditions, and duties of aliens and sponsors, respectively, provided in immigration rules, except that a sponsoring employer may be either a

United States national or an established business in American Samoa.

History: Contractors Lic. Bd. Immigration Regulations for Employment of Aliens, eff prior to 1975. § 3.020.

31.0187 American Samoan preference.

No entry permission shall be granted for the purpose of employment unless the sponsoring employer satisfies the immigration board that it is not possible to recruit a qualified American Samoan for the position involved and that reasonable steps are being taken by the sponsoring employer for the eventual replacement of the alien employee by an American Samoan.

History: Contractors Lic. Bd. Immigration Regulations for Employment of Aliens, eff prior to 1975. § 3.030.

31.0188 Employment reports.

Repealed by Rule 7-87, § 6.

VI. EXCEPTIONS TO CHAPTER

31.0190 Exceptions to chapter.

This chapter shall not apply to:

- (1) An officer or employee of the United States, the state, or any political subdivision if the project or operation is performed by employees thereof;
- (2) Any person acting as a receiver, trustee in bankruptcy, personal representative, or any other person acting under any or authorization of any court;
- (3) A person who sells or installs any finished products, materials, or articles of merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, or to the construction, alteration, improvement, or repair of personal property;
- (4) Officers of a court acting in their official capacity;
- (5) Regulated public utilities performing construction work incidental to their business;
- (6) Any project or operation for which the aggregate contract price for labor, materials, and all other items is less than \$100. This exemption shall not apply in any case wherein the undertaking is only a part of a larger or major project or operation, whether undertaken by the same or a different contractor or in which a division of the project or operation is made in contracts of amounts less

than \$100 for the purpose of evading this chapter or otherwise;

- (7) A registered architect or professional engineer acting solely in his professional capacity;
- (8) Any person who engages in the activities herein regulated as an employee with wages as his sole compensation;
- (9) Owners or lessees of property who build or improve residential, farm, industrial or commercial building or structures on such property for their own use, or for use by them and the work is performed by the owner and/or grandparents, parents, siblings, or children and do not offer such buildings or structures for sale or lease. In all actions brought under this paragraph, proof of the sale or lease, or offering for sale or lease, of such structure within one year after completion is prima facie evidence that the construction or improvement of such structure was undertaken for the purpose of sale or lease; provided, however, that this shall not apply to residential properties sold or leased to employees of the owner or lessee;
- (10) Any co-partnership or joint venture if all members thereof hold licenses issued under this chapter.

History: Rule 12-84. eff 25 Dec 8-4. § 3.

[End Of Title 31 – Chapter 1]

TITLE 31 – CHAPTER 02 – PROFESSIONAL SURVEYORS

Sections:

- 31.0201 Authority.
- 31.0202 Definitions.
- 31.0203 Registration required-Work for ASG.
- 31.0204 Application for registration- Qualifications-Certificates.
- 31.0205 Renewal of certificates.
- 31.0206 Monuments-Precision standards-Datum connection-Record contents.
- 31.0207 Record of survey-Filing, examination, registration.
- 31.0208 Enforcement-Suspension and revocation.
- 31.0209 Former rules superseded.

31.0201 Authority.

The rules set out in this chapter are issued pursuant to the authority granted the board of registration for professional surveyors by 31.0603 A.S.C.A.

History: Rule 9-76, eff 24 Aug 76, Bd. of Reg. for Prof. Surv. Rules and Regs. § 1.

31.0202 Definitions.

As used in this chapter:

- (1) “professional surveyor” means one who is certified to practice surveying as defined in this section;
- (2) “board” means the board of registration for professional surveyors;
- (3) “chairman” means the chairman of the board, who is by statute the director of public works;
- (4) “responsible charge of work” means the independent control and direction, by the use of skill, initiative, and independent judgment, of the observations, measurements, calculations, and descriptions involved in land survey work;
- (5) “subordinate” means any person directly supervised by a registered professional surveyor and who assists a registered professional surveyor in the practice of land surveying without assuming responsible charge of work;
- (6) “survey branch manager” means that person assigned primary responsibility for surveying functions within the department of public works;
- (7) “Surveying.” Any person practices “surveying” when he is in responsible charge of surveying

work and offers or performs any of the following operations:

- (A) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land or any road, right-of-way, easement, alignment, or elevation for any fixed works embraced within the practice of civil engineering;
- (B) Makes a survey for the subdivision or resubdivision of any tract of land;
- (C) By use of the principle of land surveying determines the position for any monument or reference point which marks a property line, boundary, or corner, or sets, resets, or replaces any such monument or reference point;
- (D) Determines the configuration or contour of the earth’s surface or the position of fixed objects thereon or related thereto by means of measuring lines and angles and applying the principles of trigonometry;
- (E) Does geodetic or cadastral surveying;
- (F) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions set out in this section;
- (G) Indicates in any capacity or in any manner, by the use of the title “registered professional surveyor” or by any other representation that he practices or offers to practice land surveying in any of its branches;
- (H) Procures or offers to procure land surveying work for himself;
- (I) Manages or conducts as manager, proprietor, or agent, any place of business from which the practice of surveying from hiring a land surveying work is solicited, performed, or practiced.

History: Rule 9-76, eff 24 Aug 76, Bd. of Reg. for Prof. Surv. Rules and Regs. § 2.

31.0203 Registration required-Work for ASG.

- (a) Any person practicing or offering to practice land surveying in this territory shall submit evidence that he is qualified to practice and shall be registered under this section. It is unlawful for any person to practice, offer to practice, or

represent himself as a land surveyor in this territory or to set, reset, replace, or remove any survey monument unless he has been registered or specifically exempted from registration under this section.

- (b) Surveys made exclusively for geological or landscaping purposes, which do not involve the determination of any property line, do not constitute surveying within the meaning of this section.
- (c) In any firm, partnership, company, corporation, or association practicing or offering to practice surveying, at least 1 member, employee, officer, or director must be individually registered as a professional surveyor pursuant to this section.
- (d) Any firm, partnership, company, corporation, or association organized, or individual from outside the territory and performing contractual surveying work for the ASG shall comply with the following conditions:
 - (1) Field surveys performed shall be done by persons holding full or temporary registration from the board.
 - (2) Computation, compilation, mapping, and other surveying services performed outside the territory shall be done by, or under the direction of, persons duly, registered to perform such services under the jurisdiction of the state or territory in which the work is performed.
- (e) This chapter does not prohibit or prevent an individual, firm, partnership, corporation, or association engaged in any line of business other than the practice of surveying from hiring a registered professional surveyor to perform surveying services incidental to the business of the individual or organization.
- (f) The following are not required to be registered under this section:
 - (1) Officers and employees of the United States Government practicing solely as such officers and employees, and engaged in work incidental and necessary to performance of services for the government of the United States or the ASG;
 - (2) Any employee of the ASG, directly responsible to a registered professional

surveyor, insofar as he acts solely in such capacity;

- (3) Any subordinate to a registered professional surveyor.

History: Rule 9-76, eff 24 Aug 76. Bd. of Reg. for Prof. Surv. Rules and Regs. § 3.

**31.0204 Application for registration-
Qualifications-Certificates.**

- (a) An application for registration as a professional surveyor shall be made to the board on the form prescribed by it, with all statements therein made under oath, and shall be accompanied by the application fee fixed by 31.0604
- (b) The applicant for full-term registration under these provisions shall be a United States citizen, a United States national, an American Samoan, or a permanent resident as defined by 41.0502 (b) and (j) A.S.C.A., or an alien duly authorized residency and employment by the immigration board.
- (c) The applicant shall be at least 25 years of age and he shall be thoroughly familiar with the laws, procedures, and rules governing the survey of lands as set forth in this chapter and in the A.S.C.A.
- (d) The applicant shall have a background of education and experience which will generate a minimum of 70 points on the following scale:
 - (1) For each year of surveying experience approved by the board, 10 points;
 - (2) For each semester-hour credit in surveying or surveying related courses from a technical institute, college, or university, as approved by the board, 3 points;
 - (3) For the highest degree or diploma approved by the board, points as shown:
 - (A) High school, 10 points;
 - (B) Associate, 20 points;
 - (C) Bachelor, 30 points;
- (e) The applicant shall submit the name or names of the registered surveyor or surveyors under whom experience was accumulated.
- (f) The names and addresses of at least 3 responsible persons, each of whom has sufficient knowledge of the applicant to enable the person to certify as

to the applicant’s integrity and moral fitness to become registered, shall be submitted with the application.

- (g) The applicant shall state on his application that, should he be registered, he will support the constitutions of the United States of America and American Samoa, and that he will faithfully discharge his duties as a registered professional surveyor.
- (h) Examinations for registration shall be held at such times and places within the territory as determined by the board. The examination may be conducted by 1 or more members of the board or 1 or more duly authorized representatives of the board.
- (i) One division of the examination shall test the applicant’s knowledge of appropriate mathematical and basic surveying subjects. Another division shall test the applicant’s ability to apply his knowledge and experience and to assume responsible charge of work in the professional practice of land surveying. Another division shall require oral examination of the applicant’s personal qualifications and attitudes with respect to his profession by the board.
- (j) An applicant failing an examination may, upon payment of another examination fee, be reexamined.
- (k) Any applicant who has passed the examination prescribed by the board shall, upon payment of the registration fee, receive from the board a permanent certificate of registration and a card signifying registration for that calendar year. These shall be signed by the chairman and 1 member of the board and shall signify compliance with this chapter.
- (l) The board may, upon application therefor and the payment of the application and registration fees fixed by statute, issue a certificate of registration without examination to any person who holds a valid, unrevoked, and unexpired certificate of registration or license issued to him by any other state or territory of the United States, when the applicant has received the certificate or license by virtue of an examination comparable to that required for registration pursuant to this chapter and when the applicant’s qualifications meet the requirements of this chapter.

- (m) A duplicate certificate of registration to replace one lost, destroyed, or mutilated may be issued by the board, subject to its rules and the payment of the fee therefor as fixed by statute. (n) Upon being registered, the professional surveyor shall obtain a seal of the design authorized by the board bearing the registrant’s name, certificate number, and the words “Registered Professional Surveyor, American Samoa”.
- (o) An unrevoked, unsuspended, and unexpired certificate of registration or renewal certificate, issued by the board is presumptive evidence in all courts and all places that the person named is legally registered under this chapter.
- (p) A temporary certificate of registration as a professional surveyor may be granted, upon payment of the temporary registration fee fixed by statute, if the applicant complies with each of the following provisions:
 - (1) He maintains no place of business in this territory;
 - (2) He is legally and professionally qualified to do land surveying in the state, territory, or country in which he maintains a place of business to do land surveying;
 - (3) His practice as a professional surveyor in this territory does not require more than 60 calendar days in any 1 calendar year; and;
 - (4) He notifies the board of his intention to practice, stating the approximate date when he intends to commence and the approximate length of time he expects to continue. The board, after having determined that the applicant is qualified and has complied with the provisions of this chapter, may issue a temporary certificate to practice for a period not to exceed 60 days.

History: Rule 9-76, eff 24 Aug 76. Bd. of Reg. for Prof. Surv. Rules and Regs. § 4.

31.0205 Renewal of certificates.

- (a) Any certificate issued under this chapter shall remain in effect until 31 Dec next following date of issuance of the certificate.
- (b) Any registered professional surveyor certified under this chapter who wishes to continue the practice of his profession into the next calendar year shall, by 15 Jan of that year, secure from the secretary of the board a renewal slip and pay to the department of revenue an annual renewal fee

as established by statute. Upon presentation of receipt of the payment, the secretary of the board shall issue to the registrant a card certifying his right to practice for the next calendar year.

- (c) Any certificate which has expired for nonpayment of the annual renewal fee may be restored, within 1 year from its expiration, under rules prescribed by the board and by payment of the delinquency fee fixed by statute.

History: Rule 9-76. eff 24 Aug 76, Bd. of Reg. for Prof. Surv. Rules and Regs. § 5.

31.0206 Monuments-Precision standards-Datum connection-Record contents.

- (a) Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed and to assure, together with monuments already existing, the perpetuation of facile reestablishment of any points or lines of the survey. Any monument set by a registered professional surveyor to mark or reference a point on a property line or land line shall be permanently and visibly marked or tagged with the certificate number of the surveyor setting it, the numbers to be preceded by the letters “R.P.S.” if the monument is set by a public agency, it shall be marked with the recognized initials of the agency.
- (b) All surveys for record shall be made using, as minimum equipment, steel tape graduated to one-hundredth of a foot (0.01 ft.) or 1 millimeter and angle-measuring instruments with verniers having a least count of 1 minute of arc. All measurements shall be made in accordance with standard survey practice. Minimum precision, as computed by latitudes and departures, acceptable for recording of the survey shall be as follows:
 - (1) Land which is generally clear or which has an elevation difference of less than 50 feet between the highest and lowest points on the boundary shall be surveyed to an error of closure of not less than 1 part in 5,000.
 - (2) Land which is more than 50% bush or has an elevation difference of more than 50 feet between the highest and lowest points on the boundary shall be surveyed to an error of closure not less than 1-part in 3,500.
 - (3) Land which has an elevation difference of more than 200 feet between the highest and the lowest points on the boundary shall be

surveyed to an error of closure of not less than 1 part in 2,000.

- (4) Vertical closures shall not exceed .05 feet times the square root of the traverse distance in miles.
- (c) All surveys shall be connected to the American Samoa Datum. A record of survey may not be registered unless it also shows, or is accompanied by, a map showing the control scheme through which the coordinates were determined from points of known coordinates, and contains within the map or along the margin thereof, grid ticks showing the orientation of the map to the American Samoa Datum.
- (d) A record of survey shall be a map, or copy thereof, filed as provided in 31.0207, legibly drawn on plastic drafting film or other dimensionally stable media, with outside dimensions of 18 and 24 inches (450 and 600 mm) or 12 and 18 inches (300 and 450). The left edge shall have a margin of 1-1/2 inches (40mm), with a margin of one-half inch (15 mm) on the other 3 sides. A record of survey is not required of any survey which is preliminary in nature.
- (e) The record of survey shall show the following:
 - (1) All monuments found, set, reset, replaced, or removed, describing their kind, size, and location, and giving other data relating thereto;
 - (2) Length and direction of lines and witness monuments, and both a graphic and written scale of the map (when azimuths are used, the origin shall be grid south);
 - (3) Name of land in which the parcel is located or of which it is a part, together with ties to adjoining tracts or parcels;
 - (4) Certificates required by subsection (f) and (g) of this section;
 - (5) Coordinate ticks referenced to the American Samoa Datum;
 - (6) An arrow showing the north direction; and
 - (7) Any other data necessary for the intelligent interpretation of the various items and locations of points, lines, and areas shown.
- (f) The surveyor shall affix to the map a statement or stamp in the general form of the following:

"SURVEYOR'S CERTIFICATE

This map correctly represents a survey, having a precision of 1 in..... as computed by latitudes and departures, and was made by me or under my direction in conformance with the Code and Rules of the Territory of American Samoa at the request of in..... 19.....

Signed and Sealed

Registered Professional Surveyor No.....

(g) In the case of survey prepared for registration of title to land pursuant to 37.0101 through 37.0104 A.S.C.A., the surveyor shall submit to the territorial registrar a certificate signed by the pulenu'u of the village in which or nearest to which the land is located to the effect that he gave public oral notice to provide other interested landowners opportunity to be present at the survey said statement to be in the general form of the following:

"PULENU'U'S CERTIFICATE

I, as Pulenu'u of the village of... in which or nearest to which the land shown on this map is located, certify that I gave public oral notice in the village at a meeting of the chiefs of the village of the time and place of the intended survey and that other interested landowners were entitled to be present during the survey, or any part thereof.

Signed.....

Pulenu'u"

History: Rule 9-76, eff 24 Aug 76. Bd. of Reg. for Prof. Surv. Rules and Regs. § 6.

31.0207 Record of survey-Filing, examination, registration.

- (a) Within 90 days of the establishment of points or lines, the registered professional surveyor must file with the survey branch manager copies of the record of survey relating to land boundaries or property lines which disclose any of the following:
 - (1) Material evidence which, in whole or in part does not appear on any map or record previously filed with the survey branch or the registrar of lands;
 - (2) A material discrepancy with such records;
 - (3) Evidence that, by reasonable analysis, might result in alternate positions of lines or points; or
 - (4) The establishment of 1 or more lines either shown or not shown on such map, the

positions of which are not ascertainable from an inspection of such map without trigonometric calculations. A copy of any record of survey filed with the survey branch manager, shall, after being examined by him, be filed with the territorial registrar.

- (b) Within 15 days of the date of submission of a record of survey, or within such additional time as may be reasonably necessary, the-survey branch manager shall examine it with respect to:
 - (1) its accuracy of mathematical data and completeness of information as required in 31.0206 (e);
 - (2) its conformity to other records of satisfactory evidence of errors of such other records;
 - (3) its compliance with other provisions of this chapter.
- (c) If the survey branch manager finds the record of survey to be satisfactory he shall endorse on each copy the following certificate and present 2 copies to the territorial registrar for registration:

"MANAGER'S CERTIFICATE

This map has been examined by me or under my direction for conformance with the laws of American Samoa and the rules of the board of Registration for Professional Surveyors, and is hereby approved for registration this day of.....19.....

Signed:

Survey Branch Manager, DPW"

- (d) If the survey branch manager finds the record of survey to be not in compliance with this chapter and the laws of American Samoa, he shall within 15 days of date of submission return it to the surveyor who presented it together with a written statement of correction required for compliance.
- (e) If matters appearing on the record of survey cannot be agreed on by the survey branch manager and the registered professional surveyor within 30 days of the date of submission, a list of discrepancies shall be noted on the maps by the survey branch manager, and 2 copies with such notation shall be forwarded by him to the territorial registrar for registration.
- (f) The copy of the record of survey filed with the territorial registrar shall be securely fastened by him into a suitable book provided for the

purpose. He shall keep proper indexes of such records of survey by district, county, village, name of land, and name of owner. It shall be proper procedure for the territorial registrar to keep 1 copy for public reference and another for safekeeping.

- (g) Prior to filing the record of survey, the territorial registrar shall endorse the record with a certificate in the general form of the following:

| |
|--|
| <p>"REGISTRAR'S CERTIFICATE</p> <p>Filed for record this..... day of19..... at.....past..... o'clock M, in Book Number Page... .. , at the request ofof..... village.</p> <p>Signed..... Territorial Registrar"</p> |
|--|

History: Rule 9-76. eff 24 Aug 76, Bd. of Reg. for Prof. Surv. Rules and Regs. § 7.

31.0208 Enforcement-Suspension and revocation.

- (a) The board shall, within its statutory limitations, enforce all provisions of this chapter and pursue the prosecution, where applicable, of all violators of this chapter.
- (b) By majority vote, the board may revoke or suspend for a period not to exceed 2 years the certificate of any professional surveyor whom it finds has committed:
 - (1) any fraud or deceit in obtaining his registration;
 - (2) any fraud or incompetency in his practice of surveying; or
 - (3) any violation of this chapter.
- (c) The adjudication of mental illness, or the voluntary commitment to a hospital for a mental illness of any registered professional surveyor, shall constitute a suspension of the right to practice, such suspension to continue until restoration to or declaration of sanity or mental
- (d) The board may reissue a license to any person whose license has been revoked if a majority of the board votes in favor of such reinstatement.

History: Rule 9-76, eff 24 Aug 76, Bd. of Reg. for Prof. Surv. Rules and Regs. § 8.

31.0209 Former rules superseded.

All previously adopted rules of the board are hereby superseded in their entirety and are no longer in effect.

History: Rule 9-76, eff 24 Aug 76, Bd. of Reg. for Prof. Surv. Rules and Reg. § 9.

[End Of Title 31 – Chapter 2]

TITLE 31 – CHAPTER 03 – TRADESMEN

Sections:

- 31.0301 Authority.
- 31.0302 Purpose of board and provisions.
- 31.0303 Tradesmen - contractors board jurisdictions - Laborer supervision - Industry structures.
- 31.0304 Definitions.
- 31.0305 Certificate required.
- 31.0306 Application-Content.
- 31.0307 Application-Aliens.
- 31.0308 Application-Insufficient or incomplete.
- 31.0309 Examination-Content.
- 31.0310 Examination-Notification of results.
- 31.0311 Experience requirement.
- 31.0312 Fee.
- 31.0313 Duplicate certificate.
- 31.0314 Deposit, use of fees.
- 31.0315 Seal of the board.
- 31.0316 Minutes.
- 31.0317 Temporary certificate.
- 31.0318 Term of certificates.
- 31.0319 Expiration of certificates-Renewal.
- 31.0320 Annual renewal-Fees.
- 31.0321 Refusal, revocation, suspension, modification, or limitation grounds.
- 31.0322 Powers of the board.
- 31.0323 Hearing and disciplinary powers-Hearing procedures.
- 31.0324 Adverse decisions of the board- Record of proceedings.
- 31.0325 Judicial review.
- 31.0326 Reinstatement after suspension.
- 31.0327 Reinstatement after revocation.

31.0301 Authority.

The board of tradesmen examiners derives its authority from Chapter 31.07 A.S.C.A., in general and 31.0704 A.S.C.A., Board-Powers, in particular. The rules codified in this chapter are promulgated pursuant to 31.0704(1) A.S.C.A.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 1.01.

31.0302 Purpose of board and provisions.

The board of tradesmen examiners construes its purpose as one of protecting the health, safety, and general welfare of all these persons dealing with persons who are engaged in supplying of services of tradesmen as defined in 31.0705 A.S.C.A. The laws and rules promulgated pursuant to the law are designed to provide a practical protection against incompetent, inexperienced, unlawful, and fraudulent acts of tradesmen. It is anticipated that the administration of the laws and rules will upgrade

professional competency and cultivate responsibility within the tradesmen vocation.

History: Bd. of Tradesmen Examiners Regs. eff 28 Dec 72, Reg. 1.02.

31.0303 Tradesmen-contractors board jurisdictions-Laborer supervision-Industry structures.

The board of tradesmen examiners views its responsibilities in relation to the contractors licensing board as follows:

- (a) The contractors licensing board’s primary interest is as set out in 31.0102. Such board is thus concerned with the protection of the general public from unqualified or unscrupulous contractors. Of primary importance, then, is the contractor’s:
 - (1) business skill and knowledge of legal requirements to engage in business;
 - (2) integrity and character; and
 - (3) professional competence, if holder of a specialty license, or the competency of those responsible managing employees who qualify the contractor for license by taking and passing the specific examinations as set out in the Contractors Licensing Law and rules.
- (b) Next, the board of tradesmen examiners is interested in the tradesmen, foremen, and general foremen who are licensed by them and who work at a trade immediately under the contractor or the responsible managing employee.
- (c) All employees who are not contractors, responsible managing employees, or tradesmen shall be designated as laborers. All laborers shall be under the direct supervision of the tradesmen, foremen and general foremen, responsible managing employee, or the contractor.
- (d) In a pyramid of construction employees, tradesmen are above laborers but below the responsible managing employees of the contractor, as follows:
 - (1) Contractor: license by contractors licensing board;
 - (2) Responsible managing employee: tested by contractors board as to specific knowledge

of certain building trades; operates as superintendent;

- (3) Tradesmen, foremen, and general foremen: examined by board of tradesmen examiners;
- (4) Laborers: those workers who must work under the supervision of tradesmen, responsible managing employees, or contractors.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 1.03.

31.0304 Definitions.

When used in this chapter, the following words shall be defined as follows:

- (a) “Board” means the board of tradesmen examiners.
- (b) “Certificate” means the tradesmen’s certificate issued by the board to an applicant who has fulfilled all qualifications for any trades set out in 31.0705 A.S.C.A.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 1.04.

31.0305 Certificate required.

No person shall conduct any business or operate as a tradesman without being first licensed by the board and having a tradesmen’s certificate issued for the trade or trades approved by the board, nor shall such person put out any sign or card or other device, or advertise by news media, telephone yellow pages, or otherwise, which indicates to the public that he is a certified tradesman. This rule does not prevent any person who has not been issued a certificate from performing work on his own buildings, provided there has been compliance with all the applicable provisions of the A.S.C.A., especially with regard to building permits and inspections. This rule does not prevent a certified tradesman from forming a partnership or other association with persons who are not tradesmen provided the name of the certified tradesman appears as the tradesman on all instruments of service, and in no case may other members of the partnership be designated as tradesmen. In the event such certified tradesman forms a partnership or other association for contracting services, such tradesmen shall place themselves within the purview of Chapter 31.05 A.S.C.A., Contractors Licensing Law, and rules applicable thereto.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.01.

31.0306 Application-Content.

All persons desiring to be licensed as a tradesman must apply to the board upon a form prepared and supplied by the board and must pay the fee required by 31.0312. In addition to other information deemed necessary by the board, the applicant shall supply the following:

- (a) Name, village, post office box number, nationality, place of birth;
- (b) The amount of experience possessed by the applicant, the names and dates the applicant has been employed in the past 5 years, and names of employers;
- (c) The names of 3 references of whom the board may inquire as to the workmanship and character of applicant;
- (d) Whether or not the applicant has been charged or convicted of a crime (other than minor traffic convictions), the charge, the dates, and the disposition of such case;
- (e) Whether the applicant has ever had a tradesmen certificate before; if so, the period such applicant held such license and the reasons such license is not now held;
- (f) Whether or not the applicant has ever been associated with the holders of a contractor’s license which was suspended, revoked, limited, or modified.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.02.

31.0307 Application-Aliens.

Before considering an application by an alien the board shall require evidence from such alien that all immigration laws and rules have been complied with for such alien’s entry into American Samoa and his employment within American Samoa.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.03.

31.0308 Application-Insufficient or incomplete.

- (a) Each applicant for a tradesmen certificate shall, before a certificate may be issued to him, give the information required in the application form as prescribed by the board, furnish the references required as to the applicant’s ability to perform the trade applied for, the applicant’s character

and trade reputation, and pay the required fee. The board has the authority to refuse to issue a license to any applicant who fails without good reason or refuses to give the information so requested, or to furnish the required references.

- (b) Such incomplete or insufficient application shall be returned to the applicant with the tendered fee and the reason for such refusal to issue made known to the applicant.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.04.

31.0309 Examination-Content.

- (a) Examinations for the trade or trades applied for shall be administered by the board, a designated member of the board, or another person designated by the board. Examinations shall be in such form as the board prescribes and shall be based upon academic and/or practical experience and generally recognized principles of the trade or trades applied for. As such the examination may be written and demonstrative. The examiner may require samples of work, if appropriate, or may require the doing of appropriate tasks for grading by the examiner.
- (b) The examination prescribed by the board may be in lieu of the final examination for government employees who have completed the 3-year on-the-job training program for specific trades as described in the publication of the ASG entitled “Standard Titles and Definitions for Upgraded Positions, Supervisory Titling Procedures and In-Service Training Programs,” a copy of which is attached to the rules codified in this chapter.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.05.

31.0310 Examination-Notification of results.

Each applicant shall be notified in writing by the board as to whether he has passed or failed. If a failing grade is issued, such notification shall give specific reasons for such failure in such form so that the applicant may best prepare to retake the examination.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.06.

31.0311 Experience requirement.

The applicant for a tradesmen certificate shall furnish evidence of having completed a course from an approved trades school and have had at least 1 year experience in such trade or have had at least 3 years experience in such trade, and be capable of providing

proof of competency in the trade, and pass the examination prescribed by the board.

History: Bd. of Tradesmen Examiners Regs. eff 28 Dec 72, Reg. 2.07.

31.0312 Fee.

The fees prescribed by this chapter are fixed by the board as follows:

- (a) Application for examination \$1;
- (b) Original nongovernment trade certificate \$5;
- (c) Duplicate certificate \$3;
- (d) Renewal of a certificate \$1;
- (e) Renewal if application filed after 1 Mar \$2;
- (f) Temporary permit \$5;
- (g) Special certificate for ASG employee to perform government work None.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.08.

31.0313 Duplicate certificate.

A duplicate certificate to practice a trade, replacing one which has been lost, destroyed, or mutilated, may be issued subject to the rules of the board. The duplicate certificate fee fixed by the board shall be charged for such issuance.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.09.

31.0314 Deposit, use of fees.

All fees collected pursuant to 31.0312 shall be deposited in a special fund which shall be available for the payment of any expenses incurred in the administration of this chapter. Any sums in excess of those necessary to pay such expenses shall be dispensed as otherwise provided by law at the end of each fiscal year.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.10.

31.0315 Seal of the board.

The board shall adopt a seal for its own use. The seal used shall have the words, “The Board of Tradesmen Examiners of American Samoa”. The secretary of the board shall have the care and custody of the seal.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.11.

31.0316 Minutes.

The secretary shall keep an accurate record of all proceedings of the board which will be open to inspection by the public.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.12.

31.0317 Temporary certificate.

This chapter does not prevent a person from without the territory from performing work within the territory providing that he presents satisfactory evidence to the board that he is competent to practice the trade and the board issues a temporary certificate to him for the stipulated work, and provided the individual who is to receive the certificate has received the ASG's permission to reside in the territory for a particular period. It is expressly understood that such temporary certificate shall be for a specific job only, of a short duration (not to exceed 1 year), and that the tradesman is in American Samoa specifically to do only such job.

History: Bd. of Tradesmen Examiners Regs. eff 28 Dec 72, Reg. 2.13.

31.0318 Term of certificates.

Certificates to practice a trade will remain in full force until revoked or suspended for cause, or until they expire as provided in this chapter.

History: Bd. of Tradesmen Examiners Regs, eff 28 Dec 72, Reg. 2.14.

31.0319 Expiration of certificates-Renewal.

All certificates issued under authority contained in PL 12-21 shall expire on 31 Dec of the calendar year in which issued. To renew an unexpired certificate, the certificate holder shall, before the time at which the certificate would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by 31.0312. A 2-month grace period will be applicable to this rule. Special certificates issued to ASG tradesmen for use on government work shall not expire but will be in effect as long as the person is employed by the government as a tradesman.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 2.15.

31.0320 Annual renewal-Fees.

Renewal applications shall be made to the board on or before 31 Dec of each year and shall be made upon a form prescribed by the board, and the renewal fee shall be tendered with the application for renewal. Filing an application after 1 Mar will require payment of double the regular renewal fee.

History: Bd. of Tradesmen Examiners Regs, eff 28 Dec 72, Reg. 3.01.

31.0321 Refusal, revocation, suspension, modification, or limitation grounds.

Pursuant to 31.0708 A.S.C.A., a certificate provided for in this chapter may be refused, revoked, suspended, modified, or limited for any I or a combination of the following grounds:

- (1) The conviction of a crime in connection with the trade practiced by tradesmen licensed under this chapter. The record of conviction or certified copy thereof by the clerk of the court or judge in whose court the conviction is obtained is conclusive evidence of the conviction;
- (2) Wilful and deliberate violation of applicable law or duly promulgated rules of the board concerning practice of a trade;
- (3) Fraud or misrepresentation in obtaining a certificate under this chapter;
- (4) Aiding and abetting the practice of any trade by any person not authorized to practice the trade under the provisions of this chapter;
- (5) Negligence or incompetence demonstrated in the practice of a trade or occupation subject to the provisions of this chapter.

History: Bd. of Tradesmen Examiners Regs.. eff 28 Dec 72, Reg. 4.01.

31.0322 Powers of the board.

In addition to other powers of the board, either enumerated or implied, the board possesses the power to do the following acts:

- (1) To investigate the qualifications of applicants for certificates pursuant to this chapter including the use of any examination designed to test the qualifications and competence of applicants;
- (2) To issue or renew or to refuse to issue or renew, to limit or modify, or to suspend or revoke any certificate provided for in this chapter;
- (3) To prescribe forms for completion by applicant to ascertain such information as needed to enforce the provisions of the Board of Tradesmen Law and this chapter;
- (4) To prescribe examinations for the testing of applicants as to their knowledge and ability relating to the trade applied for;

- (5) To appoint a person, persons, or a department or agency to examine applicants as to their competence in the trade applied for;
- (6) To acquire applicants to provide the names of references so the board may obtain information from others regarding the competence or character of the applicant;
- (7) To investigate any complaints made to the board or otherwise known by the board regarding the competency, character, work habits, or ethics of any applicant or certificate holder and to require an answer from such applicant or certificate holder regarding such complaint, and to take such action as the board deems justified, as provided for in the Tradesmen Law and this chapter after investigation of the complaint or other matters known to the board;
- (8) To make such orders as are deemed necessary to effectuate the purposes of the Board of Tradesmen Law and this chapter;
- (9) To investigate whether employers are employing persons as tradesmen who have not been certified as tradesmen by the board;
- (10) To investigate as to whether those persons advertising as tradesmen have been certified as such by the board.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 4.02.

**31.0323 Hearing and disciplinary powers-
Hearing procedures.**

- (a) Pursuant to 31.0704 (4) A.S.C.A., the board has the power to hold hearings to compel the attendance and testimony of witnesses, to order the production of documents or other tangible evidence, to administer oaths, and to cite for contempt.
- (b) Subsequent to such hearing the board has the power to, pursuant to 31.0704 (3) A.S.C.A., issue, renew, refuse, limit, modify, suspend, or revoke any certificate provided for in this chapter.
- (c) The hearing procedures in all disciplinary proceedings shall be the procedures set out in the Administrative Procedures Act, Chapter 4.10 A.S.C.A.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 4.03.

**31.0324 Adverse decisions of the board-Record
of proceedings.**

Any applicant whose application is denied, refused, limited or modified, or any person whose certificate

is modified, limited, suspended, revoked, or whose renewal application is refused, denied, limited, or modified, shall be entitled to a written copy of the board's decision setting forth the facts and reasons on which such refusal, denial, modification, Limitation, suspension, revocation, or other adverse decision is based. Such decision shall contain a summary of the evidence on which the board's findings of facts are based. This decision and any other papers filed at the hearing or with the application shall constitute the record of proceedings before the board.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 4.04.

31.0325 Judicial review.

Judicial review of any adverse decision-by the board shall be in accordance with the provisions relating to judicial review in the Administrative Procedures Act, Chapter 4.10 A.S.C.A.

History: BA. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 4.05.

31.0326 Reinstatement after suspension.

After suspension of the certificate for any of the reasons set forth in this chapter or in. the Board of Tradesmen Law, the board may reinstate the certificate upon proof of compliance by the certificate holder with all provisions for issuance of a new certificate.

History: Bd. of Tradesmen Examiners Regs. eff 28 Dec 72, Reg. 4.06.

31.0327 Reinstatement after revocation.

After revocation of a certificate for any of the reasons set forth in this chapter or within the Board of Tradesmen Law, the certificate shall not be reinstated or reissued within a period of 1 year after the final decision of revocation, and then only on a proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

History: Bd. of Tradesmen Examiners Regs., eff 28 Dec 72, Reg. 4.07.

[End Of Title 31 – Chapter 3]

TITLE 31 – CHAPTER 04 – HEALTH SERVICES

Sections:

- I. GENERAL PROVISIONS*
- 31.0401 Authority.
- 31.0402 General definitions.
- 31.0403 Definitions of health occupations.
- 31.0404 Scope of chapter.
- 31.0405 Persons licensed under prior rules.
- 31.0406 Board and committees.

- II. LICENSURE OF HEALTH PROFESSIONALS*
- 31.0421 License required.
- 31.0422 Exemptions.
- 31.0423 General qualifications of applicants.
- 31.0424 Additional qualifications.
- 31.0425 Application for license.
- 31.0426 Issuance of license.
- 31.0427 Scope of license.
- 31.0428 Term and renewal of licenses.
- 31.0429 Reinstatement of expired licenses.
- 31.0430 Revocation, suspension, or denial of license; civil penalty; reprimand.
- 31.0431 Voluntary surrender of license.
- 31.0432 Voluntary limitation or surrender of license by impaired health professional.

- III. ADVANCED REGISTERED NURSING-SCOPE OF PRACTICE-COLLABORATION*
- 31.0441 General authorization.
- 31.0442 Collaboration.
- 31.0443 Authorized acts.
- 31.0444 Nurse-anesthetist.
- 31.0445 Nurse-midwifery.
- 31.0446 Nurse-practitioner practice.
- 31.0447 Nurse-anesthetist.

- IV. PROHIBITED ACTS*
- 31.0451 Practicing without license.
- 31.0452 Misrepresentation.
- 31.0453 Filing false document or evidence-False statements.
- 31.0454 Fraudulent sale, obtaining or furnishing of documents,
- 31.0455 Violation-Penalty.
- 31.0456 Violation-Single act sufficient evidence.

I. GENERAL PROVISIONS

31.0401 Authority.

The rules codified in this chapter are promulgated pursuant to the authority granted the health services regulatory board by 31.1005 and 31.1006 A.S.C.A.

History: Rule 2-88. eff 27 Mar 88, § 1.

31.0402 General definitions.

For the purposes of this chapter, unless the context clearly requires otherwise:

- (a) “Attorney General” means the attorney general of American Samoa.
- (b) “Board” means the health services regulatory board established by 31.1002(a) A.S.C.A.
- (c) “Collaboration” means the process in which health professionals jointly contribute to the health care of patients with each collaborator performing actions he or she is licensed or otherwise authorized to perform pursuant to this rule. Within this definition:
 - (1) “General collaboration” means that each collaborator is available to the other collaborator for consultation either in person or by a communication device, but need not be physically present on the premises at the time the actions are performed.
 - (2) “Direct collaboration” means that each collaborator is available on the premises and within vocal communication, either directly or by a communication device, of the other collaborator.
 - (3) “Immediate collaboration” means that each collaborator is physically present in the room where the actions are being performed and is performing the actions or guiding and directing the performance of the actions.
- (d) “Day” means the calendar day unless otherwise specified in this chapter.
- (e) “Governor” means the governor of American Samoa.
- (f) “Health occupation” means a practice that is regulated under the chapter.
- (g) “Health professional” means a person licensed under this chapter to practice a health occupation in the territory.
- (h) “Impaired health professional” means a health professional who is unable to perform his or her professional responsibilities reliably due to a mental or physical disorder, excessive use of alcohol, or habitual use of any narcotic or controlled substance or any other drug in excess of therapeutic amounts or without valid medical indication.

- (i) “Person” means an individual, corporation, trustee, receiver, guardian, representative, firm, partnership, society, school, or other entity.
- (j) “Protocol” means a written agreement between an advanced registered nurse and a collaborating physician, osteopath, dentist, or other appropriate health professional as required, which shall outline, if necessary, the diagnostic and therapeutic approaches to be considered, and which shall outline actions to be taken in providing medical care to patients in accordance with the minimum levels of collaboration required by this rule, except when the parties agree to established higher of collaboration for specific actions or circumstances.
- (k) “State” means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico or any territory or possession of the United States.
- (l) “Territory” means the Territory of American Samoa.
- (m) “Director of health” means the director of the Department of Health of American Samoa.

History: Rule 2-88. eff 27 Mar 88, § 1.

31.0403 Definitions of health occupations.

For purposes of this chapter, unless the context clearly requires otherwise:

- (a) “Practice of acupuncture” means the insertion of needles, with or without accompanying electrical or thermal stimulation, at a certain point or points on or near the surface of the human body to relieve pain, normalize physiological functions, and treat ailments or conditions of the body. The practice of acupuncture by a non-physician acupuncturist shall be carried out in general collaboration with a licensed physician, osteopath, or dentist.
- (b) “Practice of advanced registered nursing” means the performance of advanced-level nursing actions by a nurse midwife, a nurse anesthetist, or a nurse-practitioner certified pursuant to this chapter which, by virtue of post-basic specialized education, training, and experience, are proper to be performed. The advanced registered nurse may perform actions of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse may also perform actions of medical diagnosis and treatment, prescription, and other functions

which are identified in this chapter and carried out in accordance with the procedures required by this chapter.

- (c) “Practice of dental hygiene” means:
 - (1) the performance of a preliminary dental examination; a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration; the polishing of a tooth or of a restoration;
 - (2) the charting of cavities during preliminary examination, prophylaxis, or polishing;
 - (3) the application of a medicinal agent to a tooth for a prophylactic purpose;
 - (4) the taking of a dental X-ray;
 - (5) the instruction of individuals or groups of individuals in oral health care; and
 - (6) any other functions included in the curricula of approved educational programs in dental hygiene.

A dental hygienist may perform the activities listed in paragraphs (c)(1) through (c)(6) of this subsection only under the general supervision of a licensed dentist, in the dentist’s office or any public school or institution rendering dental services. The board may issue rules identifying other specific functions which may be performed by a dental hygienist, and authorizing levels of supervision for the performance of these additional functions by a dental hygienist. The license of a dentist who permits a dental hygienist, operating under that dentist’s supervision, to perform any operation other than that permitted under this paragraph, may be suspended or revoked, and the license of a dental hygienist violating this paragraph may also be suspended or revoked, in accordance with the provisions of this chapter.

- (d) The “Practice of dental therapy” means the application of certain diagnostic and therapeutic dental procedures under the general supervision of a dentist. Such procedures may include a combination of any of the following: the cleaning of teeth, individual or group instruction in oral hygiene, topical application of medicaments, examining patients and charting

their dental conditions, taking of dental X-rays, performance of restorative work with application of composites in classes I, II and III, (application of class IV composites and TMS pins is not allowed), simple suturing, pulp capping and pulpotomy.

Simple extractions of deciduous and permanent teeth under local anesthesia may be performed on individuals under the age of 16, but such procedures may be carried out only after direct evaluation of the patient and clearance to do so by a dentist. Interpretation of dental X-rays is to be done only by a dentist or medical radiologist.

For the purpose of subsection, the term “general supervision” means the performance by a dental therapist of procedure permitted by paragraph (d) of this subsection based on instructions given by a licensed dentist, but not requiring the physical presence of the dentist during the performance of these procedures. The license of a dentist who permits a dental therapist, operating under that dentist’s supervision, to perform any operation other than that permitted under this paragraph, may be suspended or revoked, and the license of a dental therapist violating this paragraph, may also be suspended or revoked, in accordance with the provisions of this chapter.

(e) “Practice of dentistry” means:

- (1) the diagnosis, treatment, operation, or prescription for any disease, disorder, pain, deformity, injury, deficiency, defect, or other physical condition of the human teeth, gums, alveolar process, jaws, maxilla, mandible, or adjacent tissues or structures of the oral cavity, including the removal of stains, accretions, or deposits from the human teeth;
- (2) the extraction of a human tooth or teeth;
- (3) the performance of any phase of any operation, relative or incident to the replacement or restoration of all or a part of a human tooth or teeth with an artificial substance, material, or device;
- (4) the correction of the malposition or malformation of the human teeth;
- (5) the administration of appropriate anesthetic agent, by a dentist properly trained in the administration of the anesthetic agent, in the

treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity;

- (6) the taking or making of an impression of the human teeth, gums, or jaws;
 - (7) the making, building, construction, furnishing, processing, reproduction, repair, adjustment, supply or placement in the human mouth of any prosthetic denture, bridge, appliance, corrective device, or other structure designed or constructed as a substitute for a natural human tooth or teeth or as an aid in the treatment of the malposition or malformation of a tooth or teeth;
 - (8) the use of an X-ray machine or device for dental treatment or diagnostic purposes, or the giving of interpretations or readings of dental X-rays; or
 - (9) the performance of any of the clinical practices included in the curricula of accredited dental schools or colleges or qualifying residency or graduate programs in dentistry.
- (f) “Practice of dietetics and nutrition” means the application of scientific principles and food management techniques to assess the dietary or nutritional needs of individuals and groups, make recommendations for short-term and long-term dietary or nutritional practices which foster good health, provide diet or nutrition counseling, and develop and manage nutritionally sound dietary plans and nutrition care systems consistent with the available resources of the patient or client.

Nothing in the paragraph shall be construed as preventing or restricting the practices, services, or activities of dietetic technicians and dietetic assistants working under the supervision of a licensed dietitian or nutritionist, other health professionals licensed pursuant to this chapter, or other persons who in the course of their responsibilities offer dietary or nutrition information or deal with nutritional policies or practices on an occasional basis incidental to their primary duties, provided that they do not represent by title or description of services that they are dietitians or nutritionists.

- (g) “Practice of medicine” means the application of scientific principles to prevent, diagnose, and treat physical and mental diseases, disorders, and conditions and to safeguard the life and health of any woman and infant through pregnancy and parturition.
- (h) “Practice of occupational therapy” means the evaluation and treatment of individuals whose ability to manage normal daily functions is threatened or impaired by developmental deficits, the aging process, poverty and cultural differences, physical injury or illness, or psychological and social disability, utilizing task-oriented activities to prevent or correct physical or emotional disabilities and enhance developmental and functional skills rendered on the prescription of or referral by a licensed physician, osteopath, dentist, or by a licensed registered nurse certified to practice as an advanced registered nurse as authorized pursuant to Section 2 of this chapter.

Specific therapeutic and diagnostic techniques used in occupational therapy include:

- (1) self-care and other activities of daily living;
- (2) developmental, perceptual-motor, and sensory integrative activities;
- (3) training in basic work habits;
- (4) prevocational evaluation and treatment;
- (5) fabrication and application of splints;
- (6) selection and use of adaptive equipment, and exercise and other modalities to enhance functional performance; and
- (7) performing and interpreting manual muscle and range of motion tests.
- (8) an individual working as an occupational therapy assistant pursuant to this chapter may assist in the practice of occupational therapy under the supervision of or in consultation with a licensed occupational therapist.
- (9) nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of an occupational therapy assistant who works only under the direct supervision of a licensed occupational therapist, and whose activities do not require advanced training in the basic

anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

An individual licensed to practice occupational therapy pursuant to this chapter may apply to the director of health for authorization to evaluate and treat patients without prescription or referral as required in paragraph (h). Such authorization may be granted by the director of health, at his discretion, to an individual occupational therapist, for a specified period of time, and under such limitations and conditions as the director of health deems appropriate.

- (i) “Practice of optometry” means the application of the scientific principles of optometry in the examination of the eye and visual system to detect defects or abnormal conditions; the prescription or use of lenses, prisms, or ocular exercises to correct or alleviate defects or abnormal conditions of the eye or visual system; the use of approved therapeutic and diagnostic pharmaceutical agents in accordance with the provisions of this paragraph as an aid to the detection and treatment of visual defects or abnormal conditions; and the appropriate referral of patients to licensed physicians for the medical diagnosis and treatment of abnormal conditions.

The director of health shall issue regulations identifying the diagnostic pharmaceutical agents which may be used by optometrists pursuant to this paragraph if the director determines that the use of diagnostic pharmaceutical agents by optometrists are in the best interest of the public.

An individual licensed to practice optometry pursuant to this chapter may use diagnostic pharmaceutical agents only if certified to do so by the board.

Optometrists may use therapeutic pharmaceutical agents in a government hospital only, with prior approval of the hospital’s pharmacy committee, which shall prepare a list of such pharmaceutical agents which may be used by optometrists for both in-patients, and patients treated in the hospital’s outpatient eye-care clinics. It shall be the responsibility of the director of health to give written approval for each optometrist on the staff of the hospital to use and/or prescribe the medications listed by the pharmacy committee. Such use of pharmaceutical agents by optometrists in a non-

government hospital will require additional regulation by the board.

Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a licensed physician or an optician to provide eyeglasses or lenses on the prescription of a licensed physician or optometrist, or a dealer to sell eyeglasses or lenses, provided that the optician or dealer does not represent by title or description of services that he or she is an optometrist.

- (j) “Practice of pharmacy” means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices, and the maintenance of proper records therefor; the responsibility of advising, where regulated or otherwise necessary, of therapeutic values and content, hazards, and use of drugs and devices; and the offering or performance of those acts, services, operations, and transactions necessary in the conduct, operation, management, and control of a pharmacy.

Within the meaning of this paragraph

- (1) “Pharmacy” means any establishment or institution, or any part thereof, where the practice of pharmacy is conducted; drugs are compounded or dispensed, offered for sale, given away, or displayed for sale at retail; or prescriptions are compounded or dispensed;
- (2) “Prescription” means any order for a drug, medicinal, chemical, or combination or mixtures thereof, or for a medically prescribed medical device, in writing, dated and signed by an authorized health professional, or given orally to a pharmacist by an authorized health professional or the person’s authorized agent and immediately reduced to writing by the pharmacist, specifying the address of the person for whom the drug or device is ordered and directions for use to be placed on the label.

The pharmacist shall have the right to substitute medications approved as “generic equivalents” for any prescribed medication written by a health professional who is an employee of the American Samoa Government in his function as a health professional, provided that such “generic

equivalents” be limited only to medications approved by the Pharmacy Committee of the government hospital(s) for such substitution.

- (k) “Practice of physical therapy” means the independent evaluation of human disability, injury, or disease by means of noninvasive tests of neuromuscular functions and other standard procedures of physical therapy, and the treatment of human disability, injury, or disease by therapeutic procedures, embracing the specific scientific application of physical measures to secure the functional rehabilitation of the human body. These measures include the use of therapeutic exercise, therapeutic massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any physical or mental disability, or preventing the development of any physical or mental disability, or the performance of noninvasive tests of neuromuscular functions as an aid to the detection or treatment of any human condition. An individual, licensed to practice physical therapy pursuant to this chapter may apply to the director of health for authorization to evaluate and treat patients without prescription or referral as required in paragraph (h). Such authorization may be granted by the director of health, at his discretion to an individual physical therapist, for a specified period of time, and under such limitations and conditions as the director of health deems appropriate.
- (l) “Practice by physician assistants” means the performance, in general collaboration with a licensed physician or osteopath, of acts of medical diagnosis and treatment, prescription, preventive health care, and other functions which are authorized by the board pursuant to 31.0404.
- (m) “Practice of practical nursing” means the performance of actions of preventive health care, health maintenance, and the care of persons who are ill, injured, or experiencing alterations in health processes, requiring a knowledge of and skill in nursing procedures gained through successful completion of an approved educational program in practical nursing.
- (n) “Practice of clinical psychology” means the application of established scientific methods and principles, including the principles of psychophysiology, learning, perception, motivation, emotions, organizational and social

behaviors for the purpose of understanding, assessing, treating, explaining, predicting, preventing, or influencing behavior; the application of psychological methods and procedures for interviewing, counseling, psychotherapy, including behavior therapy, behavior modification, or hypnotherapy; or the application of psychological methods or procedures for constructing, administering, or interpreting tests of intelligence, mental abilities and disorders, neuropsychological functioning, aptitudes, interests, attitudes, personality characteristics, emotions, or motivations.

Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of:

- (1) an individual bearing the title of psychologist in the employ of any, academic institution if the services are offered within the confines of the academic institution and if the services do not include psychotherapy; or
 - (2) a school psychologist employed by and working in accordance with regulations of the American Samoa Department of Education.
- (o) “Practice of registered nursing” means the performance of acts requiring substantial specialized knowledge, judgment and skill based upon the principles of the biological, physical, behavioral, and social sciences in:
- (1) the observation, assessment, and recording of physiological and behavioral signs and symptoms of health, disease, and injury, including the performance of examinations and testing and their evaluation for the purpose of differentiating normal and abnormal.
 - (2) the provision of direct and indirect registered nursing services of a therapeutic, preventive, and restorative nature in response to an assessment of the patient’s requirements;
 - (3) the performance of services, counseling, and education for the safety, comfort, personal hygiene, and protection of patients, the prevention of disease and injury, and the promotion of health in individuals, families and communities;

- (4) the administration of nursing services within a health care facility, including the delegation of direct nursing functions and the evaluation of the performance of these functions;
 - (5) the education and training of persons in the direct nursing care of patients; or
 - (6) the pursuit of nursing research to improve methods of practice.
- (p) “Practice of social work” means rendering or offering to render professional services to individuals, families, or groups of individuals that involve the diagnosis and treatment of psychosocial problems according to social work theory and methods. Depending upon the level at which an individual social worker is licensed under this rule, the professional services may include, but shall not be limited to, the formulation of psychosocial evaluation and assessment, counseling, referral, advocacy, consultation, research, administration, education, and community organization.

Nothing in this paragraph shall be construed to authorize any person licensed as a social worker under this chapter to engage in the practice of medicine.

History: Rule 2-88, eff 27 Mar 88 § 1.

31.0404 Scope of chapter.

- (a) This chapter does not limit the right of an individual to practice a health occupation that he or she is otherwise authorized to practice under this chapter, nor does it limit the right of an individual to practice any other profession that he or she is authorized to practice under the laws of the territory.
- (b) The practices of health occupations regulated by this chapter are not intended to be mutually exclusive.
- (c) Nothing in this chapter shall be construed to require licensure for or to otherwise regulate, restrict, or prohibit individuals from engaging in practices, services, or activities set forth in the paragraphs of this section if the individuals do not hold themselves out, by title, description or services, or otherwise, to be practicing any of the health occupations regulated by this rule. Nothing in this section shall be construed as exempting any of the following categories from

other applicable laws and regulations of the territory.

- (1) Any minister, priest, rabbi, officer, or agent of any religious body or agent of any religious body or any practitioner of any religious belief engaging in prayer or any other religious practice or nursing practice solely in accordance with the religious tenets of any church for the purpose of fostering the physical, mental, or spiritual well-being of any person;
- (2) Any person engaged in the care of a friend or member of the family, including the domestic administration of family remedies, or the care of the sick by domestic servants, housekeepers, companions, or household aides of any type, whether employed regularly or because of an emergency or illness or other volunteers;
- (3) any individual engaged in the lawful practice of audiology, speech pathology, X-ray technology, laboratory technology, or respiratory therapy;
- (4) any individual engaged in the commercial sale or fitting of shoes or foot appliances; or
- (5) marriage and family therapist, marriage counselors, family counselors, child counselors, attorneys, or other professionals working within the legal standards and ethics of their respective professions.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0405 Persons licensed under prior rules.

- (a) Except as expressly provided to the contrary in this chapter, any person licensed, registered, or certified by any agency of the territory established or continued by any statute amended, repealed, or superseded by this chapter is considered for all purposes to be licensed, registered or certified by the board for the duration of a term for which the license, registration, or certification are issued under the conditions of this chapter, and may in the future renew that authorization in accordance with the appropriate renewal provisions of this chapter, except that all licenses previously granted by the board shall be considered as expired unless the current licensee is employed by the American Samoa Government as a health professional in a position consonant with his licensure as a health professional. Such health professional whose

license has expired may apply for licensure as appropriate for his education training and position.

- (b) Except as provided to the contrary in this chapter an individual who was originally licensed registered or certified under a previous rule that has been superseded by this chapter continues to meet the education and experience requirements as if that provision had not been deleted.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0406 Board and committees.

- (a) The composition, appointment, quorum, term, powers and duties, procedures, and licensing provisions of board are as set forth in Sections 31.1001 et seq. A.S.C.A. This section supplements these.
- (b) The board may appoint committees in medicine, dentistry, nursing and other health professions to:
 - (1) assist in the evaluation of health professionals' credentials when expertise is not available on the board;
 - (2) make licensing recommendations, following a secret ballot, when a potential conflict of interest may exist between any members of the board and a candidate for licensure;
 - (3) make licensing recommendations, following a secret ballot, when a member of the board recommends non-licensure for a candidate of his or her profession; or
 - (4) make recommendation, following a secret ballot, to the board for suspension, revocation, or modification of licenses within their profession.
- (c) where the board and a committee are in disagreement on a particular matter the decision of the board shall prevail.
- (d) The board shall be under the administrative control of the governor.

History: Rule 2-88, eff 27 Mar 88, § 1.

II. LICENSURE OF HEALTH PROFESSIONALS

31.0421 License required.

A license issued pursuant to this chapter is required to practice medicine acupuncture, registered nursing,

practical nursing, dentistry, dental, therapy, dental hygiene, dietetics, nutrition, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, and social work or to practice as a physician assistant and as a nurse practitioner in the territory, except as provided in this chapter. Additional certification issued pursuant to this chapter is required to practice advanced registered nursing.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0422 Exemptions.

The provisions of this chapter prohibiting the practice of a health occupation without a license shall not apply:

- (1) to an individual who administers treatment or provides advice in any case of emergency
- (2) to an individual employed in the territory by the U.S. Federal Government, while he or she is acting in the official discharge of the duties of employment,
- (3) to an individual, licensed to practice a health occupation in a state, territory or country who is called in professional consultation by a health professional licensed in American Samoa by or on behalf of a specific patient, to visit, examine, treat, or advise the specific patient in the territory, or to give a demonstration or clinic in the territory, provided that the individual engaged in the consultation, demonstration, or clinic in performs in affiliation with a comparable health professional licensed pursuant to this rule.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0423 General qualifications of applicants.

- (a) An individual applying for a license under this rule shall establish to the satisfaction of the board that the individual:
 - (1) has not been convicted of an offense which bears directly on the fitness of the individual to be licensed;
 - (2) is at least 18 years of age;
 - (3) has successfully completed the additional requirements set forth in 31.0424, 31.0441 through 31.0447 and 31.0451 through 31.0454 as applicable;
 - (4) meets any other requirements established by the board by rule to assure that the

applicant has had the proper education, training, experience, and qualifications to practice the health occupation.

- (b) the board may deny a license to an applicant whose license to practice a health occupation was revoked or suspended in another state, territory or other licensing jurisdiction if the basis of the license revocation or suspension would have caused a similar result in American Samoa, or if the applicant is the subject of ending disciplinary action regarding his or her right to practice in another jurisdiction.
- (c) the references in 31.0424, 31.0441 through 31.0447 and 31.0451 through 31.0454 to named professional organizations and governmental entities for purposes of accreditation or the administration of national examinations shall be considered to refer to successor organizations or entities upon a determination by the board that the successor is substantially equivalent in standards and purposes as the organization or entity named in this chapter.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0424 Additional qualifications.

- (a) an individual applying for a license to practice medicine or dentistry under this chapter shall establish to the satisfaction of the board that the individual is a graduate of an accredited school of medicine or dentistry, and has completed at least one year of post-graduate training in a hospital or other health care or dental facility accredited for post-graduate training. Graduates from an accredited school of medicine or dentistry located in the United States, Canada, Papua New Guinea, Australia, New Zealand, Great Britain, Switzerland, France, Belgium, West Germany, Norway, Sweden, or Denmark will be considered as having met standards of education acceptable for licensure in American Samoa. Graduates-of Fiji schools of medicine or dentistry, or of any other health profession listed in this chapter who have graduated prior to January 1, 1987, will also be considered as having met standards of education acceptable for licensure in American Samoa.
- (b) individuals applying for a license to practice medicine under this chapter who have completed medical education under conditions other than those listed in subsection 31.0424(a) shall establish to the satisfaction of the board that they have successfully passed the Foreign Medical

Graduate Examination in the Medical Sciences (FMGEMS) and the ECFMG English Test.

- (c) individuals applying for a license to practice dentistry under this chapter who have completed their dental education under conditions other than those listed in subsection 31.0424(a) shall establish to the satisfaction of the board that they have obtained equivalent education and training as those who received their education and training in the countries listed in subsection 31.0424(a) by submitting evidence of licensure, or eligibility for licensure in any state of the United States.
- (d) an individual applying for a license to practice acupuncture under this rule shall establish to the satisfaction of the board that the individual:
 - (1) if he or she is a licensed physician under subsection 31.0424(a), has successfully completed at least 100 hours of instruction in the practice of acupuncture at a school or college accredited by the U.S. National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, or other training approved by the board; or has training which would qualify the applicant for licensure to practice acupuncture in any of the countries listed in subsection 31.0424(a);
 - (2) if he or she is not a Licensed physician, the applicant shall furnish the board with evidence of completion of an educational program in the practice of acupuncture of at least 3 academic years at the post-baccalaureate level, at a school of acupuncture accredited by the U.S. National Commission for Schools and Colleges for Acupuncture and Oriental Medicine; or has training which would qualify the applicant for licensure to practice acupuncture under the conditions listed in subsection 31.0424(a).
- (e) an individual applying for a license to practice dental hygiene under this rule shall provide the board with evidence of eligibility for licensure as a dental hygienist under the conditions listed in subsection 31.0424(a).
- (f) an individual applying for a license to practice dental therapy under this chapter shall provide the board with evidence of eligibility for licensure as a dental therapist under the conditions listed in subsection 31.0424(a).
- (g) an individual applying for a license to practice occupational therapy under this chapter shall provide the board with evidence of eligibility for licensure to practice occupational therapy in any of the countries listed in subsection 31.0424(a) and further, the applicant shall be required to furnish proof of having satisfactorily completed a minimum of six months of post-graduate work experience in a clinical setting of an accredited occupational therapy training institution.
- (h) an individual applying for a license to practice optometry under this chapter shall provide the board with evidence of eligibility for licensure to practice optometry under the conditions listed in subsection 31.0424(a).
- (i) an individual applying for a license to practice pharmacy under this chapter shall provide the board with evidence of eligibility for licensure to practice pharmacy under the conditions listed in subsection 31.0424(a).
- (j) an individual applying for a license to practice physical therapy under this chapter shall provide the board with evidence of eligibility for licensure as a physical therapist under the conditions listed in subsection 31.0424(a), and further, the applicant shall furnish the board with evidence that he has satisfactorily completed a minimum of six months of supervised work experience in a clinical setting of an accredited physical therapy training institution.
- (k) an individual applying for a license to practice as a physician assistant or nurse practitioner under this chapter shall provide the board with evidence of eligibility for licensure as a physician assistant or nurse-practitioner under the conditions listed in subsection 31.0424(a); or alternatively, provide the board with evidence that the applicant has completed educational requirements consistent with licensure as a physician assistant or nurse-practitioner; further, that such educational requirements for licensure as a physician assistant be in accordance with standards established by the U.S. National Commission on Certification of Physician Assistants; further that such applicant furnish the board with evidence of compliance with Continuing Medical Education activities as mandated by the NCCPA.

- (1) an individual applying for a license to practice practical nursing under this chapter shall establish to the satisfaction of the board that the individual has successfully completed a postsecondary level educational program in practical nursing which is approved by the Board.
- (m) an individual applying for a license to practice registered nursing under this rule shall establish to the satisfaction of the board that the individual has successfully completed an educational program in registered nursing approved by the board or by a state board of nursing with standards substantially equivalent to the standards of the territory.
- (n) an individual applying for a license to practice clinical psychology under this rule shall establish to the satisfaction of the board that the individual has:
 - (1) earned a doctoral degree in psychology from an accredited college or university; and
 - (2) completed at least 2 years of postdoctoral experience acceptable to the board.
- (b) an individual who fails to renew a license to practice a health occupation shall be considered to be unlicensed and subject to the penalties set forth in this rule and other applicable laws of the territory, if he or she continues to practice the health occupation.
- (c) the board may issue licenses in four categories:
 - (1) active license: to be issued to a health professional who is or intends within a short period of time, to be in the active practice of his health profession.
 - (2) inactive license: to be issued to a health professional who is qualified to be in the active practice of his health profession, but who is unable to pursue his profession in American Samoa at the time of his application. Such licensure will apply but will not be limited to health professionals in the Armed Forces, those residing temporarily outside of American Samoa, individuals temporarily inactive due to personal factors, such as motherhood or election to government position outside the health field. Such licensure shall not exceed a period of 5 years. Granting of an inactive license recognizes an individual's qualifications for licensure, but does not permit active practice of a health profession in the territory of American Samoa. Such return to active practice will require notification of the board by the licensee, and a request for alteration of the licensure to "active". At the time of such reapplication it shall be the responsibility of the board to review the applicant's qualifications and grant or deny licensure. It shall be the prerogative of the board to request additional information as to the applicant's qualifications and status.
 - (3) limited license: the board shall have the right to limit the active practice of any health professional seeking licensure in the territory.

History; Rule 2-88, eff 27 Mar 88, § 1.

31.0425 Application for license.

An applicant for a license shall submit an application to the board on the form required the board.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0426 Issuance of license.

The board shall issue a license to an applicant who meets the requirements of this chapter to practice the health occupation regulated by the board.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0427 Scope of license.

- (a) a person licensed under this chapter to practice a health occupation is authorized to practice that occupation in the territory while the license is effective, within the limitations imposed by the board at the time the license is issued; provided that:
 - (1) a person certified to practice advanced registered nursing is authorized to practice the specialty for which he or she has been certified by the board.

Such limitations may include but not be limited to: duration of licensure, permission or proscription of any or multiple professional activities, limitations as to types of medications or treatments which may be undertaken, either for a specific time period or an unlimited duration of time; requiring of a health professional that

his practice be carried out under supervision, with specifications as to type, intensity, duration of such supervision, together with specifications as to the nature of reports to be made to the board, about the results of the supervision by the named supervisor. The board shall have the right to revoke or terminate licensure of a health professional granted a limited license if the terms of the license are violated by the licensee.

- (4) honorary license: may be issued to a health professional who has retired or is retiring from active practice after a minimum of 30 years of active practice, in recognition of service to the community. Such licensee shall not engage in active practice. The duration of a honorary license may be indefinite.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0428 Term and renewal of licenses.

- (a) an active license expires 2 years from the date of its first issuance or renewal unless renewed by then board as provided in this section.
- (b) the board may establish continuing education requirements as a condition for renewal of licenses under this section.
- (c) at least 30 days before the license expires, or greater period as established by regulation, the board or its agent shall send to the licensee a renewal notice that states:
 - (1) the date on which the current license expires; and
 - (2) the date by which the renewal application must be received by the board for renewal to be issued and mailed before the license expires.
- (d) before the license expires, the licensee may renew it for an additional term, if the licensee:
 - (1) submits a timely application to the board;
 - (2) is otherwise entitled to be licensed; and
 - (3) submits to the board satisfactory evidence of compliance with any continuing education requirements established by the board for license renewal.

- (e) the board shall renew the license of each licensee who meets the requirements of this section.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0429 Reinstatement of expired licenses.

When a health professional fails for any reason to renew the license issued under this section, the board may reinstate the license if the health professional:

- (1) applies to the board for reinstatement of the license within a 5 year period after the expiration of the license;
- (2) complies with current requirements for renewal of a license as set forth in this section: and
- (3) submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this section for license reinstatements.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0430 Revocation, suspension, or denial of license; civil penalty; reprimand.

- (a) see Sections 31.1006, 31.1009, 31.1010, and 31.1011, A.S.C.A.
- (b) if the board determines, after investigation, that the conduct of a licensee presents an imminent danger to the health and safety of the residents of the territory, the board may summarily suspend or restrict, without a hearing, the license to practice a health occupation.
- (c) the board, at the time of the summary suspension or restriction of a license, shall provide the licensee with written notice stating the action that is being taken, the basis for the action, and the right of the licensee to request a hearing.
- (d) a licensee shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of license. The board shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.
- (e) every decision and order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The board shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0431 Voluntary surrender of license.

- (a) any health professional who is the subject of an investigation into, or a pending proceeding involving, allegations involving misconduct may voluntarily surrender his or her license to practice in the territory, but only by delivering to the board an affidavit stating that the health professional desires to surrender the license and that the action is freely and voluntarily taken, and not the result of duress or coercion.
- (b) upon receipt of the required affidavit, the board shall enter an order revoking or suspending the license of the health professional or the privilege to practice.
- (c) the voluntary surrender of a license shall not preclude the imposition of civil or criminal penalties against the licensee.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0432 Voluntary limitation or surrender of license by impaired health professional.

- (a) any license issued under this rule may be voluntarily limited by the licensee. During the period of time that the license has been limited, the licensee shall not engage in the practices or activities to which the voluntary limitation of practice relates. As a condition for accepting the voluntary limitation of practice, the board may require the licensee to do one or more of the following:
 - (1) accept care, counseling, or treatment by physicians or other health professionals acceptable to the board;
 - (2) participate in a program of education prescribed by the board; and
 - (3) practice under the direction of a health professional acceptable to the board for a specified period of time.
- (b) any license issued under this rule may be voluntarily surrendered to the board by the licensee. During the period of time that the license has been surrendered, the individual surrendering the license shall not practice, attempt to practice, or offer to practice the health occupation for which the license is required, and shall be considered unlicensed.

- (c) all records, communications, and proceeding: of the board related to the voluntary limitation or surrender of a license under this section shall be confidential.

History: Rule 2-88, eff 27 Mar 88, § 1.

III. ADVANCED REGISTERED NURSING-SCOPE OF PRACTICE-COLLABORATION

31.0441 General authorization.

The advanced registered nurse may perform actions of medical diagnosis, treatment, prescription, and other functions authorized by this section in collaboration with a physician, osteopath, or dentist, who shall be responsible for the overall medical direction of the health care team. Collaboration shall be at the level required by this chapter, or at a higher level.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0442 Collaboration.

- (1) Generally, nurse-midwives and nurse-practitioners shall carry out acts of advanced registered nursing in general collaboration with a physician or osteopath.
- (2) Generally; nurse-anesthetists shall carry out acts of advanced registered nursing in direct collaboration with an anesthesiologist, other physician, or dentist.
- (3) In accordance with this section: in collaborations between physicians, osteopaths, and dentists, and advanced registered nurses, the collaborating parties may establish by protocol higher levels of collaboration for specific acts or specific circumstances.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0443 Authorized acts.

Within the established protocol, an advanced registered nurse may:

- (1) monitor and alter drug therapies;
- (2) initiate appropriate therapies for certain conditions;
- (3) make referrals for physical therapy; and
- (4) perform additional functions within his or her specialty determined in accordance with 31.0444, 31.0445 and 31.0446.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0444 Nurse-anesthetist.

- (a) in addition to the general functions specified in 31.0443, a nurse-anesthetist may perform any or all of the actions in subsection (b) of this section.
- (b) the nurse-anesthetist may:
 - (1) determine the health status of the patient as it relates to the relative risks associated with the anesthetic management of the patient through the performance of the operative procedures;
 - (2) based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the collaborating anesthesiologist, or other physician, or dentist, the appropriate type of anesthesia;
 - (3) order preanesthetic medication;
 - (4) perform procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. This shall include ordering and administering:
 - (A) general and regional, including spinal, anesthesia;
 - (B) inhalation agents and techniques; and
 - (C) intravenous agents and techniques and a nurse-anesthetist collaborating with a dentist shall be limited to ordering and administering anesthesia appropriate for dental procedures;
 - (5) order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient;
 - (6) support life functions during anesthesia health care, including induction and incubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances;
 - (7) recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy;
 - (8) recognize and treat a cardiac arrhythmia while the patient is under anesthetic care;

(9) participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs; and

(10) place peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(c) notwithstanding the provisions of paragraphs (b)(1) and (b)(2) of this section, a qualified advanced registered nurse without collaborating with an anesthesiologist, other physician, or dentist, may initiate and perform local anesthetic procedures and order necessary anesthetic agents to perform the procedures.

History: Rule 2-88. eff 27 Mar 88. § 1.

31.0445 Nurse-midwifery.

(a) in addition to the general functions specified in 31.0443 the nurse-midwife may perform any of the acts in subsection (b) of this section, provided that:

(1) the nurse-midwife and the obstetrician-gynecologist have set forth in a protocol procedures for:

(A) consultation with each other about patient conditions during the antepartum, intrapartum, and postpartum phases of maternity care, and during gynecological care, including consultations for the purpose of ensuring that the medical care provided by the nurse-midwife is for the normal obstetrical or gynecological patient as required by paragraph (B)(2) of this section;

(B) emergency care to protect the health of the mother and infant.

(2) the patient has been advised and informed of the responsibilities of the obstetriciangynecologist and the nurse-midwife; and

(3) the act is done in accordance with subsection (b) of this section.

(b) the nurse-midwife may:

(1) manage the medical care of the normal obstetrical patient;

- (2) perform superficial minor surgical procedures;
- (3) manage the normal obstretrical patient during labor and delivery to include amniotomy, episiotomy, and repair;
- (4) initiate and perform local anesthetic procedures and order the necessary anesthetic agents to perform the procedures;
- (5) perform postpartum examination;
- (6) provide gynecological cares for the essentially normal woman;
- (7) prescribe appropriate medications; and
- (8) provide family planning services.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0446 Nurse-practitioner practice.

In addition to the general functions specified in 31.0443, the nurse-practitioner may perform any or all of the following acts provided that the act is done in accordance with 31.0442:

- (1) manage selected medical problems;
- (2) initiate, monitor, or alter therapies for certain uncomplicated, acute illnesses;
- (3) initiate appropriate treatments and medications, and alter dosage; and
- (4) monitor and manage patients with stable, chronic diseases.

History: Rule 2-88, eff 27 Mar 88, § 1.

31.0447 Nurse-anesthetist.

- (a) in addition to the general qualifications for licensure set forth in 31.042 3 of this chapter, and any additional requirements which the board may establish by rule, a nurse-anesthetist shall:
 - (1) be a registered nurse holding a current, valid license pursuant to 31.0421 of this chapter, and be in good standing with the board, with no action pending or in effect against the license which could adversely affect the legal right to practice;
 - (2) be in good ethical standing within the profession;
 - (3) be a graduate of a nurse-anesthetist: educational program or school accredited by the Council on Accreditation of Nurse

Anesthesia Educational Programs/Schools of the American Association of Nurse Anesthetists, and have met all the criteria and requirements in theory and clinical practice to apply for certification; and

- (4) successfully complete the comprehensive, certifying examination administered by the Council of Certification of Nurse Anesthetists of the American Association of Nurse Anesthetists, demonstrating basic scientific knowledge of and competent judgment in-nurseanesthesia practice.
- (b) an applicant for licensure as a nurse-anesthetist from a jurisdiction other than an agency of the federal government of the United States or its states shall demonstrate to the satisfaction of the board that he has completed training and successfully passed examination equivalent to that described in paragraphs (a) (3) and (a)(4) of this section.

History: Rule 2-88, eff 27 Mar 88, § 1.

IV. PROHIBITED ACTS

31.0451 Practicing without license.

No person shall practice, attempt to practice, or offer to practice a health occupation licensed or regulated under this chapter territory unless currently licensed, or exempted from licensing, under this chapter.

History: Rule 2-88. eff 27 Mar 88. § 1.

31.0452 Misrepresentation.

Unless authorized to practice a health occupation under this chapter, a person shall not represent to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice the health occupation in the territory.

History: Rule 2-88. eff 27 Mar 88. § 1.

**31.0453 Filing false document or evidence-
False statements.**

- (a) no person shall file or attempt to file with the board any statement diploma, certificate, credential, or other evidence of achievement in a health profession if the person knows, or should know, that it is false or misleading.
- (b) no person shall knowingly make a false statement that is in fact material under oath or affirmation administered by the board or hearing officer.

History: Rule 2-88, eff 27 Mar 88. § 1.

31.0454 **Fraudulent sale, obtaining or
furnishing of documents.**

- (a) no person shall sell or fraudulentl3,' obtain or furnish any diploma, license,, certificate or registration, record, or other document required by this chapter or by the board.

History: Rule 2-88, eff 27 Mar 88. § 1.

31.0455 **Violation-Penalty.**

- (a) violation of any provision of this chapter is a class A misdemeanor.

History: Rule 2-88. eff 27 Mar 88. § 1.

31.0456 **Violation-Single act sufficient
evidence.**

- (a) in any prosecution under 31.0455, or any decision made by the board relative to licensing. it shall be sufficient to sustain such conviction or decision to show a single violative act of conduct, and it shall not be necessary to show a general course of such conduct.

History: Rule 2-88. eff 27 Mar 88. § 1.

[End Of Title 31 – Chapter 4]

TITLE 31 – CHAPTER 05 – TERRITORIAL BOARD OF PUBLIC ACCOUNTANCY RULES FOR CERTIFIED PUBLIC ACCOUNTANTS & PUBLIC ACCOUNTANTS

Sections:

- I. GENERAL PROVISIONS*
- 31.0501 Objective.
- 31.0502 Biennial renewal of certificate of registration.
- 31.0503 Notification and filing of names and addresses and changes.
- 31.0504 Evidence of authority to practice.

- II. DEFINITIONS*
- 31.0505 Public accounting practice.
- 31.0506 Not in a public accounting practice.
- 31.0507 Incidental to his practice in such other state or country.

- III. CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT*
- 31.0508 Issuance.
- 31.0509 Application for certificate.
- 31.0510 Competence, trustworthiness, and fairness (references).
- 31.0511 Education.
- 31.0512 Examination.
- 31.0513 AICPA examination.
- 31.0514 Open-book examination.
- 31.0515 Experience.

- IV. CERTIFICATE OF PUBLIC ACCOUNTANT*
- 31.0516 Issuance.
- 31.0517 Application for certificate.
- 31.0518 Competence, trustworthiness, and fairness (references).
- 31.0519 Examination.
- 31.0520 NSPA examination.
- 31.0521 Open-book examination.
- 31.0522 Experience.

- V. PERMIT TO PRACTICE*
- 31.0523 Requirements.
- 31.0524 Control and reporting.
- 31.0525 Temporary permit to practice.

- VI. CONTINUING EDUCATION*
- 31.0526 Basic concept.
- 31.0527 Persons covered.
- 31.0528 Basic requirements of study hours.
- 31.0529 Hours which qualify.
- 31.0530 Deficiency in hours and carry over hours.
- 31.0531 Program classifications.
- 31.0532 Requirements for group programs.

- 31.0533 Requirements for individual self-study programs.
- 31.0534 Group programs which automatically qualify.
- 31.0535 Individual self-study programs which automatically qualify.
- 31.0536 Group programs which require approval.
- 31.0537 Individual self-study programs which require approval.
- 31.0538 Duration of approval.
- 31.0539 List of continuing education subjects.
- 31.0540 Information requirements.
- 31.0541 Exceptions.
- 31.0542 Certification to other jurisdiction.
- 31.0543 Exception for temporary permits.

- VII. PROFESSIONAL CORPORATION*
- 31.0544 Name.
- 31.0545 Registration.
- 31.0546 Annual report.
- 31.0547 Capital stock.
- 31.0548 Professional services.
- 31.0549 Liability insurance: security.

- VIII. RULES OF CONDUCT*
- 31.0550 Independence, integrity, and objectivity.
- 31.0551 Competence and technical standards.
- 31.0552 Responsibilities to clients.
- 31.0553 Other responsibilities and practices.

I. GENERAL PROVISIONS

31.0501 Objective.

This chapter has been adopted by the territorial board of public accountancy, hereafter referred to as “board”, and is intended to clarify Chapter 2. Section 31, American Samoa Code (annotated), and to implement the administration thereof to the end that Chapter 31.02, A.S.C.A., may be best effectuated and the public interest most effectively served.

History: Rule 3-88. eff 18 Apr 88.

31.0502 Biennial renewal of certificate of registration.

The certificate or registration of each certified public accountant and each registered public accountant shall be renewed biennially by paying the renewal fee on or before December 31 of each odd-numbered year.

History: Rule 3-88, eff 18 Apr 88.

31.0503 Notification and filing of names and addresses and changes.

The current mailing address of each certified public accountant, public accountant, and permit holder shall be registered with the board.

The board shall be immediately notified in writing, of all changes.

History: Rule 3-88, eff 18 Apr 88.

31.0504 Evidence of authority to practice.

Each permit holder 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 place of business.

History: Rule 3-88, eff 18 Apr 88.

II. DEFINITIONS

31.0505 Public accounting practice.

(a) The term, “public accounting practice”, also referred to as “public practice”, as used in Chapter 31.02 ASCA and in this chapter means the performing for a client, or a fee basis, one or more types of services rendered by public accountants and the holding out to the public to be a certified public accountant, licensed under 31.0210 A.S.C.A., or a public accountant, licensed under 31.0217 A.S.C.A., as:

- (1) A sole practitioner; or
- (2) A partner in a partnership of certified public accountant or public accountants or a combination of both; or
- (3) A principal 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 sole practitioner, partnership or professional accounting corporation described in subsection (a).

History: Rule 3-88, eff 18 Apr 88.

31.0506 Not in a public accounting practice.

(a) Any certified public accountant, licensed under 31.0210 A.S.C.A., or any public accountant licensed under 31.0217 A.S.C.A., shall be considered not to be in public practice if the person does not obtain a permit to practice under 31.0219 A.S.C.A. 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 that described in subsection 31.0505 ASAC.

(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 one does not hold oneself out by adding to one’s “CPA” or “PA” designation the words as “not in public practice”.

History: Rule 3-88, eff 18 Apr 88.

31.0507 Incidental to his practice in such other state or country.

(a) The meaning of the phrase “incidental to his practice in such other state or country” is to be reviewed annually by the board at its regular April meeting until the meaning in 31.0507(b) ASAC is adopted.

(b) The phrase “incidental to his practice in such other state or country” used in 31.0219(b)(1) (D) A.S.C.A., shall mean services rendered in this territory by a non-licensee for work performed for a client outside the territory such as the audit of an American Samoa subsidiary of an out-of-state parent corporation, or an audit of an American Samoa branch or division of an out-of-state partnership, joint venture, or individual proprietorship.

History: Rule 3-88, eff 18 Apr 88.

III. CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT

31.0508 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 31.0210 A.S.C.A.

History: Rule 3-88, eff 18 Apr 88.

31.0509 Application for certificate.

After satisfactorily fulfilling the requirements of 31.0210 A.S.C.A., an application for a certificate of certified public accountant shall be filed not later than 45 days prior to the regular April or October meeting of the board, and shall be accompanied by a fee as provided by the board in accordance with 31.0220(b)(1) A.S.C.A.

History: Rule 3-88, eff 18 Apr 88.

31.0510 Competence, trustworthiness, and fairness (references).

- (a) Each applicant for a certificate of a certified public accountant shall submit 3 letters of reference, from persons not related to the applicant, attesting to the applicant's competence, trustworthiness, and fairness.
- (b) Each applicant shall also authorize the Board to contact agencies of the American Samoa government and other organizations for information regarding the applicant's competence, trustworthiness, and fairness.

History: Rule 3-88, eff 18 Apr 88.

31.0511 Education.

- (a) An applicant for a certificate of certified public accountant shall:
 - (1) Present satisfactory evidence that the applicant has received a baccalaureate degree which shall have included a minimum of 12 semester hours of upper division, or graduate level accounting and auditing subjects from a university, college, or other 4 year institution of learning accredited by a regional or national accrediting agency or association included in a list of those agencies or associations published

History: Rule 3-88, eff 18 Apr 88

31.0507 Incidental to his practice in such other state or country.

- (a) The meaning of the phrase "incidental to his practice in such other state or country" is to be reviewed annually by the board at its regular April meeting until the meaning in 31.0507(b) ASAC is adopted.
- (b) The phrase "incidental to his practice in such other state or country" used in 31.0219(b)(1) (D) A.S.C.A., shall mean services rendered in this territory by a non-licensee for work performed for a client outside the territory such as the audit of an American Samoa subsidiary of an out-of-state parent corporation, or an audit of an American Samoa branch or division of an out-of-state partnership, joint venture, or individual proprietorship.

History: Rule 3-88, eff 18 Apr 88.

III. CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT

31.0508 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 31.0210 A.S.C.A.

History: Rule 3-88, eff 18 Apr 88.

31.0509 Application for certificate.

After satisfactorily fulfilling the requirements of 31.0210 A.S.C.A., an application for a certificate of certified public accountant shall be filed not later than 45 days prior to the regular April or October meeting of the board, and shall be accompanied by a fee as provided by the board in accordance with 31.0220(b)(l) A.S.C.A.

History: Rule 3-88, eff 18 Apr 88.

31.0510 Competence, trustworthiness, and fairness (references).

- (a) Each applicant for a certificate of a certified public accountant shall submit 3 letters of reference, from persons not related to the applicant, attesting to the applicant's competence, trustworthiness, and fairness.
- (b) Each applicant shall also authorize the Board to contact agencies of the American Samoa government and other organizations for information regarding the applicant's competence, trustworthiness, and fairness.

History: Rule 3-88, eff 18 Apr 88.

31.0511 Education.

- (a) An applicant for a certificate of certified public accountant shall:
 - (1) Present satisfactory evidence that the applicant has received a baccalaureate degree which shall have included a minimum of 12 semester hours of upper division, or graduate level accounting and auditing subjects from a university, college, or other 4 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 which shall have

included a minimum of 12 semester hours of upper division, or graduate level accounting and auditing subjects from a foreign or U.S. university, college, or other 4 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 4 year institution as specified in paragraph (1).

(b) An applicant for a certificate of certified public accountant after the date set by 31.0211(2) A.S.C.A., in addition to meeting the requirements in subsection (a), shall present evidence of satisfactory completion of at least 30 semester hours of upper division or graduate level study comprising 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); and
- (8) Other business-related subjects as approved by board, at an accredited university, college, or 4-year institution as specified in subsection (a).

The baccalaureate degree and the 30 semester hours of additional study shall have included a minimum of 18 semester hours of upper division or graduate level accounting and auditing subjects. The 30 semester hours of additional study shall not be counted towards the baccalaureate degree. In the event the additional studies of 30 semester hours are completed before the baccalaureate degree is conferred, the applicant shall furnish the board a letter from the university, college, or 4-year institution certifying that the additional studies were completed after the applicant was eligible to attain the baccalaureate degree.

- (c) The board shall accept the certified transcripts as evidence of satisfactory completion of the educational requirements.
- (d) An applicant requesting exemption from educational requirements pursuant to 31.0212 A.S.C.A., shall arrange to provide direct confirmation to the board, from an appropriate source, that the applicant meets the requirements stated therein.

History: Rule 3-88, eff 18 Apr 88.

31.0512 Examination.

The examination prescribed in 31.0213 ASCA shall consist of the following:

- (1) American Institute of Certified Public Accountants (AICPA) examination; and
- (2) Open-book examination. (American Institute of Certified Public Accountants (AICPA) continuing professional education course “Professional Ethics for CPAs”.)

History: Rule 3-88, eff 18 Apr 88.

31.0513 AICPA examination.

- (a) The board shall use the examination prescribed by the AICPA.
- (b) The examination may be taken in the State of Hawaii or at any other authorized testing center. The board will provide appropriate letters requesting that the applicant be allowed to take the examination at that location. As the board prefers to offer the examination in American Samoa, efforts will be continued to establish an authorized - testing center within the territory.
- (c) The board will require direct confirmation of an applicant’s examination grades performance of audits involving the application of generally accepted accounting principles and generally accepted auditing standards; or
- (2) Complete 2 years of professional experience in public accounting practice.
- (b) The board shall require all experience to have been of a full-time nature, measured in terms of weeks, and shall require a statement signed, under oath, by a present or former employer in the practice of public accountancy. Full-time employment shall constitute at least 35 hours a week.

History: Rule 3-88, eff 18 Apr 88.

IV. **CERTIFICATE OF PUBLIC ACCOUNTANT**

31.0516 Issuance.

A person shall be entitled to the issuance of a certificate of public accountant upon application to the board and upon the satisfactory fulfillment of the requirements set forth in 31.0217 A.S.C.A.

History: Rule 3-88, eff 18 Apr 88.

31.0517 Application for certificate.

After satisfactorily fulfilling the requirements of 31.0217 A.S.C.A., an application for a certificate of public accountant shall be filed not later than 45 days prior to the regular April or October meeting of the board, and shall be accompanied by a fee as provided by the board in accordance with 31.0220(b)(1) A.S.C.A.

History: Rule 3-88, eff 18 Apr 88.

31.0518 Competence, trustworthiness, and fairness (references).

- (a) Each applicant for a certificate of public accountant shall submit 3 letters of references, from persons not related to the applicant, attesting to the applicant's competence, trustworthiness, and fairness.
- (b) Each applicant shall also authorize the Board to contact agencies of the American Samoa Government and other organizations for information regarding the applicant's competence, trustworthiness, and fairness.

History: Rule 3-88, eff 18 Apr 88.

31.0519 Examination

The examination for a Certificate of Public Accountant shall consist of the following:

- (1) National Society of Public Accountants (NSPA) Public Accountants Examination; and
- (2) Open-book examination. (American Institute of Certified Public Accountants (AICPA) continuing professional education course "Professional Ethics for CPAs".)

History: Rule 3-88, eff 18 Apr 88.

31.0520 NSPA examination.

- (a) The board shall use the examination prescribed by the NSPA, and shall make all necessary arrangements with the society including the grading of the examination papers. The society's grading of examination papers shall be subject to the review and approval of the board.

- (b) Applications for the examination shall be:

- (1) Filed by February 15, immediately preceding the May examination and by August 15, preceding the November examination: and
- (2) Accompanied by the examination fee as provided by the board, which shall not be refundable. An application shall not be considered filed until all required documents have been received by the board.

- (c) A candidate who, subsequent to filing an application, wishes to postpone taking the examination, shall notify the board in writing at least 30 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 will 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 30-day written notice and the postponement limitation.

- (d) The examination for the certificate of public accountant shall be held in the territory at places designated by the board.
- (e) The board may apply security measures which are deemed necessary to confirm the identification of the candidates for examination.
- (f) A candidate shall attain a grade of at least 75 in each of the parts of the examination in order to satisfactorily complete the entire examination.

- (g) Conditional credits shall be allowed at the first examination in which the candidate obtains a grade of 75 or more in 2 parts or practice alone and a grade of at least 50 on all parts not passed. This minimum grade requirement shall be waived if 3 parts are passed at a single sitting. To add to this conditional status the candidate shall obtain a grade of 75 or more in at least one part and a grade of at least 50 in all parts not passed. While a grade of less than 50 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 offered from that examination which first placed the candidate on conditional status.

- (h) The board shall accept conditional credits for any part or parts of the NSPA examination earned by the candidate and given under the authority of another state; provided, that the candidate had received the grade of at least 75 in each part. However, recognition of conditional credits shall be subject to the limitation set forth in subsection (g).
- (i) The board shall waive the examination for a certificate of public accountant, provided that:
 - (1) With respect to the holder of a valid certificate of PA 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 was issued on the basis of an examination described at 31.0520(a) ASAC; and
 - (2) With respect to a holder of a certificate, license, or degree issued by a foreign country, the applicant shall furnish evidence, from a state of the United States, substantiating that the certificate, license, or degree is comparable to a certificate of public accountant of that state and was issued on the basis of an examination described at 31.0520(a) ASAC.

History: Rule 3-88, eff 18 Apr 88.

31.0521 Open-book examination.

Each applicant for a certificate of public accountant who has attained a passing score in all parts of the NSPA examination and each applicant who qualified for an exemption from the examination requirements under 31.0520(i) ASAC shall be required to take the AICPA CPE course “Professional Ethics for CPAs” as an open-book examination and receive continuing education credit. The examinations, which shall be administered by the board and at the applicant’s cost, shall be completed in the applicant’s own handwriting and may be retaken until continuing education credit is received.

History: Rule 3-88, eff 18 Apr 88.

31.0522 Experience.

- (a) The board shall require a person applying for a certificate of public accountant to:
 - (1) Complete 2 years of public accounting experience with a CPA or PA; or

- (2) Complete 5 years of accounting in industry, government or college teaching.

- (b) The board shall require that all experience to have been of a full-time nature, measured in terms of weeks, and shall require a statement signed, under oath, by a present or former employer. Full-time employment shall constitute at least 35 hours a week.

History: Rule 3-88, eff 18 Apr 88.

V. PERMIT TO PRACTICE

31.0523 Requirements.

For a permit to practice public accountancy in any calendar year, a certified public accountant or public accountant, licensed under section 31.02 A.S.C.A., shall file an application which, after December 31, 1988, shall include a certificate of continuing education as specified under Subchapter 6 of these rules.

History: Rule 38, eff 18 Apr 88.

31.0524 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 causing to lapse the permit to practice of the prior year or prior years.
- (b) For a 1987 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 1988 and each biennium thereafter, the applicant shall file an application, on a form prescribed by the board, at least 30 days prior to the date on which the permit shall become effective;

History: Rule 3-88, eff 18 Apr 88.

31.0525 Temporary permit to practice.

An application for a temporary permit to practice, pursuant to 31.0219(b) A.S.C.A., shall be filed on a form prescribed by the board not later than 60 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 not revoked. The

board may waive the filing deadline requirement for good cause.

History: Rule 3-88, eff 18 Apr 88.

VI. CONTINUING EDUCATION

31.0526 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.

History: Rule 3-88, eff 18Apr 88.

31.0527 Persons covered.

Any person in public accounting practice, regardless of the extent or degree of the practice, shall be covered by this chapter.

History: Rule 3-88. eff 18 Apr 88.

31.0528 Basic requirements of study hours.

(a) For the calendar year 1989, each certified public accountant and public accountant shall file, on a form prescribed by the board, a certification as to the completion of at least 40 hours in continuing education programs as set forth in 31.0531 ASAC, except that at least 8 hours of continuing education shall be in subjects pertaining to accounting or auditing as designated by the board, as set forth 31.0539 ASAC.

- (1) The certificate of continuing education form shall be filed no later than November 30, 1988.
- (2) If this continuing education requirement is not met, a permit to practice public accounting during the calendar year ended December 31, 1989 will be suspended, as provided by 31.0221(a)(1) A.S.C.A., until the 1989 continuing education requirement has been satisfied.
- (3) The board will not suspend a permit to practice to any applicant who has not fully complied with the 1989 continuing education requirement in cases where failure by the applicant to fulfill the requirement has been caused by reason of:

- (a) Health, as certified by a medical doctor; or
- (b) Military service on extended active duty with the armed forces of the United States; or

(4) Other good and valid causes, as determined and approved by the board.

(b) For a permit to practice public accountancy covering calendar year 1990, 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 80 hours in continuing education programs, as set forth in 31.0531 ASAC, except that at least 16 hours of continuing education shall be in subjects pertaining to accounting or auditing as designated by the board, as set forth in 3 1.0539 ASAC.

History: Rule 3-88, eff 18 Apr 88.

31.0529 Hours which qualify.

Continuing education credit shall be given for whole hours only, with a minimum of 50 minutes constituting one class 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 6 hours shall equal 8 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 31.051 1(a)(1) ASAC shall equal 15 continuing education hours;
- (5) An academic credit hour for a quarter earned from an accredited university or college as specified in section 31.05 11 (a)(1) shall equal 10 continuing education hours;

- (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 40 credit hours towards continuing education in any biennium: credit for tri-semester course shall be awarded only once during a 3-year period;
- (8) Each hour spent at a group program, other than a university or college course by 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 40 credit hours toward continuing education in any biennium; credit for the same course shall be awarded only once during a 3 year period;
- (9) Fifty percent of each hour spent as a reviewer at a formally sponsored inter-office or interfirm quality review program; and provided that the credit shall not exceed 20 continuing education hours in any biennium;
- (10) Credit may be allowed for authoring articles and books published in any one year, provided that they contributed 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 20 continuing education hours in any biennium; and
- (11) An applicant for a permit to practice shall be allowed 80 hours of continuing education credit for passing either the AICPA or NSPA examination for the 2 years following the year in which the applicant is notified of passing the examination or 40 hours for the succeeding year of the permit renewal period; provided credit allowed in the periods specified in this paragraph may not be carried over to any other period.

History: Rule 3-88, eff 18 Apr 88.

31.0530 Deficiency in hours and carryover hours.

- (a) In the event an applicant, except as provided in 31.0541 ASAC and except for the requirements for calendar year 1989, is found to be lacking in continuing education hours as of December 31 of any biennium, the applicant shall be required to make up the deficient hours in the following 6

months, in addition to completing the minimum 80 hours of continuing education required for a pen-nit for the following biennium.

- (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 but the carryover shall be limited to 40 hours.

History: Rule 3-88, eff 18 Apr 88.

31.0531 Program classifications.

The continuing education programs are classified into 4 categories, as follows:

- (1) Group programs which automatically qualify, as prescribed in 31.0534 ASAC;
- (2) Individual self-study programs which automatically qualify as prescribed in 31.0535 ASAC;
- (3) Group programs which require board approval, as prescribed in 31.0536 ASAC; and
- (4) Individual self-study programs which require board approval as prescribed in 31.0537 ASAC.

History: Rule 3-88, eff 18 Apr 88.

31.0532 Requirements for group programs.

The requirements of each group program shall be:

- (1) That it requires attendance;
- (2) That it be at least 50 minutes in duration;
- (3) That it is conducted by a qualified instructor or discussion leader;
- (4) That its sponsor shall maintain written records of its attendees and of the program outline for a period of 2 years immediately following the conclusion of the program: and
- (5) That written evidence of attendance shall be issued to each attendee by the sponsor, with the suggested continuing education credit hours shown thereon, exclusive of any study or preparation time.

History: Rule 3-88, eff 18 Apr 88.

31.0533 Requirements for individual self-study programs.

The requirements of each individual self-study program shall be:

- (1) That it is conducted by a qualified sponsor;
- (2) That a certificate of completion is issued by the sponsor specifying subject matter and recommended continuing education credit hours; and
- (3) That its sponsor shall maintain written records of each student and of the program outline for a period of 2 years immediately following the conclusion of the program.

History: Rule 3-88, eff 18 Apr 88.

31.0534 Group programs which automatically qualify.

Subject to compliance with the requirements of 31.0532 ASAC, the group programs which automatically qualify shall be:

- (1) Professional development courses and other technical sessions of non-profit nationally recognized accounting 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, chapters, or branches; and
- (2) Credit or noncredit courses offered by universities and colleges, provided that the institutions are accredited as specified under 31.0511(a)(1) ASAC.

History: Rule 3-88, eff 18 Apr 88.

31.0535 Individual self-study programs which automatically qualify.

Subject to compliance with the requirements of 31.0533 ASAC, the individual self-study programs which automatically qualify are educational courses through correspondence, audiovisual methods, and other educational techniques of non-profit nationally recognized accounting 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, chapters or branches.

History: Rule 3-88, eff 18 Apr 88.

31.0536 Group programs which require approval.

Subject to compliance with 31.0532 ASAC, each group program which is not specifically listed under 31.0534 ASAC shall be required to have its sponsor apply for approval of the programs by the board on a form prescribed by the board.

History: Rule 3-88, eff 18 Apr 88.

31.0537 Individual self-study programs which require approval.

Subject to compliance with the requirements of 31.0533 ASAC, each individual self-study program which is not specifically listed under 31.0535 ASAC, shall be required to have its sponsor apply to the board on a form prescribed by it, and to obtain the approval of the board of the program.

History: Rule 3-88. Eff, 18 Apr 88.

31.0538 Duration of approval.

The approval by the board of each group program and each individual self-study program shall expire at the conclusion of each program or on December 31 of each year, whichever is later; provided approval may be withdrawn by the board at any time for good cause.

History: Rule 3-88, eff 18 Apr 88.

31.0539 List of continuing education subjects.

(a) Subjects qualifying for continuing education under this chapter include, but are not limited to:

- (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.); and
 - (12) Specialized financial areas of business, industry, and profession.
- (b) In order for a subject to be designated as accounting or auditing for the purposes of 31.0528 ASAC, sponsors shall request approval from the board, citing the reasons why a particular course or courses should be designated as an accounting or auditing subject.

History: Rule 3-88. eff 18 Apr 88.

31.0540 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 sponsor of course;
- (2) Address of sponsor;
- (3) Address at which the course was given;
- (4) Title of course and description of its contents;
- (5) Principal instructor or discussion leader;
- (6) Dates attended;
- (7) Hours claimed; and
- (8) Written evidence of attendance at group programs or completion of individual self-study programs.

History: Rule 3-88. eff 18 Apr 88.

31.0541 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; or
- (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.

History: Rule 3-88. eff 18 Apr 88.

31.0542 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 territory by any of its licensees.

History: Rule 3-88. eff 18 Apr 88.

31.0543 Exception for temporary permits.

This subchapter governing continuing education shall not apply to any applicant for a temporary permit to be issued under 31.0219(3)(b) A.S.C.A.

History: Rule 3-88, eff 18 Apr 88.

VII. PROFESSIONAL CORPORATION

31.0544 Name.

A professional public accounting corporation shall adopt a name pursuant only to the approval of the board. The corporation’s practice and the manner in which it holds itself out to the public shall be in consonance with Subchapter VIII of this chapter, “Rules of Conduct”.

History: Rule 3-88, eff 18 Apr 88.

31.0545 Registration.

A professional public accounting corporation shall file an application setting forth the information as may be prescribed or required by the board, and shall furnish the additional information bearing upon the issuance of the license as it requires.

History: Rule 3-88, eff 18 Apr 88.

31.0546 Annual report.

A professional public accounting corporation shall file an annual report as of December 31 of each year not later than March 31 of the following year setting forth the information as maybe prescribed or required by the board including:

- (1) The names of shareholders and their share of ownership;
- (2) The names of directors, officers, licensed employees performing professional services;
- (3) Amendments of its articles of association and by-laws during the current year; and
- (4) Whether liability insurance with minimum coverage prescribed by 31.0549 ASAC, has been obtained.

History: Rule 3-88, eff 18 Apr 88.

31.0547 Capital stock.

A professional public accounting corporation shall provide in its by-laws a provision whereby its capital stock owned by a disqualified persons, or a deceased person, shall be transferred to the corporation provided it has sufficient retained earnings or to its licensed employees, within the time specified by the American Samoa Code Annotated.

History: Rule 3-88, eff 18 Apr 88.

31.0548 Professional services.

A professional public accounting corporation shall render the services, as defined in Chapter 2.31, A.S.C.A. It shall render the services through a person who is licensed by the board. A professional public accounting corporation, however, may employ a person, who is not licensed by the board, as is the general pattern in the practice of public accountancy; provided the work of the unlicensed person is performed under the supervision of a licensed person, who shall assume all responsibilities of the professional services.

History: Rule 3-88, eff 18 Apr 88.

31.0549 Liability insurance: security.

- (a) The board will survey all locally licensed insurance carriers each January to determine the availability and cost of professional liability insurance.
- (b) If at its May meeting the board determines that professional liability insurance is offered locally at a cost which the board considers reasonable, all professional accounting corporations will be required to meet the requirements of 31.0549(c), ASAC.
- (c) Within 6 months of the notice by the board that it has determined that professional liability insurance is available, a professional public accounting corporation, as a condition of obtaining a certificate pursuant to Chapter 2.31 A.S.C.A., shall provide at least \$34,000 for each occurrence and an annual aggregate of \$100,000 of professional liability insurance for claims against it arising out of rendering professional service.

History: Rule 3-88, eff 18 Apr 88.

VIII. RULES OF CONDUCT

31.0550 Independence, integrity, and objectivity.

- (a) Independence. 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 or was committed to acquire any direct or material indirect financial interest in the enterprise; or
 - (B) Was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or
 - (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
 - (1) 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, or voting trustee, a 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; and
 - (3) 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, territory, 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 of 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.

History: Rule 3-88, eff 18 Apr 88.

31.0551 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 31.0551(b) ASAC and 31.0551(c) ASAC.
- (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 has complied 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 the accounting principles which has a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of 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 principle would result in a misleading statement. For purposes of this subsection, generally accepted accounting principles are considered to be defined by pronouncements issued by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

- (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.

History: Rule 3-88, eff 18 Apr 88.

31.0552 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) does not:
 - (1) Relieve a licensee of any obligations under 31.0551(b) ASAC and 31.0551(c) ASAC;
 - (2) Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court; or
 - (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) A licensee shall furnish to a client or former client, upon request made within a reasonable time after original issuance 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 part of the client's books and records and are not otherwise available to the client.
- (5) Implies educational or professional attainments or licensing recognition not supported in fact; or
- (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; or
- (7) 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 modifications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

History: Rule 3-88, eff 18 Apr 88.

31.0553 Other responsibilities and practices.

- (a) Discreditable acts. A licensee shall not commit any act which reflects adversely on the licensee's fitness to engage in the practice of public accountancy.
- (b) Acting through others. 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; or
 - (2) Is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
 - (3) Contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality; or
 - (4) Is intended or likely to create false or unjustified expectations of favorable results; or
- (d) A licensee shall not by any direct personal communication solicit an engagement to perform professional services:
 - (1) If the communication would violate 31.0553(c) ASAC and it were a public communication; or
 - (2) By the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexations 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 31.0553(c) ASAC. 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. 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 2 years after becoming a sole practitioner.
- (f) A licensee, when requested, shall respond to communications from the board within 30 days of the mailing of the communications by registered or certified mail.

History: Rule 3-88, eff 18 Apr 88.

[End Of Title 31 – Chapter 5]

TITLE 31 – CHAPTER 06 – AMERICAN SAMOA
BOARD OF COSMETOLOGY

Sections:

| | |
|---------|-------------------------------------|
| 31.0601 | Definitions. |
| 31.0602 | Authority; purpose. |
| 31.0603 | Chairperson and officers. |
| 31.0604 | Meetings and hearings. |
| 31.0605 | Attendance. |
| 31.0606 | Quorum. |
| 31.0607 | Committees. |
| 31.0610 | Application for operator’s license. |
| 31.0620 | Application for beauty salon. |
| 31.0630 | Fees. |
| 31.0635 | Orders to show cause. |
| 31.0636 | Renewals. |

31.0601 Definitions.

As used in this chapter the terms defined in 31.1502 A.S.C.A., shall have the meaning ascribed to them in that section and as supplemented, explained and further defined in this chapter. For the purpose of this chapter “practiced as an operator” shall mean working at least halftime for 12 months in any given year for each year required; the burden shall be upon the applicant to establish and prove these working periods. “Full time” shall mean at least 5 hours per day and 5 days a week.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0602 Authority; purpose.

The board of cosmetology derives its authority to promulgate these rules pursuant to 31.1502(a)(1) A.S.C.A.

The American Samoa Board of Cosmetology interprets the interest and the intent of the legislature in enacting Chapter 31.15 A.S.C.A., to be the protection of the health, affording to such individuals and effective and practical protection against incompetent, inexperienced, unlawful, and fraudulent acts of operators and cosmetician with whom they come in contact. It is the board’s goal to upgrade and cultivate the cosmetology vocation as well as promoting professionalism and financial stability in the vocation.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0603 Chairperson and officials.

The chairperson, vice-chairperson and any other officers of the board shall be elected by the board at the meeting held on the second Wednesday in January or as soon thereafter as possible.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0604 Meetings and hearings.

Regular meetings and hearings of the board shall be held in the Office of Development

Planning, unless otherwise announced, on the second Wednesday of the months of January, April, July and October at 3:00 p.m. Such other meetings and hearings as are necessary for the efficient conduct of its business may be held at such times and places as determined by the chair. All meetings and hearings shall be open to the public unless otherwise determined by the chair.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0605 Attendance.

The board by a majority vote shall recommend to the Governor the need for a replacement for any member who misses 3 consecutive meetings without good cause. Good cause shall include health reasons and off-island business trips.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0606 Quorum.

A quorum shall be one-half or more of the appointed members in attendance at a meeting. A quorum shall not be lost when members leave the meeting unless the quorum is questioned by at least one member still in attendance. No official business can be conducted without a quorum.

History: Rule 4-88, eff 16 Jun 88, §2.

31.0607 Committees.

The chairperson may name committees of the board to perform investigation or tasks to report back to the board. A site visit to any location proposed as a beauty shop or salon under consideration may be made by a committee of the board as a whole or committee of at least 2 members of the board. The committee shall report to the board in a public session its recommendation following each site visit. The board may accept, reject or amend the recommendation of any committee. The board may request assistance from law enforcement personnel including police officers and attorneys from the Attorney General’s office to accompany them during their site or inspection visitations.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0610 Application for operator’s license.

In accordance with the provisions of 31 .0504 A.S.C.A., the board hereby requires:

- (a) Three references to demonstrate the applicant is of good moral character.
- (b) The demonstration of a valid current license to practice hairdressing and cosmetology in any state of the United States or in any other county which has licensing standards equivalent to those of any state of the United States by showing the original to the board and filing a clear, complete photocopy of the license together with the application. Any license in a language other than in English must be translated into English. For purposes of this rule the term “state” includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to authority of the United States of America.
- (c) Sufficient references but no less than 2 that the applicant has practiced as an operator for 3 out of the 5 years immediately preceding the application filing date.
- (d) In lieu of the requirement stated in paragraph (c) above, the applicant may show that he or she has a valid license as required by subsection (b) above and that the applicant has successfully completed a board approved refresher course at an accredited school in any state in the United States or in any country which has accrediting standards equivalent to any state of the United States within one year preceding the application date.
- (e) A conditional license may be granted to an applicant who has substantially complied with the above qualifications. “Substantial compliance” shall mean the applicant is of good moral character, has acquired a license as required by subsection (b) above, has practiced as an operator at least 2 out of the 4 years immediately preceding this application date.
- (f) All applicants must complete and file an application on a form approved by the board. Form CB 100, as it may be amended from time to time, is hereby approved as an official form for purposes of this chapter. All applications shall be certified by the applicant under penalty of perjury that the statements contained in the application are true.
- (g) The burden of proof that the accrediting standards required by subsections (b) and (d) above are equivalent to any state of the United States is upon the applicant.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0620 Application for beauty salon.

- (a) In accordance with the provisions of 31.1505 A.S.C.A., the board hereby requires:
 - (1) Prior written certification by the director of medical services that the salon meets the standards of sanitation required by the rules of the department of health no longer than 30 days prior to the date of this application.
 - (2) Proof that a board licensed operator will be working full-time in the salon. The applicant will provide the name(s) of the operator(s) and file a photocopy of the operator’s license.
 - (3) Proof that there is a bathroom on the premises and available directly from the salon without exiting the salon.
 - (4) Proof of sufficient security of chemicals and other potentially dangerous equipment from non-licensed persons, children, and from theft.
 - (5) Filing a copy of the plot plan and a floor plan of the property that will also be filed with the Zoning Board.
- (b) No license shall be granted, renewed, reinstated, or restored if the location of the beauty salon is in a private home without a separate entrance and not sealed from the residential portion of the home.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0630 Fees.

- (a) The fee for a licensed operator shall be \$15.00 for an application, and for each renewal per year payable by December 31 of each year.
- (b) The fee for a licensed beauty salon shall be \$25.00 for an application, and for each renewal per year payable by December 31 of each year.
- (c) Fees shall be paid by certified check, money order, or be uncertified check drawn on a local bank pre-printed with the applicant’s name and account number. Any check that is returned by the bank upon which it is drawn unpaid shall result in revocation of the license sought and a charge of \$15.00 fee for the dishonored check. All checks shall be made out to “ASG Treasurer - Cosmetology Board”. No cash or stamps will be accepted.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0635 Orders to show cause.

The board shall issue an order to show cause to any operator or beauty salon when the board determines that revocation or suspension of any license is warranted. The requirements of 31.1508 A.S.C.A., shall be complied with at the hearing on the order to show cause.

History: Rule 4-88, eff 16 Jun 88, § 2.

31.0636 Renewals.

- (a) All operators may maintain their current license in the state or country of original issuance, if they so wish. A life-time license from a country is presumed to be valid at all times unless otherwise declared.
- (b) No renewals shall be granted without an updated health permit.
- (c) No business license for a salon will be approved prior to approval by this Board as a salon. Section 31.1505 A.S.C.A., must be complied with strictly.

History: Rule 4-88, eff 16 Jun 88, § 2.

END OF TITLE 31 – PROFESSIONS