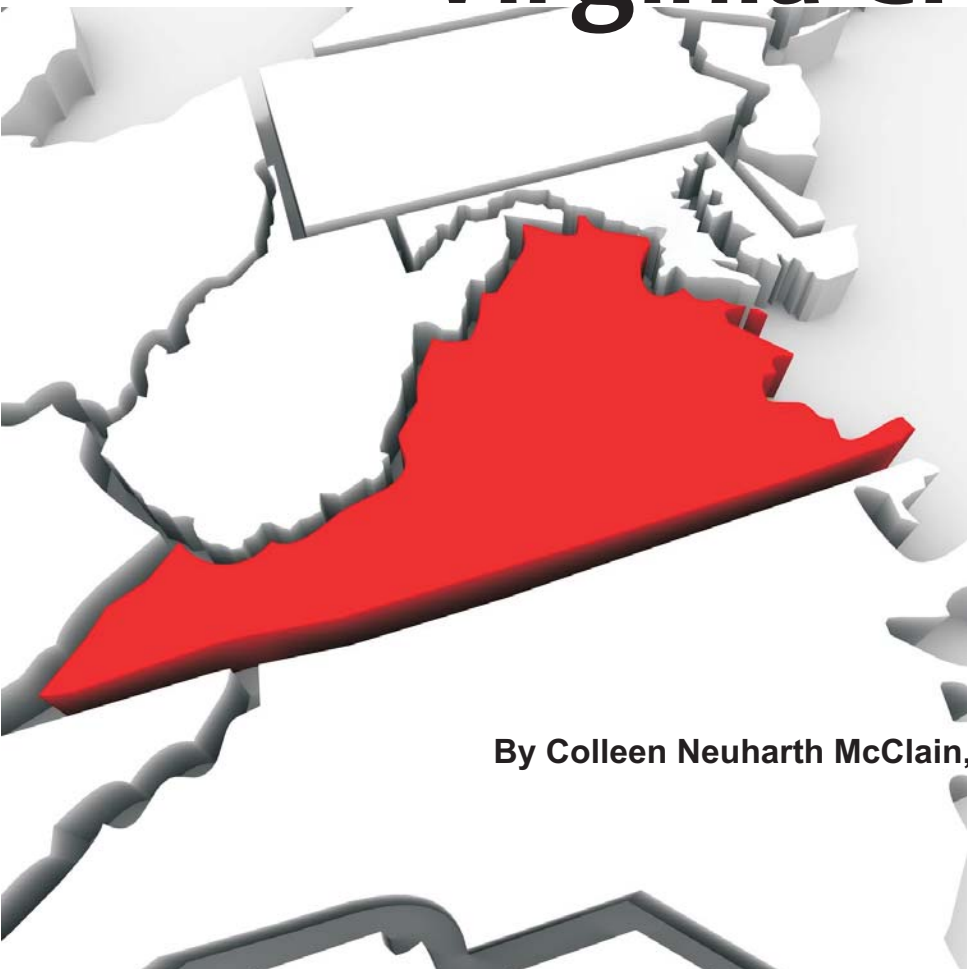


Ethics for Virginia CPAs



By Colleen Neuharth McClain, CPA

CPE Edition

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By Colleen Neuharth McClain, CPA

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Course Information

Course Title: Ethics for Virginia CPAs

Learning Objectives:

- Recognize the focus of ethics
- Identify the term used when CPAs are able to take an unbiased viewpoint in the performance of professional services
- Pinpoint the AICPA Conduct Rule which applies only to members in the practice of public accounting
- Determine why the accounting profession has found it essential to promulgate ethical standards and to establish means for ensuring their observance
- Discern how independence has been defined by the accounting profession
- Ascertain when a CPA must not subordinate his or her professional judgment to that of others
- Pinpoint the number of hours of continuing professional education required of Virginia license holders
- Identify the term used for any act or action, whether written or oral, expressing an opinion or conclusion about the reliability of a financial statement or about its conformity with any financial accounting principle or standard
- Determine the number of hours of CPE related to attest services or compilation services 18VAC5-22-140 requires of persons who release or authorize the release of reports on attest services or compilation services

Subject Area: Regulatory Ethics

Prerequisites: None

Program Level: Overview

Program Content: This course has been approved by the Virginia Board of Accountancy. It covers the general concepts of ethics and ethical reasoning, highlights of the AICPA Code of Professional Conduct, and specific rules related to practicing accountancy in the state of Virginia.

Advance Preparation: None

Recommended CPE Credit: 4 hours

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Chapter 1

Ethics and Ethical Reasoning

Learning Objectives

- Recognize the focus of ethics

Introduction

Ethics is the “science of morals.” A moral is an accepted rule or standard of human behavior. The understanding of “accepted” is “accepted by society,” and accepted only insofar as the behavior in question being behavior that affects others in the society, even if only indirectly. The implication of this definition is therefore that private actions that have no impact on others are a matter for personal morality, which is not of business or organizational concern.

However, the distinction between personal morality and business morality may not always be so clearly defined. This is because individuals bring personal values to their jobs and to the real or perceived problems of moral choice that confront them at work. Moral choices sometimes must be made because of tensions within individuals, between individuals, or between individuals and what they believe to be the values that drive their organizations.

Furthermore, business organizations do not operate in a social vacuum. Because of the ways business organizations can and do affect the lives and livelihoods of society at large, some would argue that business organizations are kind of “moral agents” in society. Therefore managers and the general public alike often wrestle with defining exactly what constitutes the ethical way of doing business, and what constitutes proper constraints on individual self-interests, and who shall impose these constraints.

A further complexity results from the fact that businesses are increasingly becoming global in nature. Different countries have or seem to have vastly different customs and values. Understanding and assessing whether and how these different cultural and ethical conflicts should be taken into account is often most difficult.

Attitudes Toward Ethics

In general, a key focus of ethics is the concept of integrity (or honesty). Integrity in broad terms will imply that no businesspersons in the course of their business functions should be party to the falsification of any facts or information or make any statement which knowingly is misleading, false or deceptive in a material particular.

Chapter 1 – Ethics and Ethical Reasoning

AMORAL:	Condone any actions that contribute to the corporate aim. Getting away with it is the key. No set of values other than greed.
LEGALISTIC:	Obey the letter of the law but not the spirit of it, especially if it conflicts with profits. Ethics ignored until it becomes a problem.
RESPONSIVE:	Take the view that there is something to gain from ethical behavior. Using ethics as a tool to attain corporate aim.
EMERGING:	Ethical values becoming part of the culture. Codes of ethics being action documents, and likely to contain statements reflecting core value.
ETHICAL:	Total ethical profile. Everything done is ethical, and the right thing always done by everyone. The ideal.

Another major focus of ethics is professional competence and due care, which implies that business professionals should always perform their functions in accordance with laws and regulations. In other words, business transactions and professional functions should not be undertaken unless one possesses the required competence and technical skills.

A more controversial focus is the area of freedom from conflicts of interests. The preferred position of many is that one should always avoid concurrent involvement in any business, occupation or activity, which might result in the compromising of integrity, objectivity and independence of decision making.

In defining law and ethics and their relationship to each other, it is necessary to distinguish between moral and legal rights and duties. Morally, a person's rights consist of claims that he can justly make to the conditions of well-being; his duties consist of what he can justly contribute to well-being. Legal rights and duties—that is, claims and obligations enforceable at law—may or may not be fully in harmony with prevalent moral opinion systems in which law and ethics and religion are closely interwoven. The impact of moral opinion on law varies with the type of political structure and influence of public opinion.

In free societies, the ultimate justification of law is that it serves moral ends. However, the dependence of law on moral principles must not be taken to imply that there is a set of moral principles, which can be laid down for guidance. However, most free societies are coming to be more or less consistent in principles that draw the line between law and morals. The task of ethics becomes twofold: to bring out what is involved in the notion of a principle or norm of action and to recognize ideals that serve as agencies of guidance and control.

A number of consistent principles recognized in modern society are the individual, responsibility and equity. The end of law is to secure the greatest

possible general individual self-assertion. In the Judeo-Christian ethic, responsibility is a given: the best ordering of human society in which the individual may come to full manhood and satisfying existence. On the basis of equitable doctrine, we can say confidently that morality is inseparable from the legal order; that right and wrong is part of the legal order.

Ethical Reasoning and Accountants

The largest part of the prior research projects which have been done on ethical issues in accounting have generally avoided theoretical discussions about “right and wrong” or “good and bad” choices. Instead, they have focused on determining whether or not accountants are abiding by the rules of professional conduct. There are basically two principles used to resolve ethical dilemmas, related to CPAs, which are utilitarianism and rule deontology.

Utilitarianism (teleological ethics)	The promotion that the best long-term interest of everyone concerned should be the moral standard: one should take those actions that lead to the greatest balance of good versus bad consequences.
Deontology (Kantian ethics)	It deals with the concept of duty and the rightness of acts. It emphasizes maxims, duties, rules, and principles that are so important that they should be followed whatever the consequences.

In utilitarianism, the focus is based on the consequences of an action rather than abiding by rules. Deontology, on the other hand, focuses on just the opposite. Under Deontology principles, an accountant would be more concerned with abiding by rules of professional conduct no matter what the consequences.

For example, a 2008 study published in *The CPA Journal* attempted to determine how accountants, specifically auditors, used ethical reasoning when confronted with issues related to client confidentiality. Rule 301, *Confidential Client Information*, of the AICPA Code of Professional Conduct states that a member in public practice cannot disclose confidential client information without the client’s consent. However, this Rule does not affect a CPA’s obligations

- (1) To comply with a validly issued and enforceable subpoena or summons or with applicable laws and regulations
- (2) To discharge his/her professional obligations properly under Conduct Rules 202 and 203
- (3) To cooperate in a review of the CPA’s professional practice under AICPA or state CPA society or board of accountancy authorization

Chapter 1 – Ethics and Ethical Reasoning

- (4) To initiate a complaint with or respond to any inquiry made by the professional ethics division, trial board of the AICPA, or an investigative or disciplinary body of a state society or board of accountancy

In the study, a survey consisting of three different circumstances was sent to 100 randomly selected CPAs. Each CPA was asked to respond to each circumstance described using the following guide:

- 1) To inform or not inform a third party of confidential client information, and
- 2) To indicate which response given was considered “good ethical behavior” if the Code was disregarded. Respondents were also asked to provide justification for their answers.

The following are the circumstances they were given:

Scenario 1: James Corporation employs the regional CPA firm of Green and Cash to audit its financial statements. The firm has been asked to prepare quarterly financial statements. Bob Ethics, a staff accountant, was assigned to do the work. During the course of preparing the statements, Bob discovered that James Corporation materially understated net income on last year’s tax return. Bob informed his supervisor about this and the client is asked to prepare an amended tax return. The client, however, refused to take corrective action.

Scenario 2: Johnson Manufacturing Corporation is a publicly owned company that manufactures equipment used by hospitals and medical laboratories. The company is audited by the national accounting firm of Adams & Pitre. One day, John, the senior in charge of the engagement, overheard a conversation between two managers indicating that although they met inspection standards, they were aware of a defect in a particular piece of equipment, but they had not notified any of their customers because they felt the probability of malfunction was low. John takes this information to the controller and is told not to include it in the audit report. He then takes it to the manager on the engagement. The manager informs University Hospital, one of its clients, and also a major customer of Johnson Manufacturing Corporation, not to purchase any more equipment from Johnson. Johnson sues Adams & Pitre for violating the confidentiality rule.

Scenario 3: William Johnson, a CPA, served as a director of Last National Bank for a year. As a director, William may be held liable for damages if he fails to use care and prudence in administering bank affairs and such action causes the bank to suffer a financial loss. In the course of an audit, William discovered a seriously weakened financial position in a client who has a large loan at Last National Bank. Disclosure of this condition to the other

bank directors would minimize the bank’s loss. However, since the audit has not been completed, this would represent a violation of Rule 301 of the Code.”¹

According to the study, the following were the results, conclusions and implications:

“Scenario 1. Given a Code, most (78%) respondents would not inform the IRS. This is in agreement with the rule of conduct. Although the variability increased, most CPAs (70%) in this situation, would make the same decision without a Code. This is consistent with the justification given that most CPAs perceived themselves to be an advocate of the client in a tax engagement. There was no perceived conflict in the rule of conduct and what most accountants perceived as good ethical behavior.

Scenario 2. Most CPAs (78%) responding in this situation would adhere to the Code and not inform one client of information discovered while auditing another client. A large percentage (52%) of respondents, however, indicated that informing would be the “best ethical behavior.” In most instances, “potential safety concerns” were cited as the justification for considering informing as the “best ethical behavior.” Thus, there appears to be some conflict in adhering to the Code and the moral value of some CPAs.

Scenario 3. Given a Code, a majority (78%) of CPAs would not inform, which is in agreement with the Code. A lesser percentage (53%), however, feel this is the best ethical behavior.

Conclusions and Implications

The findings of this study indicate that CPAs usually adhere to the Code (rule deontology) in resolving issues involving confidentiality. However, such decisions are not always in accord with what they perceive as “good ethical behavior.” The broad principles of the Code indicate that ethical conduct, in the truest sense, means more than abiding by a letter of a rule. It means accepting a responsibility to do what is honorable or doing that which promotes the greatest good to the greatest number of people, even if it results in some personal sacrifice. Somehow, the profession needs to emphasize the “greatest good” criterion more strongly in applying the rules of conduct.”

Ethical Dilemmas in Accounting

Deciding how to handle ethical dilemmas is an important part of the accounting profession. Individuals in the accounting profession have a considerable responsibility to the general public. Accountants provide information about

¹ “Ethical reasoning in confidentiality decisions,” by Barbara L. Adams, Fannie L. Malone, and Woodrow James, Jr., *The CPA Journal*, July 2008.

Chapter 1 – Ethics and Ethical Reasoning

companies that allow the public to make investment decisions for retirement, a child's education and major purchases such as a home. For the public to rely on the information provided, there must be a level of confidence in the knowledge and behavior of accountants. Ethical behavior is necessary in the accounting profession to prevent fraudulent activities and to gain public trust.

The main reason for ethical guidelines is not to provide an exact solution to every problem, but to aid in the decision-making process. An established set of guidelines provides an accounting professional with a compass to direct him toward ethical behavior. Specific responsibilities of the accounting profession are expressed in the various codes of ethics established by the major organizations such as the American Institute of CPAs. The AICPA Code of Professional Conduct outlines an accountant's responsibilities towards the public interest and emphasizes integrity, objectivity and due care.

The effects of ethical behavior in accounting are far-reaching in the economy. Every business entity has an accounting professional provide information at some point in the organization's life cycle. Many accounting professionals are tempted to alter financial results and often rationalize the behavior by calling it creative or aggressive accounting. Aggressive accounting is the process of employing questionable accounting methods to boost results. An accountant may record revenues and expenses in an incorrect manner or omit expenses altogether. Repeated incidences of aggressive accounting are a result of the lack of ethical behavior.

Example

A common example of an ethical dilemma involves management instructing a subordinate employee to record a transaction in an incorrect manner. For instance, a company with a December 31 year-end calendar year, signs contracts with consumers to perform services. The contracts are usually signed December 1 and are a year in length. Accounting principles require the company to record the revenue for the contract for one month only, the month of December. The remainder of the revenue is recognized on next year's financial statements. However, management instructs an employee to record the entire amount of the contract in December to boost revenues for the current year end. Management receives a bonus for the boosted revenue and the subordinate receives recognition in an upcoming performance review.

Solutions

Unfortunately, ethical dilemmas, such as the example provided, are common. To help curb the desire to practice aggressive accounting and ignore ethical behavior, a number of organizations require accounting professionals to complete continuing professional education courses on ethics. In addition, a number of companies establish *whistleblower hotlines* to encourage employees to demonstrate honesty and integrity in the workplace.

Review Questions

1. Which of the following is not a major focus of ethics?
 - A. Integrity
 - B. The compromising of integrity, objectivity and independence of decision making
 - C. Professional competence and due care
 - D. Freedom from conflicts of interest

Review Answers

1. A. Incorrect. A key focus of ethics is the concept of integrity (or honesty). Integrity in broad terms will imply that no businesspersons in the course of their business functions should be party to the falsification of any facts or information or make any statement which knowingly is misleading, false or deceptive in a material particular.
- B. **Correct.** The preferred position of many is that one should always avoid concurrent involvement in any business, occupation or activity, which might result in the compromising of integrity, objectivity and independence of decision making.
- C. Incorrect. Professional competence and due care implies that business professionals should always perform their functions in accordance with law and regulations. In other words, business transactions and professional functions should not be undertaken unless one possesses the required competence and technical skills.
- D. Incorrect. This is a more controversial focus of ethics; freedom from conflicts of interests, objectivity, and independence.

Chapter 2

AICPA Code of Professional Conduct

Learning Objectives

- Identify the term used when CPAs are able to take an unbiased viewpoint in the performance of professional services
- Pinpoint the AICPA Conduct Rule which applies only to members in the practice of public accounting
- Determine why the accounting profession has found it essential to promulgate ethical standards and to establish means for ensuring their observance
- Discern how independence has been defined by the accounting profession
- Ascertain when a CPA must not subordinate his or her professional judgment to that of others

Introduction

The AICPA's *Code of Professional Conduct* consists of four parts, which are summarized in Exhibit 1. The four parts to the Code are:

- **Principles.** These establish ideal standards of ethical conduct stated in philosophical terms. There are six principles that are goal-oriented but nonbinding.
- **Rules of conduct.** These are the minimum standards of ethical conduct stated as specific rules. There are *eleven* rules of conduct that are *enforceable (binding)*.
- **Interpretations.** Interpretations of rules are intended to clarify the rules of conduct. They are not officially enforceable, but a practitioner must justify any departure.
- **Ethical rulings.** These are answers to specific questions submitted to the AICPA by practitioners. They are not enforceable, but a practitioner must justify any departure.

Exhibit 1
AICPA’s Code of Professional Conduct

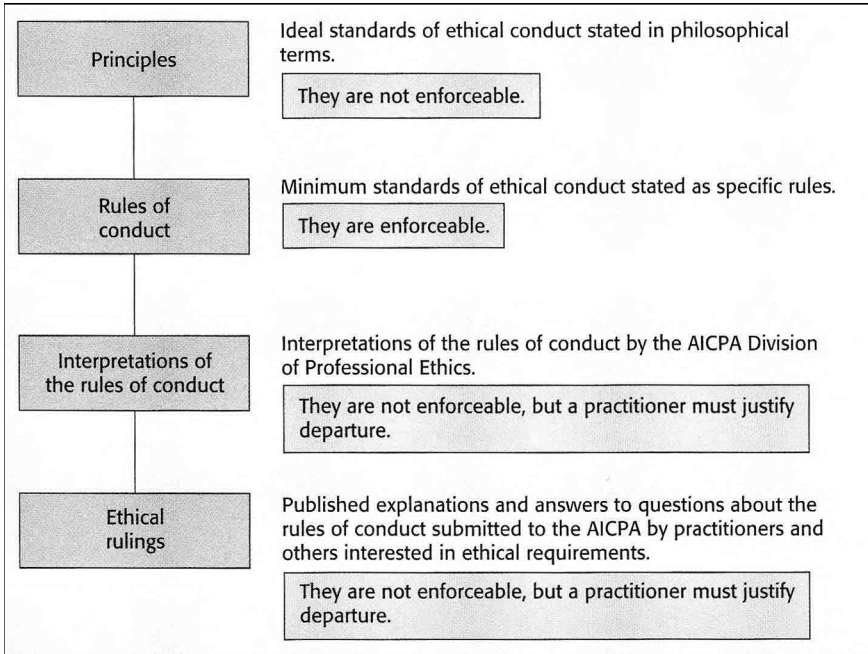


Exhibit 2
The Six Principles and Eleven Rules of Conduct

The Six Principles	
1	Responsibilities
2	The Public Interest
3	Integrity
4	Objectivity and Independence
5	Due Care
6	Scope and Nature of Services

Eleven Rules of Conduct		
1	Rule 101	Independence
2	Rule 102*	Integrity and Objectivity
3	Rule 201*	General Standards
4	Rule 202*	Compliance with Standards
5	Rule 203*	Accounting Principles

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6	Rule 301	Confidential Client Information
7	Rule 302	Contingent Fees
8	Rule 501*	Acts Discreditable
9	Rule 502	Advertising and Other Forms of Solicitation
10	Rule 503**	Commissions and Referral Fees
11	Rule 505*	Form of Organization and Name

Note:

- (1) The first five of these principles are equally applicable to **all members** of the AICPA, regardless of whether they practice in a CPA firm, work as accountants in business or government, are involved in some other aspect of business, or are in education. One exception is the last sentence of objectivity and independence. It applies only to members in **public practice**, and then only when they are providing attestation services such as audits. The sixth principle, scope and nature of services, applies only to members in public practice. That principle addresses whether a practitioner should provide a certain service, such as providing personnel consulting when an audit client is hiring a chief information officer (CIO) for the client's IT function. Providing such a service can create a loss of independence if the CPA firm recommends a CIO who is hired and performs incompetently.
- (2) Of the Rules of Conduct, the six marked with single asterisks (*) apply to **all members**. Conduct Rule 503 (**) applies in part (Referrals) to all members and in part (Commissions) only to members in public practice. The remaining Rules apply only to members in public practice.

Summaries of the Six Principles

1. **Responsibilities.** Members should exercise sensitive professional and moral judgments when carrying out their professional responsibilities. Members should accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate commitment to professionalism. A distinguishing mark of a profession is acceptance of its responsibility to the public.
2. **The Public Interest.** Members should act to benefit the public interest, honor the public trust, and demonstrate commitment to professionalism. The AICPA adopted the ethical standards because a distinguishing mark of a profession is an acceptance of responsibility to the public.
3. **Integrity.** Members should perform all professional responsibilities with the highest sense of integrity to maintain public confidence.
4. **Objectivity and Independence.** A member should maintain objectivity and be free of conflicts of interest. A member **in public practice** should be independent in fact and appearance when providing attestation services. Objectivity is a state of mind, a quality that lends itself to a member's

services. It is a distinguishing feature of the profession. The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest. *Independence of mind* is the state of mind that permits the performance of an attest service without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional skepticism. *Independence in fact* is the member's ability to take an unbiased viewpoint in the performance of professional services. *Independence in appearance* is the avoidance of circumstances that would cause a reasonable and informed third party, having knowledge of all relevant information, including safeguards applied, to reasonably conclude that the integrity, objectivity, or professional skepticism of a firm or a member of the attest engagement team had been compromised.

5. **Due Care.** A member should follow the profession's technical and ethical standards, strive for improved competence and quality services, and discharge professional responsibility to the best of the member's ability. Members must adequately plan and supervise any activity for which they are responsible.
6. **Scope and Nature of Services.** A member in public practice should follow the Principles of the *Code of Professional Conduct* in determining the nature and scope of services.

Summaries of the Eleven Rules

Rule 101 – Independence. A member in public practice should be independent when performing professional services as required by standards-setting bodies.

- 1) In this context, rules of the state boards of accountancy, state CPA societies, the Independence Standards Board (ISB), the Securities and Exchange Commission (SEC), the Public Company Accounting Oversight Board (PCAOB), the General Accounting Office (GAO), and other bodies may be relevant. Under the *Sarbanes-Oxley Act of 2002 (SOX)*, the PCAOB has authority to establish auditing, attestation, quality control, ethics, and independence standards applying to *registered public accounting firms*. To promote continuity and certainty regarding the standards for audits of public companies (issuers), the PCAOB has published *Interim Professional Auditing Standards* on a transitional basis. They do not apply to audits of nonissuers.
- 2) Relevant AICPA standards-setting bodies are the Auditing Standards Board (ASB), Accounting and Review Services Committee (ARSC), and Management Consulting Services Executive Committee. The foregoing bodies are authorized to issue technical standards.
- 3) The ASB issues *Statements on Auditing Standards*. Thus, SAS 1 is consistent with the requirement for auditors to maintain an independence in mental attitude. To inspire public confidence, an auditor must not only be independent (intellectually honest) but also be

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recognized as independent (free of any obligation to, or interest in, the client).

- 4) The *fourth general attestation standard* likewise requires practitioners to maintain an independence in mental attitude when performing attest engagements.
- 5) *Under Statements on Standards for Accounting and Review Services (SSARs)*, an accountant may not report on a review of the financial statements of a nonpublic entity if (s)he is not independent.
- 6) According to the *Statement on Standards for Consulting Services*, the practitioner must serve the client interest. Thus, (s)he must accomplish the objectives established in the understanding with the client while maintaining integrity and objectivity. However, independence is not required.
- 7) According to the AICPA's *Statements on Standards for Attestation Engagements (SSAEs)*, a practitioner must also be independent to examine or apply agreed-upon procedures to prospective financial statements (financial forecasts and projections).
 - a) **Preapproval of services.** Audit committees ordinarily must preapprove the services performed by accountants (permissible nonaudit services and all audit, review, and attest engagements). Approval must be either explicit or in accordance with detailed policies and procedures. If approval is by detailed *policies and procedures*, the audit committee must be informed, and no delegation of its authority to management is allowed.
 - b) **Disclosure of fees.** An issuer must disclose in its proxy statement or annual filing fees paid to the accountant segregated into four categories: (1) audit, (2) audit-related, (3) tax, and (4) all other. The disclosure is for the two most recent years and must describe the services in audit-related, tax, and all other.
 - c) **Rotation of partners.** The lead and concurring (reviewing) audit partners must **rotate** every 5 years, with a 5-year time-out period. Other audit partners must rotate every 7 years, with a 2-year time-out.
 - d) **Compensation.** An accountant is not independent if, during the audit and the period of the professional engagement, any audit partner (excluding specialty partners such as tax partners) earns or receives compensation for selling services (excluding audit, review, or attest services) to the audit client.
 - e) **Conflict of interest.** An accounting firm is not independent with respect to an audit client if a former partner, principal, shareholder, or professional employee accepts employment with a client if (s)he (1) has a continuing financial interest in the firm or (2) is in a position to influence the firm's operations or financial policies. Moreover, an accounting firm is not independent if a CEO, CFO,

Chapter 2 – AICPA Code of Professional Conduct

controller, or person in an equivalent position for an issuer was (1) employed by that firm and (2) participated in any capacity in the audit of that issuer during the year before the beginning of the audit.

- f) **Communication with the audit committee.** The accounting firm must include (1) all critical accounting policies and practices; (2) all material alternative accounting policies and practices within GAAP that were discussed with management; and (3) other material written communications with management, such as management representations and schedules of unadjusted audit differences. These communications must be prior to filing the audit report with the SEC.
- 8) The PCAOB's **Rule 3600T** applies in connection with the preparation or issuance of any audit report. It adopts **interim independence standards**. They are **Conduct Rule 101 – Independence** (and its Interpretations and Rulings), in effect on April 16, 2003, and pronouncements of the now-defunct Independence Standards Board (ISB).
- a) **ISB 1, *Independence Discussions with Audit Committees***, and its Interpretations have been superseded by Rule 3526.
 - b) **ISB 2, *Certain Independence Implications of Audits of Mutual Funds and Related Entities***, states that the audit firm is not independent of all entities in the mutual fund complex (the entire fund operation) if the partners can significantly influence any entity in the complex. Moreover, the firm, its retirement plans, the audit team, and those able to influence the audit must be independent of all sister funds (those with the same adviser) if a firm is auditing a fund. They also must be independent of (1) all funds in the complex if the auditee is a related nonfund entity (e.g., an adviser, broker, or bank) or (2) all related nonfund entities if the auditee is a fund.
 - c) **ISB 3, *Employment with Audit Clients***, states that firm independence is impaired by a client's employment of a former firm professional that could adversely affect the audit unless safeguards are established. *Pre-change safeguards* include (1) reporting of employment conversations with the client, (2) removal from the audit of those negotiating with the client, and (3) post-removal review of the professional's work. *Post-change safeguards* include (1) possibly modifying the audit plan, (2) ensuring that team members can effectively deal with the former employee, (3) a separate review of the next audit, and (4) prompt (a) liquidation of a partner's capital balance and (b) settlement of retirement balances.

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- 9) The PCAOB has issued the following rules concerning independence, tax services, and contingent fees:
- a) **Rule 3502. *Responsibility not to cause violations.*** A person associated with a registered public accounting firm shall not cause that firm to violate (1) the Securities Exchange Act of 1934; (2) the Rules of the PCAOB; (3) the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect to them, including the rules of the SEC; or (4) professional standards. The person causes such a violation if (s)he commits an act or omission the person knew, or was reckless in not knowing, would directly and substantially contribute to the violation.
 - b) **Rule 3520. *Auditor independence.*** A registered public accounting firm and its associated persons must be independent of the firm’s audit client throughout the audit and professional engagement period. Such parties must satisfy all other independence criteria applicable to the engagement.
 - c) **Rule 3521. *Contingent fees.*** A registered public accounting firm is not independent of its audit client if the firm, or any affiliate during the audit and professional engagement period, provides any service or product to the client for a contingent fee or a commission, or receives from the client, directly or indirectly, a contingent fee or commission.
 - d) **Rule 3522. *Tax transactions.*** A registered public accounting firm is not independent of its audit client if the firm, or any affiliate, during the audit and professional engagement period, provides any nonaudit service to the client related to marketing, planning, or expressing an opinion in favor of the tax treatment of confidential transactions or aggressive tax position transactions. A confidential transaction is one offered to a taxpayer by an advisor for a fee on condition that the taxpayer observe a limitation on disclosure of the advisor’s tax strategies. An aggressive tax position transaction is one that was initially recommended, directly or indirectly, by the firm and a significant purpose of which is tax avoidance. However, this rule does not apply if the proposed tax treatment is at least more likely than not to be allowable under applicable tax laws.
 - e) **Rule 3523. *Tax services for persons in financial reporting oversight roles.*** A registered public accounting firm is not independent of its audit client if the firm, or any affiliate, during the professional engagement period provides any tax service to a person in a *financial reporting oversight role* at the client, or an immediate family member of such person. The professional engagement period begins the earlier of when (1) the firm begins audit procedures or (2) signs the initial engagement letter. The period ends when the SEC is notified that the

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company is no longer an audit client. The following three exceptions apply:

- i. The person is in a financial reporting oversight role only because (s)he serves as a member of the board of directors or similar management or governing body of the client.
 - ii. The person is in a financial reporting oversight role only because of the person's relationship to an affiliate of the entity being audited.
 - The affiliate's financial statements must not be material to the consolidated financial statements of the entity being audited, or its statements must be audited by an auditor other than the firm or an associated person of the firm.
 - iii. The person was not in a financial reporting oversight role at the client before a hiring, promotion, or other change in employment event, and the tax services are
 - Provided under an engagement in process before the hiring, promotion, or other change in employment event, and
 - Completed on or before 180 days after the hiring or promotion event.
- f) **Rule 3524.** *Audit committee pre-approval of certain tax services.* In connection with seeking audit committee pre-approval to perform for an audit client any permissible tax service, a registered public accounting firm shall
- i. Describe, in writing, to the audit committee the following:
 - The scope of the service, the fee structure for the engagement, any side letter or other amendment to the engagement letter, and any other agreement between the firm and client relating to the service.
 - Any compensation arrangement or other agreement, such as a referral agreement, a referral fee, or a fee-sharing arrangement, between the firm (or an affiliate) and any person (other than the client) with respect to the promoting, marketing, or recommending of a transaction covered by the service.
 - ii. Discuss with the audit committee the potential effects of the services on the independence of the firm.
 - iii. Document the substance of the firm's discussion with the audit committee.
- g) **Rule 3525.** *Audit Committee Pre-approval of Non-audit Services Related to Internal Control Over Financial Reporting.* When seeking audit committee pre-approval to perform any permissible non-audit service related to internal control over financial reporting, a firm must
- i. Describe in writing the scope of the service,

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- ii. Discuss the potential effects of the service on the independence of the firm, and
- iii. Document the substance of the discussion.

NOTE: An auditor is not independent if (s)he is not, or a reasonable investor with knowledge of all relevant information would conclude that (s)he is not, capable of objective and impartial judgment on all engagement issues. Guiding principles include whether the auditor assumes a management role or audits his/her own work. Thus an auditor is not independent if, for example, management had delegated its responsibility for internal control over financial reporting to the auditor or if the auditor had designed or implemented the client's internal control over financial reporting.

- h) **Rule 3526. *Communication with Audit Committees Concerning Independence.*** A registered public accounting firm must
 - i. Before accepting an initial engagement under PCAOB standards,
 - Describe in writing to the audit committee all relationships between (1) the firm or its affiliates and (2) the client or persons in financial reporting oversight roles at the client that, as of that date, may reasonably bear on independence;
 - Discuss with the audit committee the potential effects of those relationships on the independence of the firm if it becomes the auditor; and
 - Document the substance of its discussion with the audit committee.
 - ii. At least annually for each issuer audit client,
 - Describe in writing to the audit committee all relationships between (1) the firm or its affiliates and (2) the client or persons in financial reporting oversight roles at the client that, as of that date, may reasonably bear on independence;
 - Discuss with the audit committee the potential effects of those relationships on the independence of the firm;
 - Affirm to the audit committee in writing that, as of that date, the firm is independent in compliance with Rule 3520; and
 - Document the substance of its discussion with the audit committee.

Rule 102 – Integrity and Objectivity. All members must maintain objectivity and integrity, be free of conflicts of interest, not knowingly misrepresent facts, and not subordinate his/her judgment to others when performing professional services (in every engagement). The PCAOB's Rule 3500T applies in connection with the preparation or issuance of any audit report. It adopts

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Conduct Rule 102 – *Integrity and Objectivity* (and its Interpretations and Rulings).

Rule 201 – General Standards. A member shall comply with the following:

- 1) Undertake only those services that the member can reasonably expect to complete with *professional competence*.
- 2) Exercise *due professional care* when performing professional services.
- 3) Adequately *plan and supervise* performance of professional services.
- 4) Obtain *sufficient relevant data* to provide a reasonable basis for conclusions in relation to any professional service.
 - a) **Proficiency.** Auditors must have adequate technical training and proficiency. According to SAS 1, both education and experience, as well as proper supervision, are necessary. Objectivity and independent judgment are necessary in the preparation of the audit opinion. An auditor must have experience and seasoned judgment to accept final responsibility for an audit opinion.
 - b) **Due professional care** must be exercised in the planning and performance of the audit and the preparation of the report. According to SAS 1, an auditor should have the degree of skill commonly possessed by other auditors and must exercise it with reasonable care and diligence. An auditor should also exercise *professional skepticism*. The exercise of due professional care allows the auditor to obtain reasonable assurance. Absolute assurance is impracticable due to characteristics of fraud such as concealment by collusion, withheld or falsified documentation, or management override of controls.

Rule 202 – Compliance with Standards. A member who performs professional services must comply with standards issued by designated bodies (the PCAOB and relevant AICPA committees and boards).

Rule 203 – Accounting Principles. A member shall not (1) express an opinion, (2) make an affirmative statement about conformity with GAAP, or (3) state that (s)he is not aware of any material modifications that should be made to achieve conformity with GAAP, given any departure from an accounting principle issued by bodies designated to establish such principles by the AICPA Council (the Financial Governmental Accounting Standards Board, Federal Accounting Standards Advisory Board, and International Accounting Standards Board). The departure must have a material effect on the financial statements or data taken as a whole. However, if the member can demonstrate that, due to unusual circumstances, the financial statements or data would have been misleading without a departure from GAAP, the member can comply with the rule by (1) describing the departure; (2) its approximate effects, if practicable; and (3) the reasons compliance with the principle would be misleading.

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Rule 301 – Confidential Client Information. A member in public practice cannot disclose confidential client information without the client’s consent. However, this Rule does not affect a CPA’s obligations

- 1) To comply with a validly issued and enforceable subpoena or summons or with applicable laws and regulations
- 2) To discharge his/her professional obligations properly under Conduct Rules 202 and 203
- 3) To cooperate in a review of the CPA’s professional practice under AICPA or state CPA society or board of accountancy authorization
- 4) To initiate a complaint with or respond to any inquiry made by the professional ethics division, trial board of the AICPA, or an investigative or disciplinary body of a state society or board of accountancy

Rule 302 – Contingent Fees. A contingent fee is established as part of an agreement under which the amount of the fee is dependent upon the finding or result.

- 1) The receipt of contingent fees by a member is prohibited when the member performs an audit, a review, a compilation when the report will be used by third parties and the report does not disclose the CPA’s lack of independence, or an examination of prospective financial information.
- 2) A contingent fee is not permitted for preparing an original or amended tax return or claim.
- 3) Fees are not deemed to be contingent if fixed by courts or other public authorities, or in tax matters, if they are based on the results of judicial proceedings or the findings of governmental agencies.

Rule 501 – Acts Discreditable. A member shall not commit an act that is discreditable to the profession.

Rule 502 – Advertising and Other Forms of Solicitation. A member in public practice shall not seek to obtain clients by advertising or other forms of solicitation done in a false, misleading, or deceptive manner. Solicitation through coercion, overreaching, or harassing conduct is prohibited.

Rule 503 – Commissions and Referral Fees. A member in public practice shall not accept a commission for recommending or referring to a client any product or service, or for recommending or referring any product or service to be supplied by a client, if the member performs for that client an audit, a review, a compilation when a third party will use the financial statement and the report does not disclose the CPA’s lack of independence, or an examination of prospective financial information.

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- 1) Permitted commissions must be disclosed to any person or entity to whom the member recommends a product or service.
- 2) Any member who accepts a referral fee for recommending services of a CPA or who pays a referral fee to obtain a client must disclose the arrangement to the client. A referral fee is compensation for recommending or referring any service of a CPA to any person. Referral fees are not considered commissions.

NOTE: Conduct Rule 503 prohibits a member in public practice from recommending any product or service to a client when the firm performs (1) an audit or review of financial statements, (2) a compilation of a financial statement that is reasonably expected to be used by a third party if the report does not disclose the CPA's lack of independence, or (3) an examination of prospective financial information for that client.

Rule 505 – Form of Organization and Name. A member may practice public accounting only in a form of organization allowed by law or regulation that conforms with resolutions of the AICPA Council.

- 1) The firm name must not be misleading.
- 2) Names of past owners may be included in the name of the successor organization.
- 3) A firm cannot designate itself as “members of the AICPA” unless all CPA owners are members.

AICPA’s Professional Ethics Executive Committee (PEEC) Proposed Revised and New Interpretations and Proposed Deletion of Ethics Rulings.

In June 2012, the AICPA’s Professional Ethics Executive Committee (PEEC) issued the exposure draft Proposed Revised and New Interpretations and Proposed Deletion of Ethics Rulings. This exposure draft includes a proposal to amend Interpretation No. 101-3, “Nonattest Services,” under Rule 101, Independence (AICPA, Professional Standards, ET sec. 101 par. .05), to make clear that certain services, including financial statement preparation, would be a nonattest service.

Concurrently, the AICPA’s Accounting and Review Services Committee (ARSC) issued the exposure draft Proposed Statements on Standards for Accounting and Review Services Association With Unaudited Financial Statements; Compilation of Financial Statements; and Compilation of Financial Statements—Special Considerations that would, among other things, amend when the compilation standard applies and what action a CPA should take when the CPA has been involved in preparing financial statements but has not been engaged to perform a compilation, review, or audit engagement.

In January 2013, the ARSC voted to withdraw the exposure draft of the proposed SSARs Association With Unaudited Financial Statements; Compilation of Financial Statements; and Compilation of Financial Statements – Special Considerations. The decision to withdraw the exposure draft was in response to comments contained in the 92 comment letters that were received on the exposure draft. The compilation proposal would have revised the applicability of the compilation standard but would have retained the compilation service as an attest service. The association proposal addressed the accountant’s responsibilities when a member is associated with financial statements that have not been compiled, reviewed or audited. The exposure draft proposed that certain legends, notations or disclaimer language would be placed on or with the financial statements when the accountant prepares financial statements but has not compiled, reviewed, or audited the financial statements. After reviewing the comment letters at its meeting in January 2013, the ARSC noted that certain commenters suggested that the compilation service be positioned as a nonattest service consistent with the positioning of preparation of financial statements. A second concern was confusion between the proposed standards and the views of many respondents that they needed to be combined and simplified. The ARSC immediately began work on a new proposal that will respond to these major concerns.

Conceptual Framework – Threats and Safeguards Approach

The threats and safeguards approach can help members comply with the rules in situations not explicitly addressed in the code an approach that the AICPA’s Professional Ethics Executive Committee also uses when developing the code’s interpretations and rulings.

The threats and safeguards approach identifies threats to compliance with the rules and evaluates the significance of those threats. If a threat is not at an acceptable level, members should determine whether safeguards can eliminate or reduce the threat to an acceptable level and, if so, apply such safeguards or, if not, avoid the situation that creates the threat. Members should evaluate in-the-aggregate a situation with multiple threats since the cumulative effect could be at an unacceptable level.

Identifying Threats

Members often face risks of encountering relationships or circumstances that could compromise compliance with the roles (in other words, threats) in their duties or work environments.

Six threat categories are identified to help members identify and develop sensitivity to potential threats:

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1. **Self-review threat.** The threat that a member will not appropriately evaluate the results of prior services performed by the member himself or herself, or by an individual in the member’s firm or employing organization.
2. **Advocacy threat.** The threat that a member will promote a client or employer’s position to the point that his or her objectivity is compromised.
3. **Adverse interest threat.** The threat that a member will not be objective because his or her interests are in opposition to those of a client or employer.
4. **Familiarity threat.** The threat that because of a long or close relationship with a client or employer, a member will become too sympathetic to their interests or too accepting of their work.
5. **Undue influence threat.** The threat that a member will subordinate his or her judgment to that of an individual associated with a client, employer or other relevant third party because of the individual’s (1) reputation or expertise, (2) aggressive or dominant personality, or (3) attempts to coerce or exercise excessive influence over the member.
6. **Self-interest threat.** The threat that a member will act in a manner that is adverse to the interests of his or her firm, employer, client or the public, as a result of the member or his or her close family member’s financial interest in or other relationship with a client or the employer.

Examples of Threats to Compliance with AICPA Rules of Conduct

Situation	Threat
As part of an attest engagement, a member uses consulting work previously done by his firm.	Self-review and self-interest threats to compliance with rules 102 and 201.
A member has charged his employer with violating certain labor laws.	Adverse interest threat to compliance with Rule 102.
An employer pressures a member to be associated with misleading information.	Undue influence threat to compliance with rules 102 and 201
A member is directed to complete a task within an unrealistic time frame.	Undue influence threat to compliance with rules 102 and 201.
Revenue received from a single client is significant to the firm.	Self-interest threat to compliance with Rule 102.

Evaluating the Significance of a Threat

The existence of a threat does not necessarily mean noncompliance with the rules; rather, members should evaluate a threat’s significance by considering whether a reasonable and informed third party, weighing all quantitative and qualitative facts and circumstances, would likely conclude that the threat would

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compromise the member's compliance with the rules. If this evaluation finds that the threat would not compromise a member's compliance, the threat is at an acceptable level, requiring no further evaluation under the guide. If the evaluation finds the threat at an unacceptable level, the member should identify and apply appropriate safeguards.

Identifying and applying safeguards. Safeguards are controls that mitigate or eliminate threats to independence. Required or prohibited actions and internal control measures can serve as safeguards to eliminate or reduce threats to acceptable levels. The profession, legislation and public regulations create some safeguards for all members. Employers implement other safeguards in the specific work environment. Members in public practice also may consider their client's safeguards when evaluating the significance of a threat.

Examples of safeguards and associated threats they might reduce are:

- Peer reviews (actions required by the profession) that consider appropriate reliance on external evidence in attest engagements reduce undue influence threats
- Periodic rotations of senior members on an attest engagement (actions required by Sarbanes-Oxley legislation or a firm's internal controls) reduce familiarity threats
- Limitations of services to clients whose billings would be significant to the firm (actions prohibited by a firm's internal controls) reduce undue influence and self-interest threats
- Avoiding joint ventures with a client (actions prohibited in a firm's internal controls) reduces advocacy and self-interest threats
- Corporate governances that restrict certain services by the corporation's external auditors (actions prohibited by the client's internal controls) reduce self-review threats
- Corporate policies that stress ethical behavior and provide channels to discuss ethical issues without fear of retribution (workplace internal controls, "tone at the top") reduce undue influence threats

Determining which safeguard to apply requires judgment, since a safeguard's effectiveness can vary from one environment to another. Members should analyze a particular situation's facts and circumstances, identify significant threats and then design safeguards, considering:

- The safeguard's objective
- Parties who will be subject to the safeguard
- How the safeguard will be applied (for example, uniformly, consistently, objectively)
- Who will apply the safeguard (for example, a third party, a supervisor, a computer)

A threat is reduced to an acceptable level if, after applying safeguards, a reasonable and informed third party would likely conclude that compliance with the rules is not compromised.

What if there are no effective safeguards?

A threat may be so significant that no safeguard can eliminate or reduce it to an acceptable level. If so, providing the specific professional or employee service will likely cause noncompliance with the rules. While declining or discontinuing the service would prevent a rules violation, the member should also consider the stronger response of resigning from the client or employment position.

Ethical Conflicts Unrelated to Threats

Members may confront ethical conflicts due to internal or external work-environment pressures or conflicts within professional standards unrelated to threats described above. For example, a member may encounter a fraud and feel ethically bound to report it; but reporting the fraud could breach Rule 301’s mandate to maintain client confidentiality. To resolve such ethical conflicts and comply with the rules, the guide recommends that members:

- 1) Recognize and consider all relevant facts and circumstances, including applicable rules, laws or regulations,
- 2) Consider the ethical issues involved,
- 3) Consider established internal procedures, and then
- 4) Formulate alternative courses of action.

After weighing the consequences of each course of action, the member should select the course that best enables compliance with the rules. Before pursuing the selected course of action, the member may want to consult with legal counsel, applicable professional bodies and appropriate firm or employer personnel.

If the conflict remains unresolved after pursuing the selected course of action, the member should consider further consultation with those advisers to review the process and reach a different resolution. Members may be well-advised to document the ethical conflict’s substance, details of discussions and suggested decisions.

What if there is no effective resolution?

If, after exhausting all reasonable possibilities, the ethical conflict remains unresolved, members will probably not be in compliance with the rules if they remain associated with the matter creating the conflict. In this case, members should consider withdrawing from the engagement team or specific assignment, and perhaps consider the stronger response of resigning from the client or employment position.

Applying Threats and Safeguards Approach to Ethics Violation Cases

Case 1: Company controller Davidson, CPA, prepared his employers 2007 financial statements knowing that they misstated revenues. The company’s CEO, who could fire Davidson at will, “strongly urged” Davidson to record sales at full invoice prices despite customers’ fights to return merchandise long after a normal return period. Davidson’s brother-in-law, a company in-house lawyer, wrote the sales contracts and assured Davidson that recording the full sales amounts was appropriate. After investigating the misstatement, the Illinois Department of Financial and Professional Regulation revoked Davidson’s CPA certificate for “negligence in the preparation of financial statements” and “subordination of judgment” even though he was not in public practice.

Solution: CPA Davidson, whose boss urged him to record transactions contrary to GAAP and whose brother-in-law analyzed GAAP for him, should have referred to Interpretation 102-4 that prescribes potentially confrontational actions when a member’s interpretation of GAAP differs from those of his or her supervisors. However, with the “threats and safeguards” approach, the unwelcomed need to invoke Interpretation 102-4 might have been avoided, as in this scenario: Davidson recognized the CEO’s authority to fire him at-will as an *undue influence threat* and his brother-in-law’s legal counsel as a *familiarity threat*. Davidson wrote a memo to his files discussing both threats and his belief that a reasonable and informed third party, weighing all the facts and circumstances, would likely conclude that the threats—separately and in the aggregate—compromise his compliance with rules 102, 201 and 202.

He considered actions or policies that might reduce the two threats to acceptable levels and wrote to the company’s audit committee suggesting safeguards to protect his objectivity: (1) an officer’s employment termination should require a due process hearing before an independent arbitrator, allowing the officer to respond to allegations; and (2) staff preparing financial statements cannot be related to staff generating transactions or related documents. The audit committee adopted the due process personnel policy and assigned Davidson’s brother-in-law to other legal matters. Davidson properly deferred revenue recognition on the dubious sales in accordance with the provisions of ASC 605-15-25-1, *Revenue Recognition: Products* (FAS-48, *Revenue Recognition When Right of Return Exists*).

Case 2: The California Board of Accountancy disciplined Norman & Co., CPAs, (the firm’s name and other facts have been modified) when it audited a bank’s financial statements while the firm’s consulting group concurrently sold the client’s debt consolidation services. The Board of Accountancy imposed a three-year CPA license probation plus frequent and costly peer reviews.

Solution: Two audit team members familiar with the AICPA’s threats and safeguards approach knew that the firm’s consulting group was negotiating a client-firm joint marketing venture and wrote memos identifying a self-review threat, advocacy threat, self-interest threat and independence issues. Their memo labeled the threats severe and urgent. The lead partner found that no safeguards could adequately reduce the threats to acceptable levels, and the firm immediately withdrew from the nonaudit activities.

Case Studies of AICPA Ethics Violations*

1. The Case of the Almost Stolen Clients

Rules That Apply:

AICPA Rule 502, *Advertising or Other Forms of Solicitation*

The Players:

Respondent: Mr. Knotmee

Complaint Submitted by: The Firm

Case Details:

In a letter to the ICPAS**, The Firm indicated that Mr. Knotmee, a former employee, improperly solicited clients of The Firm after his departure. In particular, The Firm stated that:

- At time of Mr. Knotmee’s termination, he was asked to return all copies of any client lists and information. However, he failed to comply with this request.
- Prior to Mr. Knotmee’s termination, his personnel file disappeared, which contained the non-compete agreement.
- In a solicitation (marketing) letter, Mr. Knotmee claims to employ current employees of The Firm. However, these employees have stated that they indeed do not work for Mr. Knotmee.

The Firm disputed some of the claims that Mr. Knotmee made in his marketing letter. Among the disputed claims:

- Mr. Knotmee stated he was a consulting manager at The Firm. The Firm argued that he was classified as staff.
- Mr. Knotmee stated that he parted company with The Firm on April 15, 20xx. The Firm stated that Mr. Knotmee was terminated on March 31 on the same year and that the reasons Mr. Knotmee gave for his dismissal are not representative of reality.
- Mr. Knotmee stated that many of The Firm’s associates worked in conjunction with Mr. Knotmee’s company.

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The Firm stated that there are NO employees at The Firm who work for Mr. Knotmee’s company.

- In Mr. Knotmee’s resume, he stated that he is a member of the AICPA. The Firm knows this to be false.

The ICPAS contacted Mr. Knotmee to inform him of the complaint made by The Firm, and to request a meeting. In the meeting between Mr. Knotmee and the ICPAS, Mr. Knotmee conceded that he should not have claimed to be member of AICPA since he is not. He stated that it was an oversight and he did not attempt to deceive. He also was under the impression that it is the responsibility of The Firm to prove advertising material is false. The Ethics Committee informed him that it is the obligation of the member to verify his own advertising materials. Mr. Knotmee supported his fee claims by presenting invoices by The Firm and by other accounting firms. However, since that type of information is confidential, it could not be disclosed, otherwise it would violate another ethics rule (Rule 301).

Mr. Knotmee said that although he has no employees now except himself, the persons he listed on his solicitation letter would work with him on his request. Mr. Knotmee did not receive any clients from the marketing letter. He promised to refrain from soliciting The Firm’s clients in the future.

Conclusion:

The ICPAS found prima facie evidence that Mr. Knotmee had violated Rule 502.

Corrective Action:

The ICPAS and the AICPA instructed Mr. Knotmee to immediately comply with the ICPAS Code of Professional Conduct, to take and pass the AICPA course, Professional Ethics for CPAs, and to submit evidence that he has passed course.

Lessons Learned:

While we all like to make our resumes as informative as possible, make sure the information is correct, and that you don’t pretend to be who you are not. Information that is false, misleading, or deceptive can get you into big trouble!

2. The Case of the Harmless Mistakes

Rules That Apply:

AICPA 201, *General Standards*

AICPA 501, *Acts Discreditable*

The Players:

Respondent: Mr. Happy

Complainant: Mr. Grampus

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Client: Company RED

Case Details:

In a letter to the ICPAS**, Mr. Grumpus indicated that Mr. Happy and his company billed excessively for work done for Company RED that was considered substandard because it contained errors in projected financial statements. Mr. Grumpus also claimed that the overly aggressive collections method that Mr. Happy used was of low professional conduct. Mr. Happy is a former employee of Mr. Grumpus and his company.

Mr. Happy responded via an interview with the ICPAS and indicated that the error in the projected financial statements was a failure to include the amount of interest expense in the determination of net income. Mr. Happy indicated that the mistake was in the software formula, causing the subtotal not to foot. Mr. Happy said that the error was immaterial. If materiality is based on projected revenue, the errors amounted to less than two percent for each of the three years in question. If it is based on percentage of error on net income, the errors amount to 40%, 15%, and 6% for the same years. Mr. Grumpus relied on the PPC Forecasts and Projections Guide in determining materiality issue. As stated in the PPC guide materiality could be as high as twice that used for the historical financial statements.

Mr. Happy also said that the projected financial statements were not relied upon and that the users were sophisticated financial professionals who caught the error and made manual and mental corrections to the statements. The error had no effect on the complainant's analysis of the projected venture and did not affect their conclusions about not pursuing the venture. The ICPAS investigator contacted Company RED and discovered that had the numbers been correct, the merger would not have been completed anyway due to seller related issues.

Mr. Happy said that an offer to reissue the financial statements was made and that Company RED declined. The ICPAS investigator told Mr. Happy that he should have notified Company RED in writing to state that the financial statements should be reissued.

The second issue concerning unpaid fees are being contested by Company RED as being too high due to excessive hours and credits that have not been applied as stated. Mr. Happy has not issued the billing credit on the advice of legal counsel. The interest charges per the respondent and the complainant have been eliminated from the statements submitted. The ethics committee feels that at this point, the fees should be settled between the parties and will not be an issue in the ethics investigation.

Conclusion:

The case was closed with a determination that no violation of the Code of Professional Conduct occurred. In a letter to Mr. Happy, the committee suggested that as a protective measure, he should put in writing any offers to reissue financial reports should such circumstances arise in the future.

Corrective Action:

None.

Lessons Learned:

While fee disputes are a common source of complaints to the Ethics Committee, they generally do not get involved in them. However in this case the Committee debated whether the work product was being relied on. The Committee determined that although the projection was materially flawed, the principle users had discovered the error and took the error into consideration during their negotiations. At this point, the projection was no longer being relied on.

If a document is in error and the accountant knows this, it is the accountant's responsibility to take all efforts to make all users aware of this, typically through recalling a report and reissuing. However, if the report is not being relied on due to the "staleness" of the document, or the "special purpose" nature of the document having expired, there is no need to recall the report.

3. The Case of the Inadequate Accountant

Rules That Apply:

AICPA Rule 202, *Compliance with Standards*

AICPA Rule 203, *Accounting Principles*

The Players:

Respondent: Mr. Indigo

Complainant: Mr. Whiner

Audited Party: Loser Township

Case Details:

Mr. Indigo performed an audit of the financial statements of the Loser Township for the year ended March 31, 20xx.

Mr. Whiner wrote in a letter to the ICPAS that Mr. Indigo's audit contained major deficiencies. The ICPAS notified Mr. Indigo of the complaint. The ICPAS Ethics Committee investigators met with Mr. Indigo at his office.

At the meeting, Mr. Indigo made the following statements:

- The Loser Township is one of three municipal clients. Their principle practice is in tax and monthly work.
- The firm has not completed a quality review as of yet. The review was scheduled for March 20xx, but was not started. None of the governmental audit work appears to follow yellow book standards.
- The firm has available to it, the AICPA audit guide *Audits of State and Local Governmental Units* and referred to it during the audit.
- The firm also utilized a PPC Guide on Auditor's Reports in drafting its report on the Loser Township financial statements.

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The following deficiencies were discussed and noted at the meeting:

- The financial statements presented a prior year column that was also audited by Mr. Indigo. However, the auditor’s opinion made no reference to the prior year. Other statements were inaccurate or missing.
- Based on review of the footnotes to the financial statements, the following notes were not present:
 - ◆ Reporting entity note
 - ◆ Description of funds
 - ◆ Detail on property tax recognition
 - ◆ Change of general fixed asset-shown as an exhibit not part of the notes
 - ◆ Insurance coverage for cash and investment disclosure
 - ◆ Disclosure on interfund transfers
- The statements, including the footnotes, would not be a complete disclosure and, as such, are not “liftable” as presented.
- The following items were not present in the workpapers:
 - ◆ Assessment of Risk
 - ◆ Determination of Materiality
 - ◆ Evidence of Review
 - ◆ Evidence of Planning

Conclusion:

The committee found evidence that Mr. Indigo violated Rule 202 – *Compliance with Standards*, and Rule 203 – *Accounting Principles*.

Corrective Action:

The Committee instructed Mr. Indigo to comply immediately with professional standards applicable to professional service he performs. They also instructed him to complete 16 hours of specified CPE courses within one year, and show evidence of completion.

Lessons Learned:

Don’t try to do work that is unfamiliar or new to you. Accounting standards have become very complex and specialized. This accountant mainly did monthly and tax work, and only had a few municipal clients. In a case such as this, he may have been better off referring the municipal client to an auditor with more expertise in this field. Another option is to do a joint venture with another firm that has more experience. The corrective action in this case focused on trying to educate the member in the area in which he had some inadequacy. But remember that all the CPE in the world cannot take the place of experience.

* Special thanks to Dr. Howard A. Kanter of the DePaul University School of Accountancy and the ICPAS Ethics Committee for developing and maintaining the Ethics Case Studies.

** ICPAS refers to Illinois CPA Society

Documentation

AU-C Section 230, Audit Documentation, addresses the auditor’s responsibility to prepare audit documentation for an audit of financial statements. It states that the objective of the auditor is to prepare documentation that provides:

- a. a sufficient and appropriate record of the basis for the auditor’s report; and
- b. evidence that the audit was planned and performed in accordance with GAAS and applicable legal and regulatory requirements.

The auditor should prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:

- a. the nature, timing, and extent of the audit procedures performed to comply with GAAS and applicable legal and regulatory requirements;
- b. the results of the audit procedures performed, and the audit evidence obtained; and
- c. significant findings or issues arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.

In documenting the nature, timing, and extent of audit procedures performed, the auditor should record

- a. the identifying characteristics of the specific items or matters tested;
- b. who performed the audit work and the date such work was completed; and
- c. who reviewed the audit work performed and the date and extent of such review.

For audit procedures related to the inspection of significant contracts or agreements, the auditor should include abstracts or copies of those contracts or agreements in the audit documentation.

The auditor should document discussions of significant findings or issues with management, those charged with governance, and others, including the nature of the significant findings or issues discussed, and when and with whom the discussions took place.

If the auditor identified information that is inconsistent with the auditor’s final conclusion regarding a significant finding or issue, the auditor should document how the auditor addressed the inconsistency.

PRP Section 4300, Quality Control Policies and Procedures Documentation Questionnaire for a Sole Practitioner With No Personnel, and **PRP Section 440, Quality Control Policies And Procedures Documentation Questionnaire for Firms with Two or More Personnel**, contain questionnaires which are designed

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to assist in complying with the documentation of the firm's system of quality control. Firms that have developed a comprehensive quality control document as contemplated by SQCS No. 8 may generally provide that document to the peer reviewer in lieu of completing these questionnaires. However, the team captain may request that a firm complete this checklist even if the firm has a quality control document. Firms utilizing this questionnaire as primary documentation of their system of quality control (to assist in complying with the documentation requirements of SQSC No. 8) should consider ongoing changes that may be necessary in their respective practice structure.

SSARS 19, *Compilation and Review Engagements*, allows those of us who issue compilation reports that state we are not independent to have the option to include the reasons why we are not independent. The accountant should prepare documentation in sufficient detail to provide a clear understanding of the work performed (including the nature, timing, extent, and results of review procedures performed) the review evidence obtained and the conclusions reached. They should also document the establishment of an understanding with management through a written communication (that is, an engagement letter) regarding the services to be performed for all SSARS engagements.

AT Section 101, *Attest Engagements*, states that the practitioner should prepare and maintain attest documentation, the form and content of which should be designed to meet the circumstances of the particular attest engagement. Attest documentation is the principal record of attest procedures applied, information obtained, and conclusions or findings reached by the practitioner in the engagement. The quantity, type, and content of attest documentation are matters of the practitioner's professional judgment.

Attest documentation serves mainly to:

- a. Provide the principal support for the practitioner's report, including the representation regarding observance of the standards of fieldwork, which is implicit in the reference in the report to attestation standards.
- b. Aid the practitioner in the conduct and supervision of the attest engagement. For examinations of prospective financial statements, attest documentation ordinarily should indicate that the process by which the entity develops its prospective financial statements was considered in determining the scope of the examination.

Examples of attest documentation are work programs, analyses, memoranda, letters of confirmation and representation, abstracts or copies of entity documents, and schedules or commentaries prepared or obtained by the practitioner. Attest documentation may be in paper form, electronic form, or other media. Attest documentation should be sufficient to (a) enable members of the engagement team with supervision and review responsibilities to understand the nature, timing, extent, and results of attest procedures performed,

and the information obtained and (b) indicate the engagement team member(s) who performed and reviewed the work.

Attest documentation is the property of the practitioner, and some states recognize this right of ownership in their statutes. The practitioner should adopt reasonable procedures to retain attest documentation for a period of time sufficient to meet the needs of his or her practice and to satisfy any applicable legal or regulatory requirements for records retention.

The practitioner has an ethical, and in some situations a legal, obligation to maintain the confidentiality of client information or information of the responsible party. Because attest documentation often contains confidential information, the practitioner should adopt reasonable procedures to maintain the confidentiality of that information.

The practitioner also should adopt reasonable procedures to prevent unauthorized access to attest documentation. Certain attest documentation may sometimes serve as a useful reference source for the client, but it should not be regarded as a part of, or a substitute for, the client's records.

IRS Circular 230 requires that all forms of written tax advice be accompanied by one of the following:

- A complete analysis of all relevant tax issues, discussion of the legal authority behind the conclusions and discussion of the facts and assumptions relevant to the matter under advisement, or
- A very specific disclaimer that the taxpayer may not rely on the advisor's correspondence to avoid penalties.

The first option is very burdensome. Without the second option (the disclaimer), simple written replies would become a thing of the past. The disclaimer must prominently state that the advice was not "intended or written by the practitioner to be used, and that it cannot be used by the taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer." With the disclaimer we can continue to provide quick, accurate responses and also more lengthy analysis that merely does not rise to the level of the voluminous specifications required by the disclaimer-

Review Questions

1. Under the Code of Professional Conduct of the AICPA, which of the following is required to be independent in fact and appearance when discharging professional responsibilities?
 - A. A CPA not in public practice
 - B. A CPA in public practice providing tax and management advisory services
 - C. A CPA in public practice providing auditing and other attestation services
 - D. All CPAs

2. Which of the following statements best explains why the CPA profession has found it essential to promulgate ethical standards and to establish means for ensuring their observance?
 - A. A distinguishing mark of a profession is its acceptance of responsibility to the public
 - B. A requirement for a profession is to establish ethical standards that stress primarily a responsibility to clients and colleagues
 - C. Ethical standards that emphasize excellence in performance over material rewards establish a reputation for competence and character
 - D. Vigorous enforcement of an established code of ethics is the best way to prevent unscrupulous acts

3. The AICPA Code of Professional Conduct states, in part, that a CPA should maintain integrity and objectivity. Objectivity in the Code refers to a CPA's ability:
 - A. To maintain an impartial attitude on all matters that come under the CPA's review
 - B. To independently distinguish between accounting practices that are acceptable and those that are not
 - C. To be unyielding in all matters dealing with auditing procedures
 - D. To independently choose between alternate accounting principles and auditing standards

4. Which of the following reports may be issued only by an accountant who is independent of a client?
 - A. Standard report on an examination of a financial forecast
 - B. Report on consulting services
 - C. Compilation report on historical financial statements
 - D. Compilation report on a financial projection

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5. To exercise due professional care, an auditor should:
 - A. Exercise professional skepticism
 - B. Examine all available corroborating evidence supporting management's assertions
 - C. Design the audit to detect all instances of fraud
 - D. Attain the proper balance of professional experience and formal education

6. A CPA who is not in public practice is obligated to follow which of the following rules of conduct?
 - A. Independence (101)
 - B. Contingent fees (302)
 - C. Commissions (503)
 - D. Integrity and objectivity (102)

Review Answers

1.
 - A. Incorrect. A CPA not in public practice need not be independent.
 - B. Incorrect. A CPA in public practice providing tax and management advisory services need not be independent unless attestation services also are performed.
 - C. **Correct.** According to the Principles of Professional Conduct, *Objectivity and Independence*, “A member in public practice should be independent in fact and appearance when providing audit and other attestation services.”
 - D. Incorrect. All CPAs do not provide attestation services in public practice.

2.
 - A. **Correct.** According to the Principles section of the Code of Professional Conduct, *The Public Interest*, “Members should accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate commitment to professionalism.” According to the accompanying explanation, “A distinguishing mark of a profession is acceptance of its responsibility to the public.”
 - B. Incorrect. The responsibility of CPAs is to a public that is not limited to clients and colleagues but includes all those who rely on their objectivity and integrity.
 - C. Incorrect. Excellence in performance is but one of the effects of accepting responsibility to the public.
 - D. Incorrect. Vigorous enforcement is significant but secondary to the creation of an environment in the profession that fosters voluntary adherence to ethical principles.

3.
 - A. **Correct.** According to the Principles, *Objectivity*, “Objectivity is a state of mind, a quality that lends itself to a member’s services. It is a distinguishing feature of the profession. The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest.”
 - B. Incorrect. The CPA uses both judgment and GAAP to evaluate whether a client’s accounting practices are acceptable.
 - C. Incorrect. The CPA is expected to use professional judgment, which may include flexibility, in applying audit procedures.
 - D. Incorrect. Auditing standards are concerned with the quality of the auditor’s performance, whereas adherence to accounting principles by management is a prerequisite for fairly stated financial statements.

4.
 - A. **Correct.** Conduct Rule 101, *Independence*, states, “A member in public practice shall be independent in the performance of professional services as required by standards promulgated by bodies designated by Council.” Such standards include *Statements on Standards for*

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Attestation Engagements, which apply to, among other things, prospective financial statements (forecasts and projections). Thus, Conduct Rule 101 and the SSAEs require a practitioner to be independent when performing an examination of a financial forecast.

- B. Incorrect. Most consulting services are prohibited by the Sarbanes-Oxley (SOX) Act of 2002.
 - C. Incorrect. Independence is not required of compilation reports on historical financial statements.
 - D. Incorrect. Compilation reports on financial projections do not require independence.
5. A. **Correct.** Conduct Rule 201, *General Standards*, requires auditors to exercise due professional care. Moreover, SAS requires that due professional care be exercised in the planning and performance of the audit and preparation of the report. Exercising due professional care requires professional skepticism. Thus, the auditor should have “an attitude that includes a questioning mind and a critical assessment of audit evidence.”
- B. Incorrect. Sufficient competent evidence should be examined.
 - C. Incorrect. The auditor should “plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.”
 - D. Incorrect. The proper balance of professional experience and formal education is required by the first general standard, which states that the audit must be performed by persons with adequate technical training and proficiency.
6. A. Incorrect. Conduct Rule 101, *Independence*, applies only to CPAs in public practice.
- B. Incorrect. Conduct Rule 302, *Contingent Fees*, applies only to CPAs in public practice.
 - C. Incorrect. Conduct Rule 503, *Commissions and Referral Fees*, applies in part (Referrals) to all members and in part (Commissions) only to members in public practice.
 - D. **Correct.** Under Conduct Rule 102, *Integrity and Objectivity*, all members must maintain objectivity and integrity, be free of conflicts of interest, not knowingly misrepresent facts, and not subordinate his/her judgment to others when performing professional services.

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Virginia Ethics

Learning Objectives

- Pinpoint the number of hours of continuing professional education required of Virginia license holders
- Identify the term used for any act or action, whether written or oral, expressing an opinion or conclusion about the reliability of a financial statement or about its conformity with any financial accounting principle or standard
- Determine the number of hours of CPE related to attest services or compilation services 18VAC5-22-140 requires of persons who release or authorize the release of reports on attest services or compilation services

Board of Accountancy (BOA) Regulations

Important

Participants should monitor the VBOA website (www.boa.virginia.gov) for updates and information and update contact information at the VBOA to ensure communication with the Board. Also, please obtain a copy of the Virginia-Specific Ethics Course 2013 Outline at <http://www.boa.virginia.gov/Docs/2013VA-SpecificEthicsCourseOutline.pdf>

18VAC5-22-10. Definitions

The definitions in § 54.1-4400 of the Code of Virginia apply to these regulations (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5401000044000000000000>), which are reproduced below.

Accredited institution means a degree-granting college or university accredited either by (i) one of the six major regional accrediting organizations-Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges-or their successors; or (ii) an accrediting organization demonstrating to the Board periodically, as prescribed by the Board, that its accreditation process and standards are substantially equivalent to the accreditation process and standards of the six major regional accrediting organizations.

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Assurance means any form of expressed or implied opinion or conclusion about the conformity of a financial statement with any recognition, measurement, presentation, or disclosure principles for financial statements.

Attest services means audit, review, or other attest services for which standards have been established by the Public Company Accounting Oversight Board, by the Auditing Standards Board or the Accounting and Review Services Committee of the American Institute of Certified Public Accountants, or by any successor standard-setting authorities.

Board means the Virginia Board of Accountancy.

Compilation services means compiling financial statements in accordance with standards established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.

Continuing professional education means the education that a person obtains after passing the CPA examination and that relates to services provided to an employer in academia, government, or industry using the CPA title or to services provided to the public using the CPA title.

CPA means certified public accountant.

CPA examination means the national uniform CPA examination approved and administered by the board of accountancy of a state or by the board's designee.

CPA wall certificate means the symbolic document suitable for wall display that is issued by the board of accountancy of a state to a person meeting the requirements to use the CPA title in that state.

Executive Director means the Executive Director of the Board.

Experience means employment in academia, a firm, government, or industry in any capacity involving the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the Board, to provide services to an employer using the CPA title or to the public using the CPA title.

Financial statement means a presentation of historical or prospective financial information about one or more persons or entities.

Firm means an entity formed by one or more licensees as a sole proprietorship, a partnership, a corporation, a limited liability company, or any other type of entity permitted by law.

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License of another state means the license that is issued by the board of accountancy of a state other than Virginia that gives a person the privilege of using the CPA title in that state or that gives a firm the privilege of providing attest services and compilation services to persons and entities located in that state.

Licensed means holding a Virginia license or the license of another state.

Licensee means a person or firm holding a Virginia license or the license of another state.

Peer review means a review of a firm’s attest services and compilation services that is conducted in accordance with the applicable monitoring program of the American Institute of Certified Public Accountants or its successor, or with another monitoring program approved by the Board.

Practice of public accounting means the giving of an assurance other than (i) by the person or persons about whom the financial information is presented or (ii) by one or more owners, officers, employees, or members of the governing body of the entity or entities about whom the financial information is presented.

Providing services to an employer using the CPA title means providing to an entity services that require the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the Board.

Providing services to the public using the CPA title means providing services that are subject to the guidance of the standard-setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6 of § 54.1-4413.3.

State means any state of the United States, the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

Using the CPA title in Virginia means using “CPA,” “Certified Public Accountant,” or “public accountant” (i) in any form or manner of verbal communication to persons or entities located in Virginia or (ii) in any form or manner of written communication to persons or entities located in Virginia, including but not limited to the use in any abbreviation, acronym, phrase, or title that appears in business cards, the CPA wall certificate, Internet postings, letterhead, reports, signs, tax returns, or any other document or device.

Virginia license means a license that is issued by the Board giving a person the privilege of using the CPA title in Virginia or a firm the privilege of providing

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attest services and compilation services to persons and entities located in Virginia.

18VAC5-22-20. Fees

A. The board shall charge the following fees for services it provides:

Processing an application to take the CPA examination	\$120
Re-exam application	\$20
Pre-Evaluation of Transcripts	\$25
CPA Exam Score Transfers	\$25
Processing an application for issuance of a Virginia license	\$75
Processing an application for the timely renewal of a Virginia license	\$60
Additional fee for processing an application for a license renewal that is not timely	\$100
Processing an application for reinstatement of a Virginia license	\$500
Processing an application for lifting the suspension of the privilege of using the CPA title in Virginia or for lifting the suspension of the privilege of providing attest services or compilation services for persons or entities located in Virginia	\$500
Manual fee payments (non-online use)	\$25
Written (Official) Verification of Licensure online	\$25
Written (Official) Verification of Licensure manual	\$50
Providing an additional wall certificate	\$25
Failure to Respond to Board Requests	\$100

B. All fees for services the board provides are due when the service is requested and are nonrefundable.

18VAC5-22-30. Determining whether persons or entities to whom communications are made, or for whom services are provided, are located in Virginia

For the purpose of complying with Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia for communication to persons or entities located in Virginia or providing services for persons or entities located in Virginia, **persons** are considered to be located in Virginia if their primary residence for federal income tax reporting is located in Virginia, and **entities** are considered to be located in Virginia if they conduct any activities in Virginia.

Note: Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia can be accessed on <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5401000044000000000000>.

18VAC5-22-40. Determining whether a person who holds a Virginia license is providing services to the public using the CPA title or to an employer using the CPA title

For the purpose of determining whether a person who holds a Virginia license is providing services to the public using the CPA title or to an employer using the CPA title, as those terms are defined in § 54.1-4400 of the Code of Virginia, because of the written information readily available to the public through the board’s Internet postings, holding a Virginia license constitutes using the CPA title. Accordingly, a person who holds a Virginia license:

1. Is providing services to the public using the CPA title if he provides services that are subject to the guidance of the standard-setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6 of § 54.1-4413.3 of the Code of Virginia.
2. Is providing services to an employer using the CPA title if he provides to an entity services that require the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the board.

18VAC5-22-50. Determining whether the principal place of business of a person using the CPA title, or of a firm, is in Virginia

Complying with subdivision A 1 of § 54.1-4409.1, subsection B of § 54.1-4411, or subsection B of § 54.1-4412.1 of the Code of Virginia requires the person or firm to use reasonable judgment in determining whether Virginia is the principal place of business in which the person provides services to the public using the CPA title or the firm provides attest services or compilation services. The determination shall be reasonable considering the facts and circumstances and can be based on quantitative or qualitative assessments. The determination shall be reconsidered for changes in facts and circumstances that are not temporary.

18VAC5-22-60. Determining whether a college or university is an accredited institution

- A. For the purpose of complying with subdivision A 1 a of § 54.1-4409.2 of the Code of Virginia, a college or university that is not accredited by one of the six major regional accrediting organizations listed in the definition of accredited institution in § 54.1-4400 of the Code of Virginia or their successors shall be considered an accredited institution if it is accredited by an accrediting organization recognized by the Council on Higher Education Accreditation (CHEA) or its successor. Publication of the name of the accrediting organization by CHEA or its successor shall be sufficient notification that the accrediting organization is recognized by CHEA or its successor.

- B. To determine whether a college or university is an accredited institution if it is accredited by an accrediting organization that is neither one of the six major regional accrediting organizations or their successors, nor an accrediting organization recognized by CHEA or its successor, representatives of the accrediting organization shall meet with a task force appointed by the board to study and recommend to the board how the organization shall demonstrate that its accreditation process and standards are substantially equivalent to the accreditation process and standards of the six major regional accrediting organizations or their successors. The size and composition of the task force shall depend on the facts and circumstances. However, at least one of the members of the task force shall have substantial experience with the accreditation process and standards of the six major regional accrediting organizations or their successors.

After the task force provides its recommendations to the board, the board shall decide what the requirements shall be to demonstrate that the accreditation process and standards of the accrediting organization are substantially equivalent to the accreditation process and standards of the six major regional accrediting organizations or their successors and shall communicate its decision to the organization. The organization shall then provide the required documentation to the board that will enable the board to decide whether a college or university accredited by the organization is an accredited institution as defined in § 54.1-4400 of the Code of Virginia.

18VAC5-22-70. Education

- A. In order for a person to take the CPA examination through Virginia, he must have obtained from one or more accredited institutions or from the National College at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent prior to taking any part of the CPA examination.
- B. For the purpose of complying with subsection A of this section and with subdivision A 1 a of § 54.1-4409.2 of the Code of Virginia, obtaining an accounting concentration or equivalent requires obtaining at a minimum:
1. 24 semester hours of accounting courses, including courses in auditing, financial accounting, management accounting, and taxation; and
 2. 24 semester hours of business courses, no more than six semester hours of which could be considered accounting courses.

Principles or introductory accounting courses cannot be considered in determining whether a person has obtained the 48 minimum number of semester hours required for an accounting concentration or equivalent.

18VAC5-22-80. Examination

- A. In order to comply with subdivision A 1 b of § 54.1-4409.2 of the Code of Virginia:

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1. Each section of the CPA examination must be passed by attaining a uniform passing grade established through a psychometrically acceptable standard-setting procedure approved by the board.
 2. Persons may take sections of the CPA examination in any order.
 3. A person who fails a section of the CPA examination may not retake that section until the next quarter of the calendar year.
 4. When a person first passes a section of the CPA examination, he has 18 months to pass the remaining sections. If the remaining sections are not passed within the 18- month period, the person loses credit for the first section passed, and a new 18-month period starts with the next section passed.
- B. Failure to comply with the policies established by the board for conduct at the CPA examination may result in the loss of eligibility to take the CPA examination or credit for sections of the CPA examination passed. Cheating by a person in connection with the CPA examination shall invalidate any grade earned on any section of the CPA examination and may warrant expulsion from the CPA examination site and disqualification from taking the CPA examination for a specified period of time as determined by the board.
- C. The board may postpone scheduled CPA examinations, the release of grades, or the issuance of licenses under the following circumstances:
1. A breach of CPA examination security;
 2. Unauthorized acquisition or disclosure of the contents of a CPA examination;
 3. Suspected or actual negligence, errors, omissions, or irregularities in conducting a CPA examination; or
 4. Any other reasonable circumstances.
- D. Prior to being considered for a Virginia license, a person shall pass an ethics examination approved by the board.

18VAC5-22-90. Continuing professional education

- A. If during the current calendar year a person who holds a Virginia license provided services to the public using the CPA title, he shall have obtained at least 120 hours of continuing professional education during the three-calendar-year period ending with the current calendar year. For each of the calendar years in that period, he shall have obtained at least 20 hours of continuing professional education, including an ethics course of at least two hours.
1. If the person also holds the license of another state and Virginia is not the principal place of business in which he provides services to the public using the CPA title, the ethics course taken to comply with this subsection either shall conform with the requirements prescribed by the board or shall be an ethics course acceptable to the board of accountancy of another state in which the person holds a license.

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2. Otherwise, the ethics course shall conform with the requirements prescribed by the board.
- B. If during the current calendar year a person who holds a Virginia license provided services to an employer using the CPA title and did not provide services to the public using the CPA title, he shall have obtained a minimum number of hours of continuing professional education determined as follows:
1. If the current calendar year is 2009 or 2010, the person shall have obtained at least 90 hours of continuing professional education during the three-calendar-year period ending with the current calendar year. For each of the calendar years in that period, he shall have obtained at least 15 hours of continuing professional education, including an ethics course of at least two hours.
 2. If the current calendar year is 2011 or later, the person shall have obtained at least 120 hours of continuing professional education during the three-calendar-year period ending with the current calendar year. For each of the calendar years in that period, he shall have obtained at least 20 hours of continuing professional education, including an ethics course of at least two hours.

The ethics course taken to comply with this subsection either shall conform with the requirements prescribed by the board or shall be an ethics course acceptable to the board of accountancy of another state in which the person holds a license.

- C. If during the current calendar year a person who holds a Virginia license provided services to the public using the CPA title or to an employer using the CPA title and did not hold a Virginia license or the license of another state during one or both of the two preceding calendar years, he shall determine whether he has complied with the requirements of subsection A or B of this section as follows:
1. If the person became licensed during the current calendar year, he shall be considered to have met the requirements of the subsection for the three-calendar-year period ending with the current calendar year.
 2. If the person became licensed during the preceding calendar year, he shall be considered to have met the requirements of the subsection for the three-calendar-year period ending with the current calendar year if during the current calendar year he obtained at least the minimum number of hours of continuing professional education required by the subsection for the current calendar year, including an ethics course of at least two hours.
 3. If the person became licensed during the calendar year prior to the preceding calendar year, he shall be considered to have met the requirements of the subsection for the three-calendar-year period ending with the current calendar year if during the current calendar year and the preceding calendar year he obtained at least the minimum number of hours of continuing professional education required by the

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subsection for each of the years, including for each year an ethics course of at least two hours.

- D. If during the current calendar year a person who holds a Virginia license did not provide services to the public using the CPA title or to an employer using the CPA title, he is not required to have obtained continuing professional education during the three-calendar-year period ending with the current calendar year. However, in order to begin providing those services:
1. He is required to have obtained at least 120 hours of continuing professional education prior to providing the services, including an ethics course of at least two hours.
 2. The ethics course shall conform with the requirements prescribed by the board for the calendar year in which the person begins providing the services.

Continuing professional education obtained during the three calendar years prior to the current calendar year and from the start of the current calendar year to when he begins providing the services shall be considered in determining whether the person has complied with the requirements of this subsection.

- E. If a person who has not held the license of any state applies for a Virginia license after the end of the calendar year in which he passes the CPA examination, he shall obtain continuing professional education prior to applying for the license, including an ethics course of at least two hours.
1. The required minimum number of hours of continuing professional education shall be 40, 80, or 120 depending on whether he applies for the Virginia license by the end of the first calendar year after the calendar year in which he passes the CPA examination, by the end of the second calendar year, or later.
 2. The ethics course shall conform with the requirements prescribed by the board for the calendar year in which the person applies for the license.

Continuing professional education obtained subsequent to passing the CPA examination but during the three calendar years prior to the calendar year in which the person applies for the license and from the start of that calendar year to when he applies for the license shall be considered in determining whether he has complied with this requirement.

- F. Continuing professional education acceptable to the board may be obtained through a variety of forums, provided there is a means of demonstrating that the education was obtained. The following forums are acceptable:
1. Attendance at seminars and educational conferences, provided that the instructors have appropriate knowledge of the subject matter and use appropriate teaching materials and that attendance is monitored in a manner that can be verified by the board;
 2. Taking courses at an accredited institution for credit;

3. Self-study courses, provided there is a method for determining that the person met the learning objectives;
4. Making a presentation at a professional seminar, educational conference, or in a classroom setting, provided the person has appropriate knowledge of the subject matter and uses appropriate teaching materials; and
5. Writing material that is relevant to providing services to an employer using the CPA title or to the public using the CPA title, that is formally reviewed by an independent party, and that is published in a book, magazine, or similar publication that is used by persons who provide services to the public using the CPA title or to an employer using the CPA title.

Whether other forums are acceptable shall be determined by the board on a case-by-case basis.

- G. In determining whether a person has obtained the required number of hours of continuing professional education:

Repeat presentations shall not be considered.

No more than 30 hours from preparing for and making presentations shall be considered during each three-calendar-year period.

One semester-hour of credit for courses at an accredited institution constitutes 15 hours of continuing professional education, and one quarter-hour of credit constitutes 10 hours of continuing professional education.

- H. Depending on the facts and circumstances, the board may waive all or part of the continuing professional education requirement for one or more calendar years or grant additional time for complying with the continuing professional education requirement, provided that the waiver or deferral is in the public interest.

18VAC5-22-100. Experience

Prior to applying for a license, a person must have been employed in academia, a firm, government, or industry in any capacity involving the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the board, to providing services to the public using the CPA title or to an employer using the CPA title for a period that is the full-time equivalent of one year. Whether other skills are relevant shall be determined by the board on a case-by-case basis. Self-employment does not meet the definition of experience in § 54.1-4400 of the Code of Virginia.

18VAC5-22-110. Demonstrating that a person's education, CPA examination, and experience are substantially equivalent to the requirements for obtaining a Virginia license

Subdivision A 2 of § 54.1-4411 of the Code of Virginia does not require the person to notify the board that the person's education, CPA examination, and

experience are substantially equivalent to the requirements for obtaining a Virginia license.

18VAC5-22-120. Supervision of firm personnel

To comply with subdivision C 2 of § 54.1-4412.1 of the Code of Virginia, a person's work must be planned, supervised, and reviewed by a person who either (i) holds a Virginia license or (ii) holds the license of another state and complies with the substantial equivalency provisions of § 54.1-4411 of the Code of Virginia.

18VAC5-22-130. Owners of firms who are not licensees

To comply with subdivision D 2 of § 54.1-4412.1 of the Code of Virginia, owners of a firm who are not licensees must be persons who, based on the facts and circumstances, participate in the firm's activities on a regular, continuous, and substantial basis.

18VAC5-22-140. Persons who release or authorize the release of reports

- A. To comply with subdivision D 4 of § 54.1-4412.1 of the Code of Virginia, a person who releases or authorizes the release of reports on attest services or compilation services provided for persons or entities located in Virginia shall annually obtain a minimum of eight hours of continuing professional education related to attest services or compilation services. The hours obtained to meet this requirement shall be considered in determining whether the person has complied with the requirements of 18VAC5-22-90.
- B. Firms providing attest services or compilation services shall establish policies and procedures to provide the firm with reasonable assurance that persons who release or authorize the release of reports on attest services or compilation services possess the kinds of competencies that are appropriate given the facts and circumstances. These policies and procedures shall address the required technical proficiency, familiarity with the industry and the person or entity, skills that indicate sound professional judgment, and other competencies necessary under the circumstances.

18VAC5-22-150. Monitoring program and peer review

In order to comply with subdivision D 6 of § 54.1-4412.1 of the Code of Virginia, a firm shall comply with all components of the monitoring program in which it is enrolled, except that, depending on the facts and circumstances, the board may waive the requirement for a peer review or grant additional time for complying with the requirement.

18VAC5-22-160. Confidential consent agreements

To determine whether to enter into a confidential consent agreement under subsection A of § 54.1-4413.5 of the Code of Virginia, the board shall consider a violation minor if the board believes that the violation was not intentional misconduct, was not the result of gross negligence, and did not have a significant financial impact on persons or entities. The board shall enter into no more than two additional confidential consent agreements with a person or firm within 10 years after the first confidential consent agreement.

18VAC5-22-170. Communication between the board and licensees

A. When requested by the board:

1. Persons or firms applying for the issuance, renewal, or reinstatement of a Virginia license or for lifting the suspension of the privilege of using the CPA title in Virginia or providing attest services or compilation services for persons or entities located in Virginia shall provide the board with support for their conclusion that they have complied with applicable provisions of Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia and this chapter.
2. Firms shall provide the board with proof of enrollment in a monitoring program and copies of reports and other documentation related to acceptance of their peer reviews.
3. Persons or firms shall provide the board documents related to the board's investigation of their possible violation of provisions of Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia or this chapter.

Each person or firm shall respond within 30 calendar days to any request for information by the board under this subsection.

- B. Each holder of a Virginia license shall notify the board in writing within 30 calendar days of any change in the holder's name or in the postal and electronic addresses where the person or firm may be reached.
- C. The board shall transmit license renewal notices electronically unless a person or firm is unable to communicate electronically. However, § 54.1-4413.2 of the Code of Virginia places the responsibility for renewing a Virginia license on its holder, and that responsibility is not affected by whether the holder receives a license renewal notice.

Review Questions

1. If, during the current calendar year, a person who holds a Virginia license provided services to the public using the CPA title, he shall have obtained at least _____ hours of continuing professional education during the three-calendar-year period ending with the current calendar year, including an ethics course of at least two hours.
 - A. 120
 - B. 90
 - C. 40
 - D. 20

2. What term is used for a determination by the board or its designee that the education, CPA examination and work-experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, CPA exam and experience?
 - A. Peer review
 - B. Regulant
 - C. Substantial equivalency
 - D. SSARS

3. Notification of change of an address or name must be communicated in writing to the board within what time period?
 - A. 30 days
 - B. 15 days
 - C. 45 days
 - D. 60 days

Review Answers

1.
 - A. **Correct.** If, during the current calendar year, a person who holds a Virginia license provided services to the public using the CPA title, he shall have obtained at least 120 hours of continuing professional education during the three-calendar-year period ending with the current calendar year.
 - B. Incorrect. At least of 90 hours of CPE is required of a person who holds a Virginia license provided services to an employer using the CPA title and did not provide services to the public using the CPA title during the current calendar year.
 - C. Incorrect. The 40-hour CPE can be required of to a person who applies for the Virginia license by the end of the first calendar year after the calendar year in which he passes the CPA examination, by the end of the second calendar year, or later.
 - D. Incorrect. For each of the calendar years in that period, a Virginia licensee who provides services to the public using the CPA title shall have obtained at least 20 hours of continuing professional education.

2.
 - A. Incorrect. Peer review means a study, appraisal or review by a CPA certificate holder who is not affiliated with the firm being reviewed.
 - B. Incorrect. Regulant means any CPA certificate holder or registration certificate holder who is subject to the regulation codes of Virginia.
 - C. **Correct.** Any individual CPA from another jurisdiction who has met the education, CPA requirements and work-experience that are comparable or exceed the codes required by the Board of Accountancy of Virginia is considered to be substantially equivalent.
 - D. Incorrect. SSARS stands for Statements on Standards for Accounting Review Services established by the AICPA.

3.
 - A. **Correct.** Each regulant shall notify the Board in writing within 30 days of any change of status.
 - B. Incorrect. Holders of certificated shall notify the Board of any change of status in writing within thirty days of the change.
 - C. Incorrect. Compliance with 18VAC 5-21-110 requires a written notification within thirty days of any change of address or name by a licensee or certificate holder's firm.
 - D. Incorrect. Notification for a change of status must be communicated to the Board in writing within 30 days to be in compliance with the accountancy Code of Virginia.

Appendix A

The Framework for Determining When a Holder of a Virginia License is Required to Obtain Continuing Professional Education

A1. The Board’s mission is to protect the public, and the Board believes continuing professional education should be required when it is necessary to protect the public. Since many licensees do not provide services to the public, the framework for determining when a holder of a Virginia license is required to obtain continuing professional education is structured according to two categories of services—services provided to the public and services provided to an employer.

A2. Consistent with its mission of protecting the public, the Board believes licensees who provide services to the public should be required to obtain continuing professional education. However, the number of licensees who provide services to an employer in academia, government, or industry now exceeds the number of licensees who provide services to the public. Those licensees provide a wide variety of services to their employers, and the services often do not require the use of skills a person needs to become licensed.

A3. Services provided to the public generally are three-party engagements—the licensee, the person or entity who engaged the licensee to provide the service, and one or more third-party users of the results of the service provided by the licensee. Services provided to an employer generally are two-party engagements—the licensee and the employer.

A4. While there is no bright line in applying the Board’s mission to a two-party engagement, a practical approach that best protects the public is to base the determination of whether continuing professional education is required on the relative importance of the license to the employer. Two illustrations of the notion of relative importance follow.

- a. If a licensee becomes a sales representative for an entity, the fact that the person is licensed is not important to the entity and requiring him to obtain continuing professional education would not be consistent with the Board’s mission.
- b. If a licensee becomes the chief financial officer or the internal auditor of an entity, the fact that he is licensed is important to the entity and requiring him to obtain continuing professional education would be consistent with the Board’s mission.

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A5. The Board established two criteria for assessing relative importance—whether the services the licensee provides to the employer require the use of skills that are *relevant* to determining whether the licensee should be required to obtain continuing professional education *and* whether the licensee uses those skills to fulfill a *substantial* portion of his responsibilities to the employer.

A6. The framework added to the accountancy statutes through the 2007 revisions is based on three definitions that appear in § 54.1-4400:

- a. *Continuing professional education* means the education that a person obtains after passing the CPA examination and that relates to services provided to an employer in academia, government, or industry using the CPA title or to services provided to the public using the CPA title.
- b. *Providing services to an employer using the CPA title* means providing to an entity services that require the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the Board.
- c. *Providing services to the public using the CPA title* means providing services that are subject to the guidance of the standard-setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6 of § 54.1-4413.3.

A7. Under this framework—

- a. Continuing professional education is only required when it is necessary to protect the public.
- b. Continuing professional education is considered necessary to protect the public when a licensee *either*—
 - (1) provides services to the public or
 - (2) provides services to an employer that require the substantial use of skills that are relevant to determining whether the licensee should be required to obtain continuing professional education.

A8. The *accountancy statutes do not require* a licensee to obtain continuing professional education if he does not provide services to the public *and* he does not provide services to an employer that require the substantial use of relevant skills. However, the new regulations clarify that in order for a licensee who is not required to obtain continuing professional education *to begin providing* these services:

- a. He is required to have obtained at least 120 hours of continuing professional education prior to providing the services, including an ethics course of at least two hours.
- b. Continuing professional education obtained during the three calendar years prior to the current calendar year and from the start of the current calendar year to when he begins providing the services shall be

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considered in determining whether the licensee has complied with that requirement.

A9. A Roadmap. A roadmap for applying the framework prescribed by the statutes follows.

- a. Does the licensee provide services to the public?
 - (1) If the answer is *yes*, stop: the licensee is required to obtain continuing professional education.
 - (2) If the answer is *no*, go to the next question.
- b. Does the licensee provide services to an employer in academia, government, or industry?
 - (1) If the answer is *no*, stop: the licensee is not required to obtain continuing professional education.
 - (2) If the answer is *yes*, go to the next question.
- c. Do the services the licensee provides to the employer require the use of skills that are relevant to determining whether he should be required to obtain continuing professional education?
 - (1) If the answer is *no*, stop: the licensee is not required to obtain continuing professional education.
 - (2) If the answer is *yes*, go to the next question.
- d. Does the licensee use those skills to fulfill a substantial portion of his responsibilities to the employer?
 - (1) If the answer is *no*, stop: the licensee is not required to obtain continuing professional education.
 - (2) If the answer is *yes*, stop: the licensee is required to obtain continuing professional education.

A10. If a licensee is not required to obtain continuing professional education:

- a. He is *still permitted to use the CPA title* in Virginia.
- b. If he begins providing services that would require him to obtain continuing professional education, he will be subject to the continuing professional education requirements prospectively and *to protect the public* will also be *subject to a catch-up requirement* that must be met *before* he begins *providing* those services.

A11. Practical Illustrations. A series of practical illustrations follows to show how to determine whether a licensee is required to obtain continuing professional education under the new requirements and how the new requirements are less restrictive than the superseded requirements.

A12. Illustration 1. The managing partner of a CPA firm holds a Virginia license and leaves the firm to become the chief executive officer of an entity. She only provides services that would be expected of a chief executive officer. None of those services requires the use of skills that would be relevant to determining

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whether she should be required to obtain continuing professional education. She is therefore not required to obtain continuing professional education. (The answer would have been the same under the superseded requirements.)

A13. Illustration 2. Change the facts in illustration 1 so that it later becomes apparent that the chief financial officer may leave and not prepare the annual financial statements. The licensee offers to prepare the annual financial statements if the chief financial officer leaves and a replacement cannot be found in time. Preparing financial statements *requires the use of skills that are relevant* to determining whether the licensee should be required to obtain continuing professional education. *However*, the licensee has only *offered* to provide the service. *Only services provided are considered under the new framework*. She is therefore not required to obtain continuing professional education. (The answer would have been different under the superseded requirements. Since they included *offering* to provide *any* services that require the use of *accounting skills*, she would have been required to obtain continuing professional education. Because the new requirements are less restrictive, the licensee is *no longer required* to obtain continuing professional education.)

A14. Illustration 3. Change the facts in illustration 2 so that the chief financial officer leaves, a replacement cannot be found in time, and the licensee prepares the annual financial statements. Preparing financial statements *requires the use of skills that are relevant* to determining whether the licensee should be required to obtain continuing professional education. *However*, the licensee *does not use those skills to fulfill a substantial portion of her responsibilities to the employer*. She is therefore not required to obtain continuing professional education. (The answer would have been different under the superseded requirements. Since they included providing *any* services that require the use of *accounting skills*, she would have been required to obtain continuing professional education even though this was a special, one-time situation. Because the new requirements are less restrictive, the licensee is *no longer required* to obtain continuing professional education.)

A15. Illustration 4. The general manager of a car dealership holds a Virginia license. Each year, he prepares the dealership's federal and state income tax returns. Preparing income tax returns *requires the use of skills that are relevant* to determining whether the licensee should be required to obtain continuing professional education. *However*, the licensee *does not use those skills to fulfill a substantial portion of his responsibilities to the employer*. He is therefore not required to obtain continuing professional education. (The answer would have been different under the superseded requirements. Since they included *preparing tax returns for an employer*, he would have been required to obtain continuing professional education even though he did not use those skills to fulfill a substantial portion of his responsibilities to the employer. Because the new

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requirements are less restrictive, the licensee is *no longer required* to obtain continuing professional education.)

A16. *If in addition to preparing the dealership's tax returns, the licensee also prepares income tax returns for a few relatives and friends as a side venture, he would be considered to be providing services to the public and is required to obtain continuing professional education. (The answer would have been the same under the superseded requirements.)*

A17. Illustration 5. A licensee is a project manager for an entity that develops real estate. His responsibilities include analyzing potential sites for their development potential and making recommendations to the owners of the entity, preparing budgets for projects adopted, and analyzing and reporting significant variances between budgeted and actual results. The development of prospective information and the financial analyses are services that *require the use of skills that are relevant* to determining whether the licensee should be required to obtain continuing professional education. *However, the licensee does not use those skills to fulfill a substantial portion of his responsibilities to the employer.* He is therefore not required to obtain continuing professional education. (The answer would have been different under the superseded requirements. They included providing *any* services that require the use of *accounting skills and reports on financial advisory services for an employer.* Because the new requirements are less restrictive, the licensee is no longer required to obtain continuing professional education.)

A18. Illustration 6. A licensee is the development director of a not-for-profit organization. A significant part of his responsibilities is consulting with potential donors and their advisors about the income tax and estate tax planning considerations for making contributions to the organization and obtaining and allocating federal and state tax credits. Those services *require the use of skills that are relevant* to determining whether the licensee should be required to obtain continuing professional education. In addition, the licensee *uses those skills to fulfill a substantial portion of his responsibilities to the employer.* As a practical matter, the fact that he is licensed was likely an important consideration to the organization in hiring him. He is therefore required to obtain continuing professional education. (The answer would have been the same under the superseded requirements. They included *furnishing advice on tax matters for an employer.*)

Practical Aspects for Maintaining Licensure
Continuing Professional Education (CPE) Requirements for
Licensed CPAs in Virginia

The requirement to obtain CPE depends on whether services are provided by licensed Virginia CPAs to the public or to an employer. In general, there are 3 categories of CPE requirements:

1. If during the current calendar year a person who holds a Virginia license provided services to the **public** using the CPA title, he must obtain at least 120 hours of CPE during the 3 calendar-year period ending with the current calendar year. For each of the calendar years in that period, he must obtain at least 20 hours of CPE, including a Virginia-specific ethics course of at least 2 hours. The course outline is approved by the Virginia Board of Accountancy (VBOA).

Beginning in calendar year 2011, persons who release or authorize the release of reports are required to obtain at least 8 hours each year of CPE related to attest or compilation services.

2. If during the current calendar year a person who holds a Virginia license provided services to an **employer** using the CPA title and did not provide services to the public using the CPA title, he must obtain a minimum number of hours of CPE determined as follows:
 - a. If the current calendar year is 2009 or 2010, the person must obtain at least 90 hours of CPE during the 3 calendar-year period ending with the current calendar year. For each of the calendar years in that period, he must obtain at least 15 hours of CPE, including a Virginia-specific ethics course of at least 2 hours.
 - b. If the current calendar year is 2011 or later, the person must obtain at least 120 hours of CPE during the 3 calendar-year period ending with the current calendar year. For each of the calendar years in that period, he must obtain at least 20 hours of CPE, including a Virginia-specific ethics course of at least 2 hours.
3. If during the current calendar year a person who holds a Virginia license **did not** provide services to the public using the CPA title or to an employer using the CPA title, he is **not required** to obtain CPE during the 3 calendar-year period ending with the current calendar year. However, in order to **begin** providing those services:
 - a. He is required to have obtained at least 120 hours of CPE prior to providing the services, including a Virginia-specific ethics course of at least 2 hours.
 - b. The Virginia-specific ethics course shall conform with the requirements prescribed by the Board for the calendar year in which the person begins providing the services.

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Will the VBOA accept any class/certification/course as CPE?

- Effective 10/6/99 the VBOA no longer requires CPE providers to obtain approval to conduct CPE classes for licensed CPAs in Virginia.
- The subject matter of the CPE is left up to the individual CPA. **In general, as long as the CPA receives a certificate of completion that clearly shows the sponsor's name, participant's name, course/content name, date taken, and CPE hours earned, it will qualify as valid CPE credit.**
 - The VBOA conforms to the nationally generally accepted guideline that one credit hour of CPE consists of 50 minutes of instruction.
 - When selecting CPE classes, it is important to remember that the VBOA defines CPE as: **the education that a person obtains after passing the CPA Examination and that relates to services provided to an employer in academia, government, or industry using the CPA title or to services provided to the public using the CPA title.**

The provider does not issue CPE credits for a course I've taken. Will the VBOA grant CPE credit?

Be aware that the VBOA itself does not pre-approve, or verify, any course, seminar or publications (writing material) as qualifying for CPE at this time. The certificate of completion or other documentation must include the number of CPE credits awarded by the provider. Writing materials will be evaluated on a case-by-case basis considering the specific facts and circumstances.

License Renewal

Do I have the correct amount of CPE to renew my license?

When renewing your license you must certify that you met your CPE requirements for the CPE reporting cycle in question. The CPE reporting cycle is ALWAYS the 3 CPE reporting years immediately preceding the current year – therefore, at renewal, you must have already obtained the required number of CPE for the reporting cycle. The CPE reporting year is based on a calendar year – you have between January 1 and December 31 of each year to obtain the required minimums; however, you must have the total required CPE at the end of each 3 year rolling cycle (including 2 hours of Virginia-specific ethics course each year).

I did not receive my renewal notice, what should I do?

The VBOA sends courtesy renewal notices 30 days prior to your license expiration; however, *failure to receive notice does not relieve the licensee of the requirement to renew and pay the required fee.* The date the VBOA receives the renewal fee will determine whether other fees are due. Late fees or reinstatement fees will not be refunded or waived.

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Providing Updated Contact Information

Each licensee must notify the VBOA in writing within 30 days of any change of physical address, email address or name. Failure to provide updated contact information could result in your inability to receive any critical email notices (e.g., CPE audit selection notification, renewal notices, etc.) from us.

Appendix B

Actual BOA Enforcement Cases

The following cases were adjudicated by the Virginia Board of Accountancy (VBOA) as a result of the Board’s enforcement process:

Summary of Violations	Rationale	VBOA Action	Date Closed
<p>CASE #1</p> <p><u>FINAL ORDER</u> <u>§ 54.1-4413.3</u> <u>18VACS-22-90</u></p> <p>Acts Discreditable</p> <p>CPE Deficiency</p>	<p>The Regulant violated the Standards of Conduct and Practice by falsely obtaining \$500,000 in life insurance proceeds from the Trust of his deceased wife as noted in the court documents from United States District Court, Eastern District of Virginia.</p> <p>The Regulant was charged and convicted of Conspiracy to Commit Wire Fraud and Aggravated Identity Theft.</p> <p>The VBOA also found the Regulant to be in violation of allowing a false statement to be filed with the Social Security Administration knowing the signature was a forgery.</p>	<p>The VBOA ordered the immediate revocation of the CPA’s license with a requirement to return the wall certificate within 30 days of the entry date of the Final Order.</p> <p>The VBOA imposed a monetary penalty of \$100,000 to be paid within 90 days of the entry date of the Order.</p> <p>The Regulant shall reimburse the VBOA for the reasonable cost of \$500 within 90 days of the entry date of the Order for the investigation of this matter.</p>	8/21/2012
<p>CASE #2</p> <p><u>FINAL ORDER</u> <u>§54.1-4413.3,</u> <u>§54.1-4412.1(B),</u> <u>(D)</u> <u>18VACS-22-90 (A)</u> <u>18VACS-22-140 (A)</u> <u>18VACS-22-170 (B)</u></p> <p>Violation of Standards of Conduct and Practice;</p> <p>Providing public accounting services without a valid CPA firm</p>	<p>The Regulant provided attest and compilation services without a valid CPA firm license and failed to enroll in a peer review program.</p> <p>The Regulant also violated the Standards of Conduct and Practice by:</p> <ul style="list-style-type: none"> ▪ Failing to supervise his employees who did not advise him of client calls and thus made him unavailable to clients; ▪ Failing to test software for accuracy which would have confirmed that e-filed returns 	<p>The VBOA ordered the immediate revocation of the CPA license with a requirement to return the wall certificate within 30 days of the entry date of the Final Order.</p> <p>The VBOA imposed a monetary penalty of \$10,000 to be paid within 90 days of the entry date of the Order.</p> <p>The Regulant shall reimburse the VBOA for the reasonable cost of \$500 for the investigation of this matter within 90 days of the entry date of the Order.</p>	8/21/2012

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Summary of Violations	Rationale	VBOA Action	Date Closed
<p>license;</p> <p>Failure to obtain a peer review;</p> <p>Failure to provide the VBOA with CPE certificates of completion; and</p> <p>Failure to report a new address to the VBOA.</p>	<p>were accepted or rejected by the Internal Revenue Service.</p> <p>This failure caused his client to have his 501 (C) 3 status revoked by the IRS for failure to file a timely tax return; and</p> <p>Failing to properly manage his accounting practice in that rather than determine why the e-filed returns were not being accepted by the IRS he merely requested that they paper file their returns. Practitioners who prepare more than 11 tax returns are required to e-file tax returns.</p> <p>The Regulant violated 18VAC5-22-90 (A) by failing to submit the required 120 CPE certificates of completion to the VBOA, to include the required 8 hours of CPE in attest and compilation.</p> <p>The Regulant violated 18VAC5-22-170 (B) of the VBOA's regulations by failing to properly notify the VBOA of his change of address within the required 30 calendar days.</p>	<p>The Regulant shall notify all clients by letter that he is no longer licensed by the VBOA as a CPA with a copy of such letter to the VBOA. He shall advise all attest clients that they should seek an alternate CPA to provide their services.</p> <p>The Regulant shall remove all CPA signage from business cards, newspapers, business letterhead, computer software, any and all advertisement, social media, email signatures, email addresses or any document or signature using the CPA designation.</p> <p>As a condition of consideration for any future applications for CPA licensure the Respondent is required to provide the VBOA with the following:</p> <ul style="list-style-type: none"> ▪ Obtain an additional 20 hours of CPE in Peer Review; and, ▪ Obtain an additional 20 hours of CPE in management of an accounting practice. <p>The additional CPE will not be considered as part of the standard requirements of 120 CPE required for reinstatement to include the 2 hours of Virginia-specific Ethics CPE to become licensed in Virginia as a CPA.</p> <p>The Respondent shall demonstrate to the VBOA's satisfaction he has obtained knowledge of how to effectively manage the administrative and personnel side of a public accounting practice.</p>	

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Summary of Violations	Rationale	VBOA Action	Date Closed
<p>CASE #3</p> <p><u>FINAL ORDER</u> <u>§ 54.1-4413.3</u> <u>18VAC5-22-90</u></p> <p>Acts Discreditable</p> <p>CPE Deficiency</p>	<p>The Regulant violated the Standards of Conduct and Practice by pleading guilty and being convicted of 41 felonies.</p> <p>The felonies include 21 charges of Check Forgery and 20 charges of Grand Larceny for the unlawful forging of payroll checks from the client while employed at the Complainant's firm.</p> <p>The CPA communicated with the client directly and supervised the work that was being done by the staff of the Complainants firm with no check signing authority for this client.</p> <p>The Respondent deposited the client's checks into his personal bank account.</p> <p>The Respondent was ordered to pay restitution to the Clerk of Courts in the amount of \$101,000.</p> <p>The sum of \$21,000 is owed to the client, and \$80,000 is owed to the insurance company.</p> <p>The Respondent also failed to submit the required 120 CPE certificates of completion for the calendar years of 2009, 2010 and 2011.</p>	<p>The VBOA ordered the immediate revocation of the CPA license with a requirement to return the wall certificate within 30 days of the entry date of the Final Order.</p> <p>The VBOA imposed a monetary penalty of \$50,000 within 90 days of the entry date of the Order.</p> <p>The Regulant shall reimburse the VBOA for the reasonable cost of \$500 for the investigation of this matter within 90 days of the entry date of the Order.</p> <p>The Regulant shall remove all CPA signage from business cards, letterhead, computer software, advertisement, email signatures or any document in that he cannot use the CPA designation.</p>	
<p>CASE #4</p> <p><u>FINAL ORDER</u> <u>§ 54.1-4413.3</u> <u>IRS Circular 230</u> <u>subsection 10.28</u> <u>ET Section 02.501-</u></p>	<p>The Regulant failed to exercise due professional care in the performance of professional services by:</p> <ul style="list-style-type: none"> ▪ Failing to complete his client's tax returns in a timely manner; 	<p>The VBOA ordered that the Regulant's license be placed on suspension for a period of no less than one year from the entry date of the Final Order.</p>	<p>5/2/2012</p>

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Summary of Violations	Rationale	VBOA Action	Date Closed
<p><u>1</u> <u>ET Section 53-</u> <u>Article II</u> <u>18VAC5-22-90</u> <u>18VAC5-22-170</u></p> <p>Standards of Conduct and Practice</p> <p>Due Professional Care</p> <p>Acts Discreditable</p> <p>CPE Deficiency</p>	<ul style="list-style-type: none"> ▪ Failing to return client records upon several requests for tax documents made by the client beginning in early September 2009; ▪ Failing to provide copies of tax returns he insinuated that he had prepared upon several requests made by the client beginning in early September 2009; ▪ Failing to discharge his responsibility with integrity, objectivity, due professional care and genuine interest by failing to prepare timely tax returns; ▪ Failing to advise the client that he had not prepared the returns and failing to convey the seriousness of the matter when the IRS and the IRS Agent made a request for the tax returns of his clients; ▪ Failing to provide the VBOA with any CPE; and ▪ Failing to respond to the VBOA regarding a request to respond to the allegations as referenced in the complaint. 	<p>The Respondent shall remove all CPA designation signage until the CPA license has been reinstated by the VBOA.</p> <p>Reinstatement requires the following:</p> <ul style="list-style-type: none"> ▪ Certificates of completion for 8 hours of CPE in IRS Circular 230, the AICPA Code of Conduct, Statement on Standards for Tax Services (SSTS), and Ethics; and ▪ Certificates of completion for 20 hours of CPE in Practice Management. ▪ The Respondent will be required to present before the full Board what his responsibilities to his clients and to a regulatory Board are. <p>The VBOA imposed a monetary penalty of \$2,750 to be paid within 90 days of the entry date of the Order.</p> <p>The Regulant shall reimburse the VBOA for the reasonable cost of \$500 for the investigation of this matter.</p>	
<p>CASE #5</p> <p><u>FINAL ORDER</u> <u>§54.1-4413. (3)</u> <u>and (4) (B) 4</u></p> <p>SEC Violation</p> <p>This section of the <u>Code of Virginia</u> provides the VBOA</p>	<p>The VBOA received notice from the SEC that the Regulant entered into an Offer of Settlement to suspension from practice before the SEC.</p> <p>The court ordered the Regulant to pay \$19,080 in disgorgement fees, \$9,078 in prejudgment interest, and a</p>	<p>The VBOA ordered that the Respondent be reprimanded for his lack of due professional care regarding the improper accruals.</p> <p>The Regulant shall reimburse the VBOA for the reasonable cost of \$1,000 for the investigation of this matter.</p>	<p>5/2/2012</p>

Appendix A

Summary of Violations	Rationale	VBOA Action	Date Closed
<p>with the authority to sanction a licensee for the suspension of practice before the SEC in that the VBOA may impose penalties, revoke or suspend his CPA license in Virginia.</p>	<p>\$175,000 civil monetary penalty totaling \$203,158.</p> <p>The SEC's complaint alleged that the Regulant directed and engaged in improper accounting which resulted in a company filing materially false and misleading financial statements and that the Company fraudulently committed accounting violations through the conduct of the Regulant and others.</p>		
<p>CASE #6</p> <p><u>CONSENT ORDER §54.1-111, §54.1-4409.1 and §54.1-4414</u></p> <p>Unlicensed Activity</p>	<p>The VBOA received notification from several anonymous citizens by way of phone call and a written complaint regarding the unlicensed use of the CPA designation by a firm in Lynchburg, Virginia.</p> <p>The firm was also offering to perform CPA services without a valid firm license stating the firm would provide audits, reviews and compilations.</p>	<p>The owner of the firm consented to:</p> <ul style="list-style-type: none"> ▪ A monetary penalty of \$2,000 to be paid within 90 days of the entry date of the Order. ▪ Reimbursement to the VBOA for the reasonable cost of \$500 for the investigation of this matter. ▪ Immediately removing all signage, to include her website address, business cards, circulars, letterhead, newspaper and/or Internet ads indicating she is a CPA or her firm is a CPA firm. 	<p>4/26/2012</p>

VBOA Executive Director Jewell Discusses Changes to Licensure Fees

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The Virginia Board of Accountancy (VBOA) is in the process of updating its CPA licensure fees. Gov. Bob McDonnell approved the revised fee proposal in February, moving it into the public comment stage. The VSCPA spoke with VBOA Executive Director Wade Jewell (right) to shine some light on the potential changes from the Board's perspective.

This interview was conducted via email.



VSCPA: In a big-picture sense, what was the decision-making process that led you to decide to increase licensure fees?

Wade Jewell: The Virginia Board of Accountancy (VBOA) was re-established as an independent board effective July 1, 2001. As an independent, nongeneral fund agency, fees the VBOA charges for services it provides are its only source of revenues. Penalties assessed by the VBOA for violations of the accountancy statutes and regulations do not provide revenues for the VBOA. Instead, they are deposited into the Commonwealth's Literary Fund. In addition to maintaining an Operating Account, the VBOA is required to maintain a separate Trust Account. The Trust Account (internally referred to as the "Madoff Fund") is primarily designed to have sufficient cash to fund expenses incurred in the study, research, investigation or adjudication of matters involving possible violations of the accountancy statutes or regulations.

Fees the VBOA charges for services it provides must be sufficient to fund both its operating expenses and the needed accumulation of cash in the Trust Account. Virginia CPA licensure fees have not been increased since 1991 (over 20 years). During this time, the profession has continually grown, technology has changed with

significantly increased expenditures as a result of the Virginia Information Technologies Agency (VITA) and Northrop Grumman partnership, overall expenses have risen with inflation, and the need for staff resources has increased. As a result, the VBOA has run an operating deficit for five consecutive years. Projections indicate the VBOA will exhaust all cash balances by early calendar year 2013.

A significant portion of the VBOA expenditures are state-mandated. Excluding salaries and fringe benefits of a lean staff operation, only 6 percent of the VBOA budget is considered "discretionary." Additionally, the process for changing a regulatory agency's fee structure is very time-consuming, often taking up to three years from initial notification to implementation, and regulatory agencies must often wait at least six years between fee increases. Many factors can change during this lengthy process that can affect a nongeneral fund agency's cash position.

VSCPA: How do the increased fees compare to licensure fees for other professions in Virginia? How do they compare to individual CPA and firm licensure fees in other states?

WJ: Examples of other professional licensure fees in Virginia include:

- **Lawyers** — Original Application: \$375; Annual Dues for Active Members: \$250
- **Landscape Architects** — Original Application: \$125; Annual Renewal: \$55
- **Chiropractors** — Original Application: \$277; Annual Renewal: \$156
- **Licensed Practical Nurses (LPN)** — Original Application: \$170; Annual Renewal: \$60
- **Barbers, Cosmetologists and Nail Technicians** — Original Application: \$70; Annual Renewal: \$70; "Shop" (i.e. firm) license — Original Application: \$112.50; Annual Renewal: \$112.50

Each state board of accountancy has a unique fee structure relative to their specific licensing statuses. Virginia currently ranks the lowest in fees out of 55 jurisdictions, while maintaining the eighth-largest number of individually licensed CPAs.

VSCPA: What is the financial situation at the VBOA? What steps has the Board taken to reduce its expenses?

WJ: For reasons explained above, the VBOA has run an operating deficit for five consecutive years, projecting that at the current rate of expenditures, it will

Appendix A

exhaust all cash balances by early calendar year 2013 without a fee increase.

The following is a breakdown of the VBOA's current budget:

- Salaries and benefits: 65 percent
- Fixed costs:
 - Information technology (IT)-related: 17 percent
 - Support services and insurance: 7 percent
 - Building/space rental: 5 percent
 - Discretionary costs: 6 percent

While only 6 percent of the VBOA budget is considered "discretionary," the Executive Director continually looks for opportunities to improve efficiencies and to reduce costs.

The VBOA has reduced expenditures where appropriate, to include information technology expenses associated with hardware and telecommunications (fixed costs). Day-to-day operating expenses are monitored frequently, with monthly financial reports reviewed by the Executive Director and Board members to ensure resources are effectively utilized while ensuring the VBOA mission to protect the citizens of the Commonwealth is not compromised.

In conclusion, the VBOA takes its fiduciary responsibilities seriously and must balance the need to provide outstanding customer service, processes and products with associated costs.

VSCPA: Virginia licensure fees have not been increased since 1991. What was the VBOA's reasoning behind keeping them the same for so long?

WJ: The fact that licensure fees have not been increased for such a long period of time has been intentional. The VBOA remains prudent with regard to all expenditures, believing that fees should only be changed when absolutely necessary.

VSCPA: How have state-mandated expenses affected the VBOA's financial status?

WJ: As an independent, nongeneral fund agency, fees the VBOA charges for services it provides are its only

source of revenues. All increases in expenditures must be absorbed by the existing fee structure (revenues). Comparing fiscal year 2003 expenditures to the fiscal year 2012 budget, the following are highlights of significant increases in state mandated expenditures during this time:

- Nearly 800 percent increase in information technology-related expenses paid to the Virginia Information Technologies Agency (VITA) and a partnership with Northrop Grumman
- Nearly 200 percent increase in building rental expenses (2007 consolidation with other state agencies).
- State-mandated employee salary increases and bonuses approved by the General Assembly and the Governor
- Compliance with new internal control requirements as a result of the Sarbanes-Oxley Act (Agency Risk Management and Internal Control Standards)

Rising or new costs relative to state-mandated expenditures, coupled with no fee increase for over 20 years, have led to the VBOA's current financial status.

VSCPA: Under the proposal, the additional fee for processing an application of a license renewal that is not timely would quadruple to \$100. What is the reason for such a dramatic increase?

WJ: The VBOA mission is to protect the citizens of the Commonwealth through a regulatory program of licensure and compliance of CPAs and CPA firms. A key component of this mission is to ensure that Virginia CPAs maintain or renew their license on an annual basis. Failure to renew a license and to continue practicing and/or using the CPA title may result in disciplinary action. The increased fee for the late renewal of a license is meant to encourage compliance to avoid further potential disciplinary action and to protect the citizens of the Commonwealth of Virginia from unlicensed activity. It is the goal of the VBOA to have no late renewals.

VSCPA: There are several new fees being instituted, such as those for official licensure verification and transcript

evaluations. Could you provide some information about the reasoning for instituting these fees?

WJ: This fee package does not in any way affect an individual's ability to verify an individual or firm's licensure status in Virginia, for no fee. The VBOA provides that ability on its website [in a section] called "Licensee Search." This is a free service to anyone. In addition, the National Association of State Boards of Accountancy (NASBA) has launched a new website called CPAVerify. This website allows consumers to search a national database for CPAs and CPA Firms for participating states. Virginia is one of 24 states and jurisdictions currently participating in CPAVerify. The VBOA also provides a link on its website homepage to this national database.

The proposed fee for verification of licensure is for requests we receive from currently licensed CPAs, firms and businesses that seek an "official letter of verification" from the VBOA to be sent to other individuals or organizations, and often request more detailed information than the general licensure status of individuals and firms found on our website. This information is often sent to employers, other state boards of accountancy, various societies and even other countries. These requests require staff research, preparation of a letter and mailing costs.

A new fee has also been proposed for a preliminary evaluation of "unofficial" transcripts. Students often request that VBOA staff perform an evaluation of [their] current transcripts, prior to their graduation, to ensure they will meet VBOA requirements to sit for the CPA exam upon graduation and/or become licensed in Virginia. The VBOA publishes these requirements on our website and in a student handbook. Therefore, the request for a "pre-evaluation" is an interim, non-required step in the application process. Upon graduation, students must submit an "official" transcript(s) that must be evaluated once again. The pre-evaluation of a transcript is time consuming and duplicates the work of VBOA staff. The proposed fee for a preliminary evaluation of transcripts has been set to cover administrative costs incurred to perform this service.

Glossary

Deontology (Kantian Ethics)

The concept of duty and the rightness of acts. It emphasizes maxims, duties, rules, and principles that are so important that they should be followed whatever the consequences.

Ethical Dilemma

A situation in which a decision must be made about the appropriate behavior.

Ethics

Standards of professional conduct and business practices adhered to by professionals in order to enhance their profession and maximize idealism, justice and fairness when dealing with the public, clients and other members of their profession.

Independence of Mind

The state of mind that permits the performance of an attest service without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional skepticism.

Independence in Appearance

The avoidance of circumstances that would cause a reasonable and informed third party, having knowledge of all relevant information, including safeguards applied, to reasonably conclude that the integrity, objectivity, or professional skepticism of a firm or a member of the attest engagement team had been compromised.

Independence in Fact

The auditor's ability to take an unbiased viewpoint in the performance of professional services.

Indirect Financial Interest

A close, but not direct, ownership relationship between the auditor and the client; an example is the ownership of stock by a member's grandparent.

Interpretations

The means used to explain the application of the spirit of a Principle or Rule to specific situations in which the Principle or Rule may not be sufficiently clear or explicit.

Glossary

Member

A member, associate member, or international associate of the AICPA.

Moral

An accepted rule or standard of human behavior.

Objectivity

A state of mind, a quality that lends itself to a member's services. The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest.

Principles

Broad guidelines for behavior and are not intended to be specific. Principles cover the concepts of responsibilities to the public, integrity, objectivity and independence, professional due care, as well as to whom the principles apply.

Rules

Enforceable guidelines that govern all services performed by the CPA in the practice of public accounting.

Utilitarianism (Teleological Ethics)

The promotion that the best long-term interest of everyone concerned should be the moral standard. One should take those actions that lead to the greatest balance of good versus bad consequences.