



Virginia Society of
Certified Public
Accountants



Ethics 2008 —

Your License Depends On It!



**Virginia Society of
Certified Public
Accountants**

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Virginia Society of CPAs

Discussion Leader Manual

CPE presentation developed by:

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Course Information

In 2003, at the request of the Virginia Board of Accountancy (BOA), the Virginia General Assembly passed a law requiring all CPAs in Virginia to take an annual ethics CPE course. The BOA then adopted regulations outlining specific criteria for the course.

Ethics 2008 — Your License Depends On It! has been carefully and thoroughly developed to give you the important information you need to meet the BOA's 2008 ethics requirement. The course content changes every year based on guidance from the BOA.

Who must take this course?

All Virginia CPAs must take two hours of ethics CPE every year. CPAs in Maryland and the Washington, D.C., may use this course to satisfy two hours of their biennial ethics requirements. If you are licensed in Virginia and North Carolina, and you reside and work in Virginia, this course satisfies the North Carolina State Board of CPA Examiners ethics requirement. If you are licensed in Virginia and Tennessee, and you reside and work in Virginia, this course satisfies the Tennessee State Board of Accountancy ethics requirement. If you are licensed in Virginia and Tennessee, and you primarily work in Tennessee, this course satisfies two hours of the Tennessee State Board of Accountancy biennial ethics requirement.

Who developed this course?

The Virginia Society of CPAs (VSCPA) worked with Rebecca E. McCoy, CPA, to develop the most comprehensive and up-to-date course to meet this requirement.

Rebecca E. McCoy, CPA, Biography

Rebecca E. McCoy, CPA, provides consulting services and education programs to landowners as well as nonprofit and governmental entities in utilizing conservation easements, historic rehabilitation programs and land donations to preserve land and historic properties. Her practice centers on real estate strategies, estate and income tax planning for individuals and the use of long-term charitable gifting programs to maximize tax benefits. McCoy currently serves as vice chair on the VSCPA Board of Directors and has previously served as a Tax Resource Group Leader and member of numerous VSCPA taxation and educational committees. McCoy co-authored the VSCPA course, *2007 Ethics — Your License Depends On It!* and authored several articles on conservation easements for VSCPA magazine Disclosures. She is a member of AICPA and the Peninsula Estate Planning Council. She has previously served on the board for the Middle Peninsula Land Trust, a nonprofit organization committed to preserving land for conservation or open space use. Ms. McCoy is a member of the Mathews Rotary Club, serving as past president and Foundation chair. She currently serves on the Boards of the Mathews Community Foundation and Riverside Walter Reed Hospital. McCoy is a sole practitioner with an office located in Mathews County, Virginia.

Acknowledgement

The author gratefully acknowledges the efforts of Jim Brackens, CPA, Erin Collins and Harry Dickinson, CPA, Ph.D., who prepared earlier versions of the Virginia ethics CPE course. Much of this 2008 course is built on the foundation of the prior years' courses.

Where can CPAs get more information?

General Information

VSCPA

www.vscpa.com

Phone: (804) 270-5344

Toll-free phone: (800) 733-8272

CPE department: (800) 341-8189

Fax: (804) 273-1741

Street address: 4309 Cox Road, Glen Allen, VA 23060

E-mail: vscpa@vscpa.com

Professional Ethics

AICPA

www.aicpa.org

AICPA Ethics Hotline: (888) 777-7077

E-mail ethics inquiries: ethics@aicpa.org

Professional Code of Conduct: www.aicpa.org/about/code/index.htm

VSCPA

Toll free phone: (800) 733-8272

E-mail ethics inquiries: ethics@vscpa.com

Virginia Accountancy Laws and Regulations

Virginia Board of Accountancy

www.boa.virginia.gov

Phone: (804) 367-8505

Address: 3600 W. Broad Street, Suite 696, Richmond, VA 23230-4916

E-mail: boa@boa.virginia.gov

Introduction

Present the course in your own speaking style, but cover the required topics in the time indicated in each section (timing is suggested, not required, by the BOA). In your introduction, be sure to mention that this course will satisfy other state ethics requirements as listed below. Maryland's requirement is four hours of ethics CPE every two years, while D.C. and North Carolina match Virginia's requirement of two hours every year. Please be aware that the page numbers in your manual are different from the attendees' manuals due to the extra discussion leader instructions in this manual.

Welcome to the Virginia Society of CPAs' (VSCPA) continuing professional education (CPE) course, ***Ethics 2008 — Your License Depends On It!***

This course engages you through the use of actual cases and practical scenarios involving ethics violations. The course material provides a review of Virginia Board of Accountancy (BOA) and American Institute of CPAs (AICPA) Professional Ethics Executive Committee recent activities along with an overview of selected provisions of the Virginia Accountancy Statute, the BOA Regulations and the AICPA Code of Professional Conduct (the Code). You will answer multiple choice and true/false questions about the cases and scenarios. Through discussion of the correct answers, you will be exposed to new provisions of the Virginia Accountancy Statute and the Code as well as existing rules and regulations.

Please note that this course only provides an overview of recent changes and existing provisions in ethical standards and regulations. The scenarios are not intended to be the official positions of the BOA or Ethics Committee. For specific advice related to ethical standards or BOA regulations, please research the applicable standards and/or seek advice from the AICPA, VSCPA or BOA, as appropriate. Contact information for these organizations is located on the previous page. The Ethics Code is easily accessible through the AICPA or BOA Web sites.

Ethics CPE Requirements

Developed in accordance with the Virginia Board of Accountancy's (BOA) required outline, this course meets Virginia's annual, two-hour ethics requirement. CPAs in Maryland and the Washington, D.C., may use this course to satisfy two hours of their biennial ethics requirements. If you are licensed in Virginia and North Carolina, and you reside and work in Virginia, this course satisfies the North Carolina State Board of CPA Examiners ethics requirement. If you are licensed in Virginia and Tennessee, and you reside and work in Virginia, this course satisfies the Tennessee State Board of Accountancy ethics requirement. If you are licensed in Virginia and Tennessee, and you primarily work in Tennessee, this course satisfies two hours of the Tennessee State Board of Accountancy biennial ethics requirement. For further information, please visit "Ethics CPE" in the "CPE & Networking" section of www.vscpa.com.

What Are Ethics?

According to the American Heritage Dictionary, ethics are “The rules or standards governing the conduct of the members of a profession.”

The word *ethics* comes from the Greek *ethos*, meaning character. In most discussions regarding ethics, the term is used in reference to the individual character of a person or persons. In philosophy, the term *ethics* refers to morality, concentrating specifically on human conduct and values. In Virginia, *ethics* as applied to the CPA profession encompasses the rules and standards established by the Board of Accountancy (BOA). These rules mandate the professional behavior of CPAs in Virginia in providing services regulated by the BOA.

The following sections provide an update to the current regulatory environment for CPAs practicing in Virginia. In each section, examples are provided of some of the consequences of decisions based on Virginia law and the American Institute of CPAs (AICPA) Code of Professional Conduct issues.

Virginia Board of Accountancy (BOA) Highlights

Allow approximately 30 to 45 minutes to cover Virginia BOA highlights through AICPA activities. Do not go into great detail on any one topic, as this will take too much time, but refer the attendees to the text for the details after you hit the highlights presented in the PowerPoint slides.

BOA Activities

In the 2007 session, the Virginia General Assembly passed legislation to modify the Virginia Accountancy Statute. The responsibility of the BOA, like other regulatory boards in Virginia, is to protect the health, safety and welfare of the citizens of the Commonwealth. Because persons other than CPAs can provide services such as tax preparation and planning, consulting and business valuations, much of the BOA focus is on attest services and compilation services in accordance with standards established by AICPA designated bodies. The AICPA Code of Professional Conduct, however, must cover all areas of practice by CPAs.

In the appendix to this manual, please find a copy of the article "A Fresh Look at Licensing Requirements," which appeared in the September/October 2007 issue of the Virginia Society of CPAs' (VSCPA) bimonthly member publication, *Disclosures*. The article describes the changes to BOA legislation and the continuing process to update the regulations under which the legislation is enforced. The following is intended to highlight the major changes to the Virginia legislation.

New Firm Registration Requirements

Information in this section allows CPAs from other states, whose principal place of business is not in Virginia, to provide attest and compilation services without obtaining a Virginia license. However, CPAs are responsible for determining when they must obtain a Virginia license. Unlicensed practice carries stiff penalties and is the subject of many complaints filed with the BOA. Refer to the BOA enforcement case studies for some examples of how the BOA addresses unlicensed practice and how important cooperation for compliance is on the part of the CPA.

The 2007 legislative changes included defined criteria for firm licensure. The criteria describe:

- When a firm must be licensed in Virginia
- When an out-of-state firm may provide regulated services in Virginia without a Virginia license
- Who may be an owner of a Virginia licensed CPA firm
- Standards for performing regulated services
- Practice monitoring program requirements

§ 54.1-4412.1. Licensing requirements for firms.

- A. Only a firm can provide attest services or compilation services to persons or entities located in Virginia. However, this shall not affect the privilege of a person who is not licensed to say that financial statements have been compiled or to use the compilation language, as prescribed by subsections B and C of 54.1-4401.
- B. A firm that provides attest services or compilation services to persons or entities located in Virginia shall obtain a Virginia license if the principal place of business in which it provides those services is in Virginia.
- C. A firm that is not required to obtain a Virginia license may provide attest services or compilation services to persons or entities located in Virginia if:
 - 1. The firm's personnel working on the engagement either (i) hold a Virginia license or (ii) hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411, or
 - 2. The firm's personnel working on the engagement are under the supervision of 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.
- D. For a firm to obtain a Virginia license:
 - 1. As determined on a firm-wide basis:
 - a. At least 51 percent of the owners of the firm shall be licensees, trustees of an eligible employee stock ownership plan as defined in § 13.1-543, or a firm that meets this requirement; and
 - b. At least 51 percent of the voting equity interest in the firm shall be owned by persons who are licensees, by trustees of an eligible employee stock ownership plan as defined in § 13.1-543, or by a firm that meets this requirement. If the death, retirement, or departure of an owner causes either of these requirements not to be met, the requirement shall be met within one year after the death, retirement or departure of the owner.
 - 2. The Board shall prescribe requirements concerning the hours that owners who are not licensees work in the firm and may prescribe other requirements for those persons.
 - 3. All attest services and compilation services provided for persons and entities located in Virginia shall be under the supervision of 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.
 - 4. Any person who releases or authorizes the release of reports on attest services or compilation services provided for persons or entities located in Virginia shall—
 - a. Either (i) hold a Virginia license or (ii) hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411; and
 - b. Meet any additional requirements the Board prescribes.
 - 5. The firm shall conduct its attest services and compilation services in conformity with the standards of conduct and practice in § 54.1-4413.3 and regulations promulgated by the Board.
 - 6. The firm shall be enrolled in the applicable monitoring program of the American Institute of CPAs or its successor, or in another monitoring

program for attest services and compilation services that is approved by the Board. In addition, the firm shall comply with any requirements prescribed by the Board in response to the results of peer reviews.

7. The name of the firm shall not be false, misleading or deceptive.
- E. The Board shall prescribe the methods and fees for a firm to apply for the issuance, renewal or reinstatement of a Virginia license.
- F. An entity may not use the CPA title in Virginia unless it meets the requirements of subdivision D.

The AICPA Peer Review Program in Virginia is administered by the Virginia Society of CPAs. To obtain additional information on the registration requirements for this program, refer to the VSCPA Web site or contact the VSCPA at (800) 733-8272 or ethics@vscpa.com.

§ 54.1-4413.3. Standards of conduct and practice.

This section will be covered in practical application, including scenarios, later in the presentation. Please point out to attendees that the AICPA Code of Professional Conduct (the Code) is now specifically referenced in the statute. Therefore all sections of the Code and the other standards referenced in the statute are now part of Virginia law.

Persons using the CPA title in Virginia and firms providing attest services or compilation services for persons or entities located in Virginia shall conform to the following standards of conduct and practice:

- A. Exercise sensitive professional and moral judgment in all activities.
- B. Act in a way that serves the public interest, honors the public trust and demonstrates commitment to professionalism.
- C. Perform all professional responsibilities with the highest sense of integrity, maintain objectivity and freedom from conflicts of interest in discharging professional responsibilities, and avoid knowingly misrepresenting facts or inappropriately subordinating judgment to others.
- D. Follow the Code of Professional Conduct, and the related interpretive guidance, issued by the American Institute of CPAs, or any successor standard-setting authorities.
- E. Follow the technical standards, and the related interpretive guidance, issued by committees and boards of the American Institute of CPAs that are designated by the Council of the American Institute of CPAs to promulgate technical standards, or that are issued by any successor standard-setting authorities.
- F. Follow the standards, and the related interpretive guidance, as applicable under the circumstances, issued by the Comptroller General of the United States, the Federal Accounting Standards Advisory Board, the Financial Accounting Standards Board, the Governmental Accounting Standards Board, the Public Company Accounting Oversight Board, the U.S. Securities and Exchange Commission, comparable international standard-setting authorities or any successor standard-setting authorities.
- G. Do not engage in any activity that is false, misleading or deceptive.

Virginia Practice Privilege for Out-of-State CPAs

The 2007 legislative changes clarified when CPAs must obtain a Virginia license and when they are eligible to use the CPA title in Virginia without first obtaining a Virginia license. Virginia's legislation is a model for practice mobility. Unlike some states (California, Illinois

and North Carolina), non-Virginia CPAs are able to provide services to Virginia clients without a mandated Virginia license, as long as they hold a valid license from a substantially equivalent state. Virginia legislative changes also clarified the use of the CPA title by individuals not providing services to the public, but who hold a valid license from another state with substantial equivalency.

§ 54.1-4409.1. Licensing requirements for persons.

Please note to attendees that CPAs are now license holders, not certificate holders. The only definition of a "certificate" left in the legislation is in reference to the wall certificate.

- A. A person must be licensed in order to use the CPA title in Virginia. (Using the CPA title in Virginia means using CPA, Certified Public Accountant or public accountant in any form or manner of verbal or written communication to persons or entities located in Virginia.)
 - 1. The person shall hold a Virginia license if he provides services to the public using the CPA title and the principal place of business in which he provides those services is in Virginia.
 - 2. Other persons shall not be required to hold a Virginia license in order to use the CPA title in Virginia provided they hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411.
- B. The Board shall prescribe the methods, fees and CPE requirements for a person to apply for the issuance, renewal or reinstatement of a Virginia license.
- C. The Board has the authority to refuse to grant a person the privilege of using the CPA title in Virginia if, based upon all the information available, the Board finds that the person is unfit or unsuited to use the CPA title in Virginia. The Board shall not refuse to grant a person the privilege of using the CPA title in Virginia solely because of a criminal conviction. *This last sentence differs from Virginia Society of CPAs (VSCPA) and American Institute of CPAs (AICPA) bylaws.*

§ 54.1-4411. Substantial equivalency provisions for persons who hold the license of another state. (Visit www.boa.virginia.gov for the list of states that are substantially equivalent on education, CPA Exam and experience requirements.)

Under substantial equivalency, if the applicant's license in the other state expires, then the applicant would need to be licensed in Virginia under the normal application process. Section B allows CPAs from other states to perform public accounting work in Virginia as long as their principal place of business is outside of Virginia. Non-Virginia licensed CPAs must consent to the provisions of this section in order to use the title in Virginia. This requirement keeps the CPA under the jurisdiction of the BOA, even though the CPA is not licensed by Virginia.

- A. A person who holds the license of another state shall be considered to have met requirements that are substantially equivalent to those prescribed by the Board if:
 - 1. The Board has determined that the education, CPA Examination and experience requirements of the state are substantially equivalent to those prescribed by the Board; or
 - 2. The person has demonstrated meeting education, CPA Examination and experience requirements that are substantially equivalent to those prescribed by the Board.

- B. A person who holds the license of another state and meets the substantial equivalency provisions of subsection A shall not be required to hold a Virginia license to use the CPA title in Virginia provided that either (i) he provides services to the public using the CPA title and the principal place of business in which he provides those services is in other states or (ii) he does not provide services to the public using the CPA title. However, to use the CPA title in Virginia, the person shall:
1. Consent to be subject to:
 - a. The provisions of this chapter and regulations promulgated by the Board that apply to the holder of a Virginia license;
 - b. The jurisdiction of the Board in all disciplinary proceedings arising out of matters related to his use of the CPA title in Virginia; and
 - c. The Board's authority to revoke or suspend his privilege to use the CPA title in Virginia and to impose penalties for the person's violations of the provisions of this chapter and regulations promulgated by the Board.
 2. Consent to the appointment of the executive director of the board of accountancy of the state that issued the license as his agent, upon whom process may be served in any action or proceeding by the Board against the person, or in any civil action in Virginia courts arising out of his using the CPA title in Virginia. In the event he holds a license from more than one state, the Board shall establish which executive director shall serve as the person's agent.
 3. Consent to the personal and subject matter jurisdiction of the courts of Virginia in any civil action arising from his use of the CPA title in Virginia and agree that the proper venue for such actions is in Virginia.
 4. Agree to cease using the CPA title in Virginia if he is no longer licensed.
- C. A holder of a Virginia license who is using the CPA title in another state under substantial equivalency provisions of statutes of the state or regulations promulgated by the board of accountancy of the state shall be subject to disciplinary action by the Board for an act or omission committed in that state. The Board may investigate any complaint made to or by the board of accountancy of any state related to the person's use of the CPA title in that state.

Practice Without a Current License

Unlicensed practice is one of the most common disciplinary complaints addressed by the BOA Enforcement Committee. The responsibility to maintain a valid license rests on the CPA and CPA firm's management. To check the status of a CPA license, visit the BOA Web site at www.boa.virginia.gov. Under "CPA Licensure Services," click on "CPA Lookup" and select Virginia as the state licensing board you wish to search. Then type in the individual or firm name to obtain the current license status. The BOA will send renewal notices to the last known e-mail address (or mailing address, if no e-mail address is available or the e-mail renewal notice is rejected). The CPA is responsible for maintaining current e-mail and mailing contact information with the BOA.

The BOA sends renewal notices via e-mail. A notice is sent 60 days prior to your license's renewal date and again on the renewal date, if your license has not been renewed. You can renew late for one year after your renewal date, and then the license completely expires and you must reinstate. (**Note:** A paper notice is mailed 30 days prior to your

license's expiration date, but by then, you are 11 months late renewing.) *Reinstatement is much more intensive and expensive than late renewal.*

For those unfortunate enough to practice without a current license, the 2007 legislation clarified the ability of the BOA to impose penalties on the unlicensed individual. Penalty assessments are at the discretion of the BOA and based on the severity of the violation and the individual's cooperation, or lack thereof.

§ 54.1-4413.4. Penalties.

The legislative changes to this section were made to clarify the types of penalties the BOA may impose and what actions the BOA has jurisdiction over. Emphasize that the BOA has a great deal of discretion in determining the appropriate penalties to assess. In many instances, leniency is granted for cooperation with the BOA and where mitigating circumstances call for leniency. At this time, no uniform standard exists in penalty assessments.

§ 54.1-4413.4. Penalties.

- A. Penalties the Board may impose consist of:
 - 1. Revoking the privilege of using the CPA title in Virginia or providing attest services or compilation services to persons or entities located in Virginia.
 - 2. Suspending or refusing to reinstate the privilege of using the CPA title in Virginia or providing attest services or compilation services to persons or entities located in Virginia.
 - 3. Reprimanding, censuring or limiting the scope of practice of any person using the CPA title in Virginia or any firm providing attest services or compilation services to persons or entities located in Virginia.
 - 4. Placing any person using the CPA title in Virginia or any firm providing attest services or compilation services to persons or entities located in Virginia on probation, with or without terms, conditions and limitations.
 - 5. Requiring a firm holding a Virginia license to have an accelerated peer review conducted as the Board may specify or to take remedial actions.
 - 6. Requiring a person holding a Virginia license to satisfactorily complete additional or specific continuing professional education as the Board may specify.
 - 7. Imposing a monetary penalty up to \$100,000 for each violation of the provisions of this chapter or regulations promulgated by the Board; any monetary penalty may be sued for and recovered in the name of the Commonwealth of Virginia.
- B. The Board may impose penalties on persons using the CPA title in Virginia or firms providing attest services or compilation services to persons or entities located in Virginia, for:
 - 1. Violation of the provisions of this chapter or regulations promulgated by the Board.
 - 2. Fraud or deceit in obtaining, renewing or applying for reinstatement or lifting the suspension of a Virginia license.
 - 3. Revocation, suspension or refusal to reinstate the license of another state for disciplinary reasons.
 - 4. Revocation or suspension of the privilege of practicing before any state or federal agency or federal court of law.

5. Dishonesty, fraud or gross negligence in providing services to an employer using the CPA title, in providing services to the public using the CPA title, or in providing attest services or compilation services.
 6. Dishonesty, fraud or gross negligence in preparing the person's or firm's own state or federal income tax returns or financial statement.
 7. Conviction of a felony, or of any crime involving moral turpitude, under the laws of the United States, of Virginia or of any other state if the acts involved would have constituted a crime under the laws of Virginia.
 8. Lack of the competence required to provide services to the public using the CPA title for persons and entities located in Virginia or to provide attest services and compilation services to persons and entities located in Virginia, as determined by the Board.
- C. The Board may also impose penalties on:
1. A person who does not hold a Virginia license, or who does not meet the requirements to use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411, and commits any of the acts prohibited by § 54.1-4414; or
 2. An entity that does not meet the criteria prescribed by subsection D of § 54.1-4412.1 and commits any of the acts prohibited by § 54.1-4414.

The BOA is actively imposing penalties on unlicensed activities. The responsibility lies with the CPA and the firm to maintain their respective licenses. Allowing a license to lapse is not a valid excuse to avoid imposition of a penalty.

§ 54.1-4414. Prohibited acts.

Neither (i) a person who does not hold a Virginia license or who does not meet the requirements to use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411, nor (ii) an entity that does not meet the criteria prescribed by subsection D of § 54.1-4412.1 shall:

1. Practice public accounting
2. Claim to hold a license to use the CPA title
3. Make any other claim of licensure, registration or approval related to the preparation of financial statements that is false or misleading
4. Use the CPA title
5. Refer to any of the standard-setting authorities listed in the standards of conduct and practice in § 54.1-4413.3 or refer to or use any of the terminology prescribed by those authorities for reporting on financial statements, in any form or manner of communication about services provided to persons or entities located in Virginia.
*A non-CPA is **not** prohibited from issuing a compiled financial statement, as long as he/she does not refer in the report letter to preparing the financial statements in accordance with standards for CPAs.*

§ 54.1-4413.5. Confidential consent agreements.

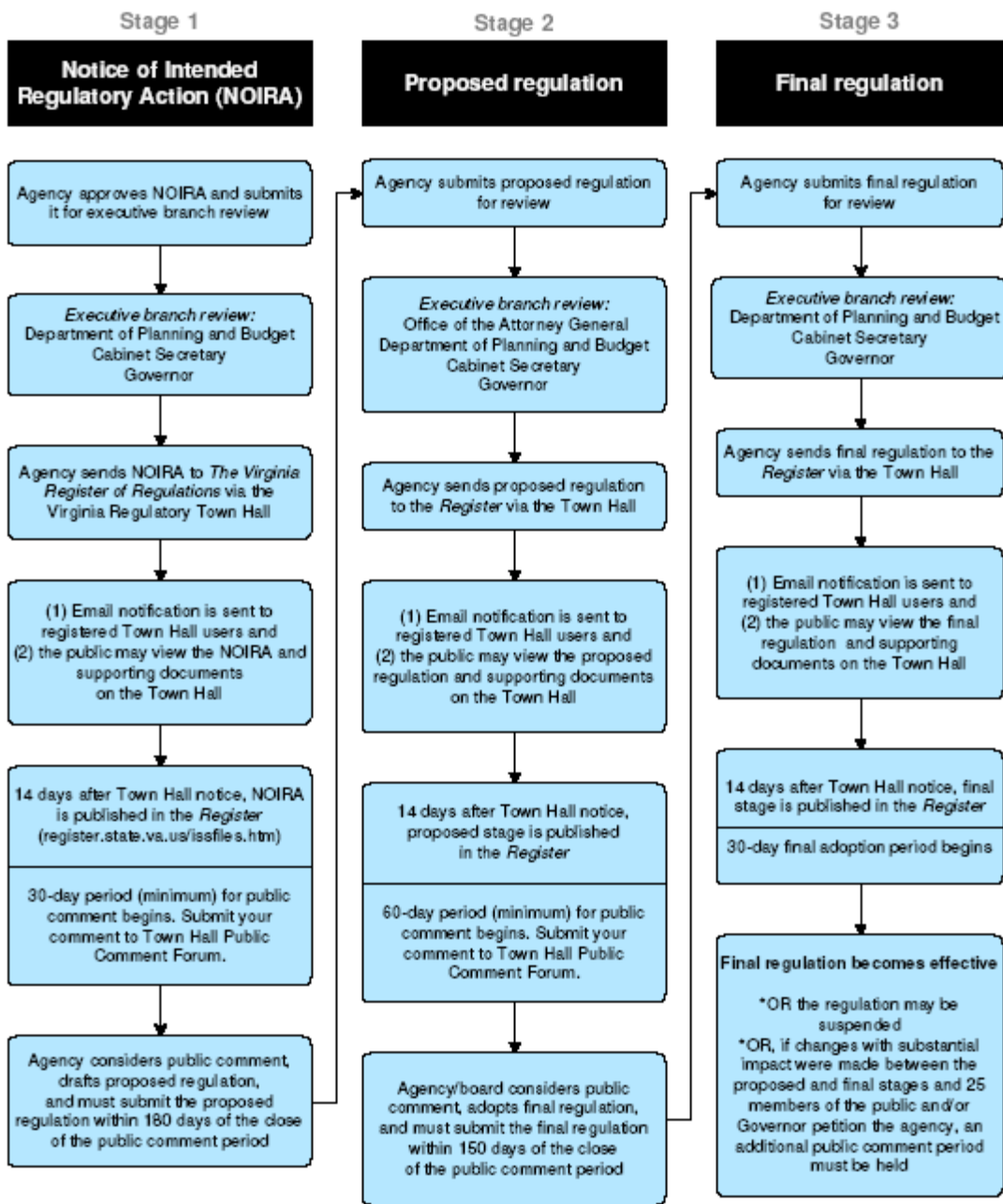
- A. The BOA may enter into a confidential consent agreement with a person or firm in lieu of disciplinary action.
- B. A confidential consent agreement shall be entered into only in cases involving minor violations of the statute or regulations and shall not be disclosed by the person or firm.

Virginia Board of Accountancy (BOA)

Regulatory Process

The BOA has 280 days to promulgate regulations in order to implement the revised Accountancy Statute following the date of enactment on July 1, 2007. Virginia's Administrative Process Act spells out the requirements for the regulatory process as shown in the exhibit on the next page. At the time this course was developed, the BOA was in the process of promulgating new regulations to implement the 2007 legislative changes. Due to the BOA's proposed regulation changes, Virginia regulation citations for the "Principals of Professional Conduct" section of this manual are omitted and the citations for the American Institute of CPAs (AICPA) Code of Professional Conduct (the Code) are included. The Code is now specifically incorporated in the statutes for the BOA and is a legal standard of practice. To view the most current regulations, access the BOA Web site at www.boa.virginia.gov.

Standard regulatory process: Detailed outline



Sources: Section 2.2-4006 through 2.2-4017 of the Code of Virginia (Article 2 of Administrative Process Act) and Executive Order 21 (2002). For more information on rulemaking in Virginia, visit the award-winning Virginia Regulatory Town Hall @ townhall.virginia.gov. Produced by the Virginia Department of Planning and Budget, Economic and Regulatory Analysis Section (9/04).

Virginia Board of Accountancy (BOA)

Disciplinary Process

Flowcharts have been provided that detail the procedures the BOA follows when a complaint is filed alleging improper conduct by an accounting practitioner (whether or not the practitioner is a licensed CPA). The following terms, which are abbreviated in the flowcharts, will aid in your understanding of the process.

Terms

Administrative Processes Act (APA) — The formal process, as specified by state law, for administering complaints against those regulated by agencies of the Commonwealth of Virginia.

Consent Order — A means of resolving a complaint prior to conducting procedures under the Administrative Processes Act (APA). A Consent Order offers a means to obtain a negotiated settlement between the regulant and the BOA.

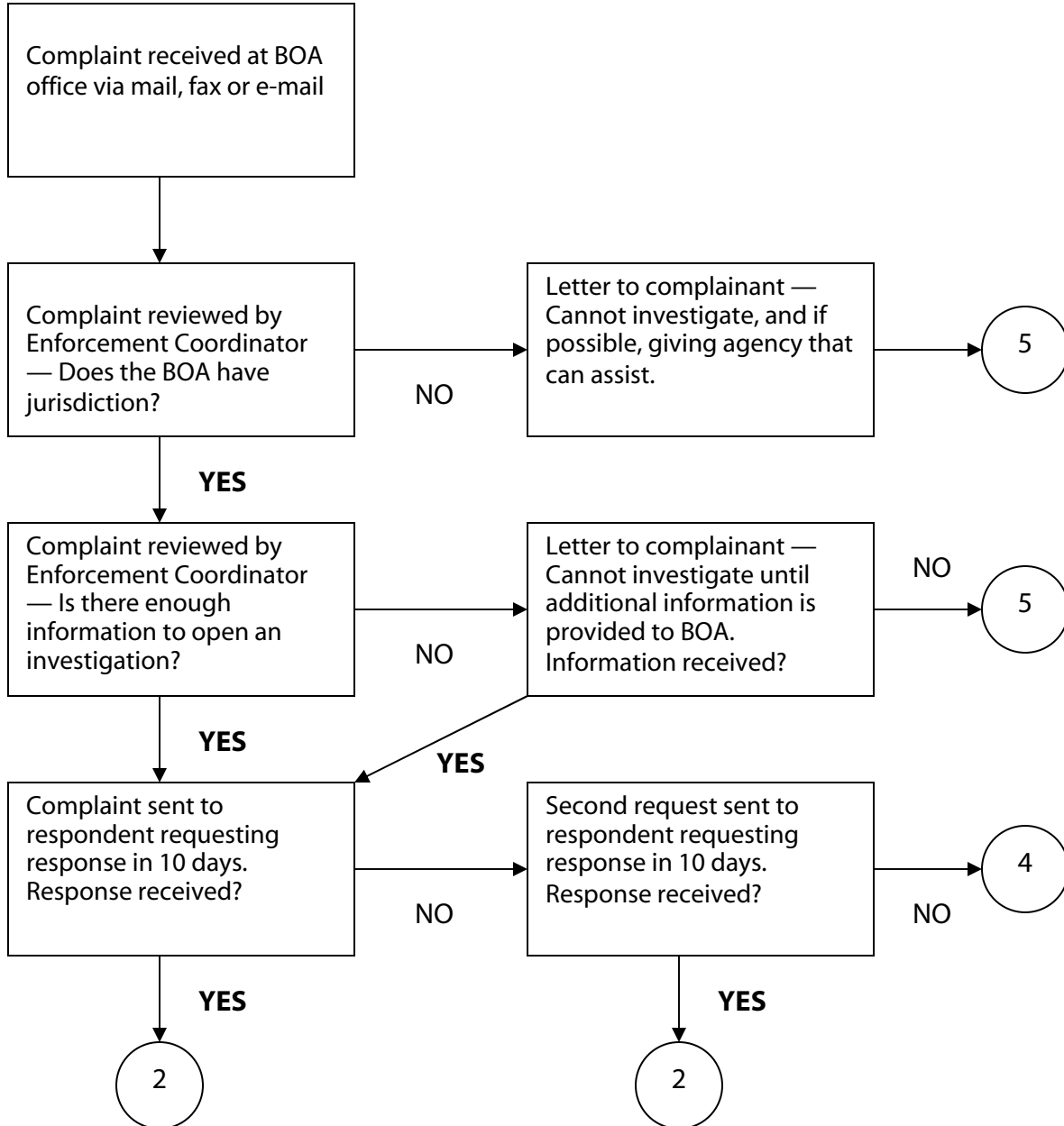
Enforcement Coordinator — Staff position at the BOA that handles the administrative efforts involved in handling complaints filed with the BOA. In addition, the Enforcement Coordinator is a certified investigator that investigates all facts regarding all enforcement cases prior to submitting the case to the Enforcement Committee for review and recommendation.

Enforcement Committee — A BOA committee with the responsibility to investigate complaints, conduct Informal Fact-Finding Conferences (IFF) and recommend actions to the full BOA.

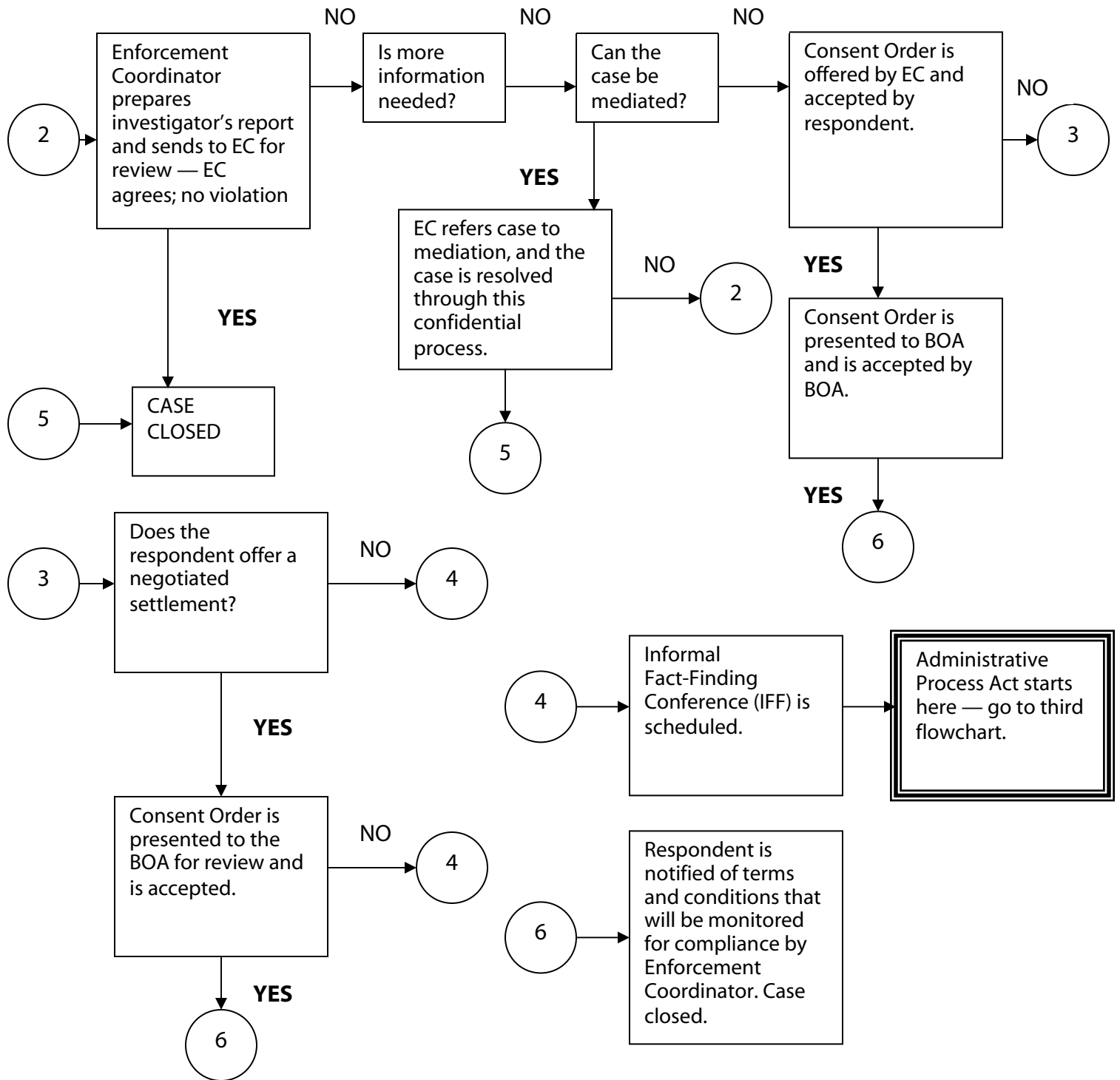
Informal Fact-Finding Conference (IFF) — The first step in the Administrative Processes Act (APA), whereby an informal (not under oath) hearing is held to review evidence regarding a complaint, resulting in recommended actions to the full BOA.

Mediation — A confidential means of resolving minor complaints against regulants who do not have a history of complaints on their record.

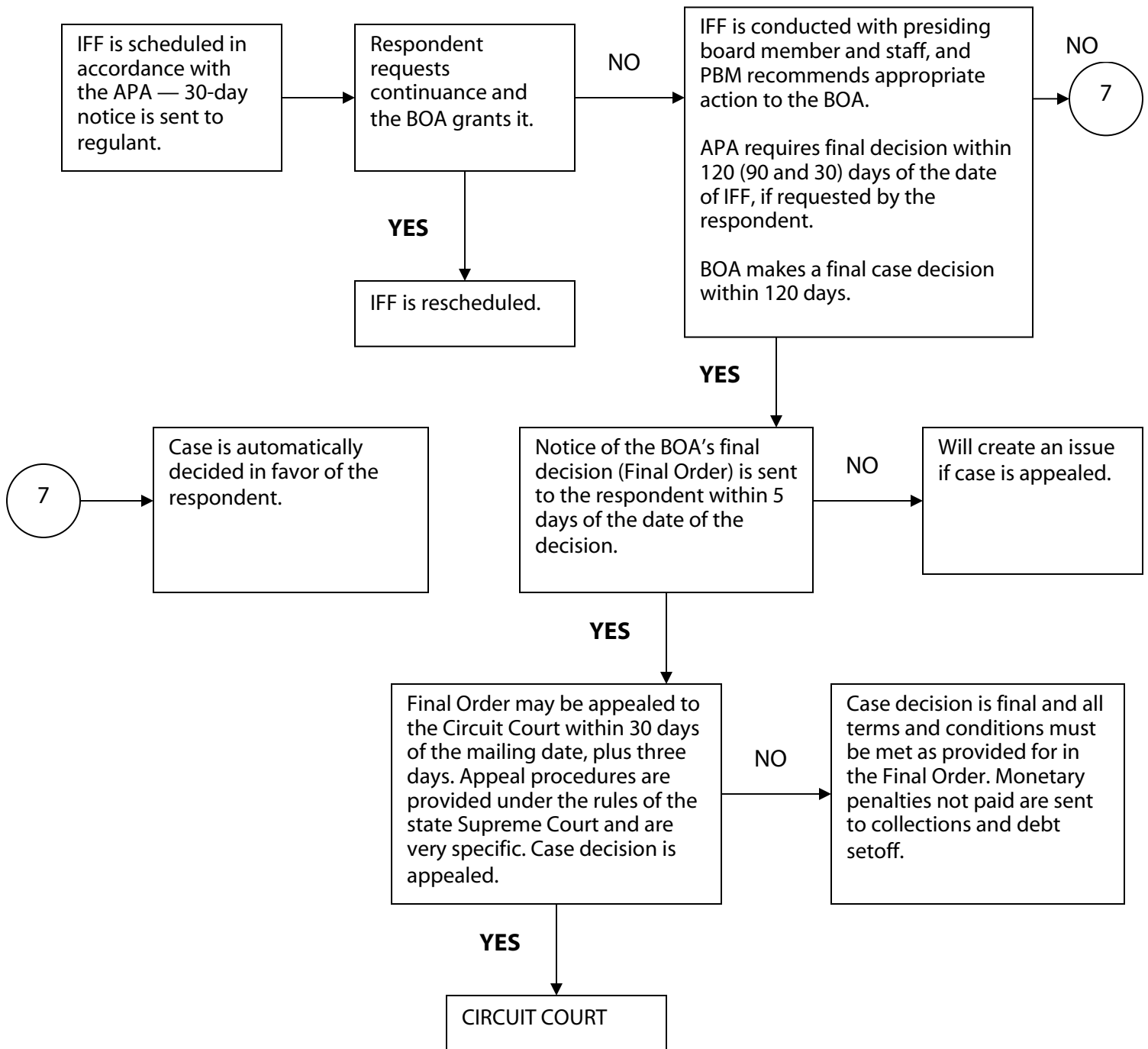
Virginia Board of Accountancy (BOA) Complaint and Investigation Process



Enforcement Committee (EC) Review Process



Administrative Processes Act (APA) and the Informal Fact-Finding Conference (IFF) Process



Unlicensed Activity

*You may wish to emphasize this area and the importance of keeping a license current, as the BOA is very actively enforcing sanctions against unlicensed activity. The BOA can assess fines as high as **\$100,000!***

Accounting practitioners who are not licensed by the Virginia Board of Accountancy (BOA) or a substantially equivalent board of accountancy, and are using the CPA title in Virginia, are considered to be undertaking “unlicensed activity.” This applies not only to those individuals who are not qualified to be CPAs, but also to CPAs who have let their licenses lapse and CPAs who are licensed in other states but not compliant with substantial equivalency provisions. New language included in 2007 legislation to modify the Virginia Accountancy Statute clarifies the BOA’s ability to levy any fine or disciplinary procedure in its repertoire for unlicensed activity, with the exception of revoking another state’s license. In these cases, the Virginia BOA refers the case after Virginia’s action is resolved to the individual’s home state for further proceedings — which may include license revocation.

For example, if an audit failure occurs, it is in the public’s interest for the BOA to address the cause of the failure and take action against the individual, thus minimizing the likelihood of a recurring failure.

In this example, if the CPA who conducted the substandard audit had let his or her license lapse, the BOA’s possible sanctions would be monetary penalties and the suspension of the right to apply (or reapply) for a license. The BOA can also prohibit the individual or firm from using the CPA title in Virginia. Therefore, to best protect the public against CPAs who fail to follow BOA regulations, it is necessary for CPAs to be duly licensed. Accordingly, the BOA is severely sanctioning those individuals who are not properly licensed.

The BOA sends renewal notices via e-mail. A notice is sent 60 days prior to your license’s renewal date and again on the renewal date, if your license has not been renewed. The BOA only mails a paper renewal notice if your e-mail address comes back to the BOA as a bad address or if you have not provided the BOA with an e-mail address. You can renew late for one year after your renewal date, and then the license completely expires and you must reinstate. (Note: A paper notice is mailed 30 days prior to your license's expiration date, but by then, you are 11 months late renewing.) *Reinstatement is much more intensive and expensive than late renewal.*

Remember, under the regulations, it is your responsibility to renew your license on a timely basis and inform the BOA of your current e-mail and physical addresses. Be sure to check the BOA Web site at www.boa.virginia.gov on a periodic basis to see when your license expires.

BOA Disciplinary Cases

The following questions are based on actual complaints received and investigated by the Virginia Board of Accountancy (BOA), though the names have been changed and literary license has been exercised. For the answers to the cases, please see the PowerPoint presentation in the appendix.

The answers to the following situations are the **actual** sanctions the BOA imposed:

The cases presented here are new for 2008 and should be presented in detail. Allow the participants five to ten minutes to read these cases and select the action they think the BOA took. You may wish to poll the audience to see what answer the majority of the attendees selected. The BOA has very broad discretion in their disciplinary cases. Emphasize that full cooperation with the BOA tends to be weighed in to the sanctions imposed. For the first time this year, the BOA provided cases of determination of violations and the subsequent disciplinary action as well as cases where no violation was determined. The following cases, provided by BOA, represent the disciplinary cases. The no violation cases are presented in the "Other Matters" section.

1. *PowerPoint slide 19:* Lenny Loudmouth provided accounting and tax services to Millie Meek's business. The business became financially unsound, and Mr. Loudmouth was afraid that he would not receive payment on his outstanding invoices to Ms. Meek's business. Mr. Loudmouth contacted Ms. Meek by phone to request payment, but did not receive any money. After several days, Mr. Loudmouth's temper got the best of him and he wrote a payment demand letter, using extremely vulgar language to describe Ms. Meek and her business. Upon receiving the letter, Ms. Meek became upset and filed a complaint, providing a copy of the letter with the complaint. The BOA determined that Mr. Loudmouth failed to act in a way that demonstrated commitment to professionalism by using vulgar language in official correspondence, thereby threatening the image of the profession under 18 VAC 5-21-120(A) and (B). What corrective action did the BOA impose?
 - A. The BOA imposed a \$1,000 fine and suspended Mr. Loudmouth's license for six months.
 - B. The BOA imposed a \$500 fine and mandated the completion of an anger management course by the calendar year end, with submittal of satisfactory course completion including an original signature from the class facilitator.
 - C. The BOA revoked Mr. Loudmouth's license.
 - D. The BOA imposed a \$1,000 fine and ordered Mr. Loudmouth to prepare a 1,000-word essay on professional behavior and present it at the next BOA meeting.

The correct answer is B. The BOA felt that Mr. Loudmouth's temper was the cause of his problems and therefore required him to attend anger management classes. The BOA required that his class facilitator provide a signed completion statement to the BOA as evidence of Mr. Loudmouth's compliance with the BOA sanction. Please note that the cited sections of the regulations in this example are the sections in effect at the time the case was enforced. These sections may change with the re-writing of the regulations.

2. *PowerPoint slide 21:* Connie Clueless has a master's degree in accounting and teaches at a local college, but has never possessed a CPA license in Virginia or any other state. A small, local nonprofit organization, Meals R Us, asked Ms. Clueless to audit the organization's financial statements so it could apply for a governmental grant. Ms. Clueless agreed, performed the audit and issued an independent auditor's report, which Meals R Us attached to its grant application and submitted to the governmental agency. In reviewing the application, the governmental agency noticed that Ms. Clueless did not use the CPA designation in signing the report. The agency's employee accessed the BOA Web site and determined that Ms. Clueless did not possess a CPA license in Virginia. The agency employee notified Meals R Us that they were not eligible for a grant because their audit report was not issued by a CPA. Meals R Us filed a complaint with the BOA. The BOA determined that Ms. Clueless was in violation of §54.1-111 for practicing without a license in providing services requiring a license and §54.1-4414 for issuing a report referencing professional standards for which she did not possess a license as a professional. What action did the BOA take against Ms. Clueless?
- A. The BOA imposed a \$10,000 fine and obtained an injunction against Ms. Clueless to prevent her from issuing another Independent Audit Report.
 - B. The BOA admonished Ms. Clueless without imposing a fine because she was cooperative with the BOA.
 - C. The BOA imposed a \$2,000 fine to be paid within 90 days of the entry date of the Final Order.
 - D. The BOA did nothing because Ms. Clueless was not a licensed CPA and the BOA had no jurisdiction over her.

The correct answer is C. The BOA felt that since Ms. Clueless possessed an advanced degree in accounting, she was sufficiently educated and should have known the requirements for issuing an independent audit report. Because the public was harmed by her action (Meals R Us was ineligible for a grant due to her action), the BOA felt that the fine imposed needed to be enough to correct Ms. Clueless's action. Even under the new statutes, the BOA's ability to impose actions on unlicensed practice is somewhat limited. This particular case did not disclose whether Ms. Clueless would be eligible to apply for a CPA license, just that she was neither currently nor formerly licensed. At the time of this case enforcement action, an additional section of the BOA statutes was cited, §54.1-4413.1. This code section no longer exists as of July 1, 2007.

3. *PowerPoint slide 23:* I.M. Taxking, CPA, failed to file his personal income tax returns for tax years 2002, 2003 and 2004. The Internal Revenue Service (IRS) determined that he violated Circular 230 and suspended his right to practice before the IRS. This action was noticed by the BOA, which investigated Mr. Taxking and also determined that he violated regulation 18 VAC 5-21-120(M) by failing to file his tax returns and §10.51(f) of Treasury Department Circular 230. What action did the BOA take against Mr. Taxking?
- A. The BOA suspended Mr. Taxking from practice before the Virginia Department of Taxation.
 - B. The BOA suspended Mr. Taxking's license for six months.

- C. The BOA imposed a \$20,000 penalty.
- D. The BOA imposed a \$500 penalty and required Mr. Taxking to submit a notarized affidavit that his personal tax returns would be filed in a timely manner for tax years 2006, 2007 and 2008.

The correct answer is D. The BOA does not have the ability to suspend anyone's right to practice before the Virginia Department of Taxation, so choice A is not correct. Please note to the attendees that the Virginia regulation cited in this example is from the regulations in effect when the enforcement activity occurred and is subject to change with the new regulations. This requirement is still part of the AICPA professional guidance incorporated in the statutes.

4. *PowerPoint slide 25:* On eleven separate occasions, Bob Bongo represented that he was a licensed CPA through handing out business cards and issuing report letters on his letterhead, using the CPA designation. Unfortunately, Mr. Bongo never held a valid Virginia CPA license. Mr. Bongo's license was originally from another state with substantial equivalency, but Mr. Bongo allowed that license to expire several years ago. After reviewing a complaint against Mr. Bongo that disclosed his misrepresentations, the BOA determined that Mr. Bongo was in violation of §54.1-111 for practicing without a license in providing services requiring a license and §54.1-4414 for issuing a report referencing professional standards for which he did not possess a license as a professional. What action did the BOA take against Mr. Bongo?
- A. The BOA imposed a \$5,000 monetary penalty for unlicensed activity.
 - B. The BOA suspended Bob's license indefinitely.
 - C. The BOA imposed a \$500 fine and required Mr. Bongo to present a 1,000-word essay to the BOA on why practicing without a license is not a good thing.
 - D. The BOA did nothing because Bob was not a licensed CPA.

The correct answer is A. Choice B is not correct because Mr. Bongo was never licensed in Virginia; therefore the BOA could not suspend his license. They could choose to refuse to license Mr. Bongo if he later applied for licensure in Virginia. Under Virginia law, the BOA does have the ability to fine individuals for unlicensed activity as well as seek injunctions against individuals from using the CPA designation.

Other Matters

Please emphasize that communication and cooperation with clients is a key issue in preventing a complaint from being lodged. CPAs should manage client expectations where they can and still comply with standards of practice. Where disagreements or disputes occur with clients, the CPA should handle each situation in a professional manner.

Some complaints are filed against CPAs simply because they have not communicated well with their clients and have not taken steps to resolve disputes before a client feels his or her only recourse is to seek the BOA's assistance.

Dos and Don'ts: Acts Discreditable

For the 2008 ethics course, the BOA provided the following guidelines for resolving issues with clients:

- Do not refuse to give your original client records/documents back to the client because the client has not paid you.
- Do not use vulgar or profane language with staff, clients and members of the public.
- Do not offer to provide services that you are not prepared to handle. During tax season, licensees find themselves overwhelmed, stressed out, physically ill and unable to meet the needs of clients because they took on more than they could handle.
- Do not assume you can provide services as a CPA in another state using your Virginia CPA license until you check that state's requirements. Virginia is a no registration, no fee and no escape state, but many other states require that you meet other requirements before entering their state to provide services as a CPA.
- Do not solicit clients for your new business or firm prior to leaving your current employer. Discuss with your firm's management how you plan to notify clients that you are leaving the firm.
- Do be courteous to clients at all times by responding to their requests for information, guidance and current tax information. Clients expect to have their phone calls and e-mails returned and their questions answered promptly.
- Do maintain the confidentiality that is required regarding your client and his/her personal information. You are responsible for the actions of your employees.
- Do disclose all criminal convictions to the Board and, if you employ individuals who are applying for a CPA license, advise them to do the same. The Board treats criminal convictions on an individual basis and a record of the Board's actions on criminal convictions is on file for review by the public.
- Do file your own personal and business taxes by the deadline to the appropriate tax authorities each year.
- Do abide by all the standards, regulations and mandates of governing organizations like the SEC, PCAOB, IRS, U.S. Treasury Department and others regulating the accounting profession.

All complaints become a permanent part of your record, even if the BOA dismisses the complaint. To avoid this stigma, maintain open communications with your clients and do not avoid calls when clients feel they have not been adequately served. Access your license expiration date via the BOA Web site and remember to renew your license before a lapse.

No Violation Examples

The following are examples of complaints that resulted in no violation determinations by the BOA Enforcement Committee.

1. During tax season, Bobby Bookkeeper, CPA, suffered a heart attack, ending up in surgery followed by a lengthy hospital stay for recovery. Mr. Bookkeeper's client, John Farmer, called Mr. Bookkeeper's office multiple times as the April 15 deadline

- approached to check on the status of his personal and business tax returns. Mr. Bookkeeper's wife, Bonnie Bookkeeper, attempted to contact clients to notify them of her husband's surgery and recovery, but was unable to reach everyone due to the amount of time she spent at the hospital with her husband. Mr. Farmer became anxious and upset as several days went by without word from Mr. Bookkeeper, so he filed a complaint with the BOA. Mr. Farmer was not aware that Mr. Bookkeeper was in the hospital. Mrs. Bookkeeper continued to contact Mr. Bookkeeper's clients and return their tax documents so they could hire other tax return preparers. The BOA opened an investigation upon receiving the complaint from Mr. Farmer. Once Mr. Farmer was informed of Mr. Bookkeeper's health issues and the attempts by Mrs. Bookkeeper to return client documents, Mr. Farmer withdrew his complaint. The BOA closed the investigation.
2. Trudy, CPA, purchased a CPA practice shortly after giving birth and just before tax season. During Trudy's due diligence for the purchase, the firm owner, Nina Nice, CPA, disclosed that the practice provided tax and accounting services, including compiled financial statements for certain clients under professional standards. In anticipation of the purchase, Trudy established a corporation through the State Corporation Commission and applied for a firm license through the BOA. However, Trudy failed to submit the required documentation for her corporation to the BOA and failed to receive a firm license. Three months after the purchase was complete, Trudy issued a compiled financial statement for a client. A year and a half after Trudy purchased the business, Ms. Nice received a phone call from someone who stated he could not find a license for Trudy's firm on the BOA Web site. Ms. Nice verified with the BOA that Trudy's firm was not licensed. Ms. Nice called Trudy to ask her about the omission. Trudy gave a variety of excuses for not obtaining a license and promised to obtain a firm license after disclosing to Ms. Nice that she issued a compiled financial statement to one of Ms. Nice's former clients. After long consideration and calls from several former clients complaining about Trudy's lack of knowledge and service, Ms. Nice decided to file a complaint with the BOA for unlicensed practice. Meanwhile, Trudy quickly obtained a firm license. The BOA Enforcement Committee determined that the actions of Trudy did not rise to the level of a violation and closed the case.
 3. Although John Q. Public allowed his CPA license to lapse in 1992, he continued to display his wall certificate in his office while working for a government agency and referred to himself as a CPA. Mr. Public did not offer any services to the public. The BOA received a complaint against Mr. Public for his lapsed license. Upon notification of the complaint, Mr. Public immediately took down his certificate and stopped using the CPA designation. Because Mr. Public initially became a CPA when Virginia had a two-tier licensing process, he was unaware that regulations had changed and that he was required to conform to requirements applied to all CPAs, whether in public practice or not. The BOA Enforcement Committee determined there was no violation due to John's cooperation and allowed John to reinstate his license by filing the appropriate paperwork and paying all reinstatement fees.

American Institute of CPAs (AICPA)

Activity

Two exposure drafts from 2006 became effective in 2007 and are presented below. These were also presented in the 2007 ethics course. Therefore, just summarize the issues based on the PowerPoint slide. The following three exposure drafts are new for 2007 PEEC activity. These should be presented in more detail because the information is new to the attendees. At the time this course was written, each was still in exposure draft form. Before you present the course, please check the AICPA Web site (www.aicpa.org) for updates to the status of each exposure draft. You may wish to mention the transition dates for implementation of these changes as they become available.

During 2007, the American Institute of CPAs (AICPA) Professional Ethics Executive Committee (PEEC) implemented two final interpretations and issued three exposure drafts affecting the AICPA Code of Professional Conduct (the Code). The summaries that follow provide a brief overview of those AICPA activities. Further information may be obtained from the Professional Ethics section of the AICPA Web site at www.aicpa.org. Look under "Professional Resources" and then click on "Professional Ethics."

Conceptual Framework

At its January 2006 meeting, PEEC approved a revision to the "Other Considerations" section of Interpretation 101-1 — *Interpretation of Rule 101* under Rule 101 — *Independence*.

This revision includes the adoption of a conceptual framework for independence and requires that CPAs use this framework when considering the effect of relationships with attest clients when no independence interpretations or rulings address an accountant's particular situation. PEEC began developing the conceptual framework in 2002 to aid it in its independence standard-setting efforts.

The framework utilizes a risk-based approach to evaluating relationships. Under this approach, a CPA's relationship is analyzed to determine whether it poses an unacceptable risk to the CPA's independence and, if so, whether the risks can be adequately mitigated by the application of safeguards. Threats to independence are circumstances that could impair independence. They include such things as self-review threat, advocacy threat, adverse interest threat, familiarity threat, undue influence threat, financial self-interest threat and management participation threat. Safeguards are controls that mitigate or eliminate threats to independence. The three broad categories of safeguards are safeguards created by the profession, legislation or regulation; safeguards implemented by attest clients; and safeguards implemented by the firm.

One of the other useful items in the conceptual framework is a definition of independence. Independence is defined as:

- A. 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.

- B. 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.

The revised interpretation also includes a new documentation requirement: For cases when a CPA has identified a threat to independence that is at an unacceptably high level and requires the application of safeguards (which are not provided elsewhere in the Code), the CPA is required to document the identified threat and the safeguards applied.

The provisions are effective April 30, 2007.

Revisions of Interpretation 101-3 "Performance of Nonattest Services"

Interpretation 101-3 requires compliance with independence regulations where an AICPA member performs nonattest services for an attest client. The recent revision covers issues relating to tax compliance services and forensic accounting services.

Tax Compliance Services

Preparing a tax return and transmitting the tax return and related tax payment to a taxing authority, in paper or electronic form, would not impair a member's independence provided the member does not have custody or control over the client's funds and the individual designated by the client to oversee the tax services (a) reviews and approves the tax return and related tax payment and (b) if required for filing, signs the tax return prior to the member transmitting the tax return.

However, signing and filing a tax return on behalf of client management would impair independence, unless the member has the legal authority to do so and (a) the taxing authority has prescribed procedures in place for a client to permit a member to sign and file on behalf of the client (for example, Form 8879 or 8453), and such procedures meet, at the minimum, the standards for electronic return originators and officers outlined in IRS Form 8879; or (b) an individual in client management who is authorized to sign and file the client's tax return provides the member with a signed statement that clearly identifies the return and represents that (1) such individual is authorized to sign and file the return; (2) such individual has reviewed the tax return and it is true, correct and complete to the best of his or her knowledge and belief; and (3) such individual authorizes the member or another named individual in the member firm to sign and file the tax return on behalf of the client.

Authorized representation of a client in administrative proceedings before a taxing authority would not impair a member's independence provided the member obtains client agreement prior to committing the client to a specific resolution with the tax authority. **However, representing a client in a court or in a public hearing to resolve a tax dispute would impair a member's independence.**

Transition: The revised Interpretation is generally effective February 28, 2007. However, independence would not be impaired as a result of the more restrictive requirements of

the tax compliance services provision provided such services are pursuant to engagements commenced prior to February 28, 2007, and completed prior to January 1, 2008, and the member complied with all applicable independence interpretations and rulings in effect on February 28, 2007.

Forensic Accounting Services

Forensic accounting services are nonattest services that involve the application of special skills in accounting, auditing, finance, quantitative methods and certain areas of the law, research and investigative skills to collect, analyze and evaluate matter and to interpret and communicate findings and consist of (a) litigation services and (b) investigative services.

Litigation services consist of providing assistance for actual or potential legal or regulatory proceedings before a trier of fact in connection with resolution of disputes between parties. Litigation services consist of the following:

- a. Expert witness services are those where a member is engaged to render an opinion before a trier of fact as to the matter in dispute based on the member's expertise, rather than on direct knowledge of the disputed facts or events. Expert witness services create the appearance that a member is advocating or promoting a client's position. Accordingly, if a member conditionally or unconditionally agrees to provide expert witness testimony for a client, independence would be considered to be impaired. There is a limited exception if a member provides expert witness services for a large group where no sole attest client has the power to select or approve the expert witness.
- b. Litigation consulting services are those litigation services where a member provides advice about the facts, issues and strategy of a matter. The consultant does not testify as an expert witness. Litigation consulting services would not impair independence provided a member complies with the general requirements set forth in this Interpretation. However, if the member subsequently agrees to serve as an expert witness, independence would be impaired.
- c. Other services are those litigation services where a member serves as a trier of fact, special master, court-appointed expert or arbitrator, in a matter involving a client. These other services create the appearance that the member is not independent. Accordingly, if a member serves in such a role, independence would be considered to be impaired.

Investigative services include all forensic services not involving actual or threatened litigation such as performing analyses or investigations that may require the same skills as used in litigation services. Such services would not impair independence provided the member complies with the general requirements set forth under this Interpretation.

Transition: The revised Interpretation is generally effective February 28, 2007. However, independence would not be impaired as a result of the more restrictive requirements of the forensic accounting services provisions, provided such services are pursuant to engagements commenced prior to February 28, 2007, and the member complied with all applicable independence Interpretations and rulings in effect on February 28, 2007.

Proposed Interpretation 102-7

Proposed Interpretation 102-7, *Other Considerations — Meeting the Objectives of the Fundamental Principles, and Proposed Framework for Meeting the Objectives of the Fundamental Principles*, applies to all CPAs, regardless of whether the CPA is in public practice. The interpretation builds on the Independence Conceptual Framework and the six fundamental principles of the profession: responsibilities, the public interest, integrity, objectivity and independence, due care and scope and nature of services. The framework approach acknowledges that specific threats may arise in circumstances where CPAs provide professional services that are not addressed in the Code; therefore guidance was needed.

The framework requires CPAs to identify, evaluate and address threats to meeting the objective of the fundamental principles in making ethical decisions where not explicitly address by the Code. If an identified threat is not clearly insignificant (more than trivial and inconsequential), the CPA should apply safeguards to eliminate the threat or reduce the threat to an acceptable level in order to meet the fundamental principles. The CPA should consider qualitative and quantitative factors in making his/her determination. If a CPA is unable to mitigate the threat through appropriate safeguards, the CPA should decline or discontinue services and consider whether to resign from the client or the employing organization.

Threats arise in a wide variety of circumstances. The framework specifically identifies six general threats and one threat specific to CPAs in public accounting. The general threats are:

- Self-review threat
- Advocacy threat
- Adverse interest threat
- Familiarity threat
- Undue influence threat
- Financial self-interest threat

The specific threat to CPAs in public accounting is the management participation threat.

The framework specifies the use of safeguards as controls that eliminate or reduce threats to acceptable levels, ensuring the CPA is not compromised in meeting the objective of the fundamental principles. The framework lists seven specific safeguards and two broad categories of safeguards: safeguards created by the profession, legislation or regulation and safeguards in the work environment. Specific examples of threats and safeguards are given in the framework for both CPAs in public practice and CPAs not in public practice.

Proposed Interpretation 101-17

Proposed Interpretation 101-17, *Networks and Network Firms and Proposed New Definitions of Network and Network Firms and Proposed Revised Definition — Firm*, recognizes that CPA firms frequently form associations with other firms and entities to enhance their service capabilities. Since these associations share certain characteristics,

they are considered to be networks and must be independent of the other network firms for certain attest clients. Common characteristics are identified as:

- Use of a common brand name in the firm name
- Common control among the firms
- Profits or costs, excluding cost of operations; cost of developing audit methodologies, manuals and training courses; and other costs that are immaterial
- Common business strategy that involves ongoing collaboration among firms to implement the association's strategy and where firms are accountable for performance based on the strategy
- Significant part of professional resources
- Common quality control policies and procedures required of the firms and designed and monitored by the association

Network firms should be independent of all other network firms' audit and review clients where use of the report is not restricted to specified users. For other attest clients, a network firm should consider threats created by other network firms' interests. If the threat level is not acceptable, the network firms should apply safeguards to eliminate the threats or reduce them to acceptable levels.

Proposed Interpretation 501-8

Proposed Interpretation 501-8, Failure to Follow Requirements of Governmental Bodies, Commissions or Other Regulatory Agencies on Indemnification and Limitation of Liability Agreements with a Client: Certain governmental bodies, commissions and other regulatory agencies (collectively, "regulators") have established requirements (including, but not limited to, laws, regulations and interpretations thereof) that prohibit entities subject to their regulation from entering into certain types of indemnification and limitation of liability agreements in connection with the member's provision of audit or other attest services that are required by such regulators or that provide that the existence of such agreements causes the member to be disqualified from providing such services to these entities. For example, federal banking regulators, state insurance commissions and the U.S. Securities and Exchange Commission have established such requirements.

If a member agrees to perform audit or other attest services that are subject to the requirements of these regulators, the member should not enter into an indemnification or limitation of liability agreement with the client that would place the client or member in violation of such requirements or that would cause the member to be disqualified from providing such services to the client. A member who enters into an agreement with a client that would place the client or member in violation of such requirements or that would cause the member to be disqualified from providing such services to the client would be considered to have committed an act discreditable to the profession.

Please keep an eye on the AICPA Web site at www.aicpa.org for the latest information.

Ethical Decision Model

Spend approximately five minutes reviewing the ethical decision model and the case study. The emphasis in this model is the mental test of whether you could sleep at night if the decision you made today were on the front page of the newspaper tomorrow.

Any number of ethical decision models exist in the world, some very short and others very long and detailed. The commonality of all models is based on the human character and the decisions we make that guide our behavior with others. In 1932, Herbert J. Taylor of the Rotary Club of Chicago developed “The Four-Way Test,” which encapsulated Rotary’s standard of ethics. More than three-quarters of a century later, The Four-Way Test has been translated into more than 100 languages and has become synonymous with high ethical standards.

The Four-Way Test

Of the things we think, say or do:

1. Is it the TRUTH?
2. Is it FAIR to all concerned?
3. Will it build GOODWILL and BETTER FRIENDSHIPS?
4. Will it be BENEFICIAL to all concerned?

— Herbert J. Taylor, Rotary International President, 1954–1955

In applying this test to the CPA profession, each member must weigh harm and benefit to everyone impacted by the CPA’s decision. In addition to addressing the moral issues involved, the CPA must also comply with state legislation and the Code in carrying out his/her duties as a licensed CPA.

Ethical Decision Model Example

Johnny Junior worked for Ticken Flip, CPAs, as a senior tax manager, preparing individual and corporate tax returns. Mr. Junior also served on the firm’s tax committee, which established the firm’s policies on tax return positions. At the last tax committee meeting, the committee decided to adopt a tax return position that Mr. Junior felt was unsupported, based on research he undertook and presented at the meeting. After the meeting, Mr. Junior did further research and determined that the firm’s position would materially impact ten clients, six of which the firm also issued financial statements as requirements for loans of the businesses. The tax position would cause the financial statements to understate the actual tax liabilities of the companies, representing that the businesses were more profitable than Mr. Junior believed them to actually be. What should Mr. Junior do?

Applying “The Four-Way Test,” Johnny should consider the following:

- Is it the truth? Mr. Junior needs to re-evaluate whether his research is correct or whether the tax committee’s rationale behind its decision is correct. In going through this process, he may wish to consult experts in the particular area and also

discuss the issue with the firm's management. Before taking any further action, Mr. Junior should be certain that he is correct.

- Is it fair to all concerned? Mr. Junior needs to determine who is impacted by the issue. He already identified ten clients, but he also must take into consideration the banks involved, as well as the firm's management and employees. If he makes an unjustified disclosure, he may cause the firm to lose clients and employees to lose their jobs.
- Will it build goodwill and better friendships? In a profession, the role of the professional is not to make everyone happy. Sometimes we must give clients, employers or employees advice they don't like. However, as a professional, Mr. Junior should make every effort to handle this matter in a professional manner, without becoming emotionally embroiled in it. He should present his opinion and argument reasonably and methodically.
- Will it be beneficial? Unfortunately, the solutions to ethical dilemmas do not always provide benefits for everyone. Johnny's duty is to determine the course of action that he, as a professional, must take to meet his obligations to the public and his profession.

Principles of Professional Conduct

The remaining sections are the core content, and you should spend a total of 60–75 minutes on the discussion of the three required principles (Sufficient Relevant Data, Acts Discreditable and Confidential Client Information) plus your choice of one of the remaining three principles. Of the optional principles, pick the one most suited to your audience. Within each principle, the case scenarios are color-coded in your instructor's manual to assist you in targeting your audience: Blue is used for public practice, green for industry and orange for government. Some of the principles used this year are specifically addressed to members in public practice. In those cases, the examples will almost exclusively be targeted to members in public practice. If you have a small enough group, break the participants into groups of three or four to read the scenarios and come up with solutions. For larger groups, ask them to work alone and then ask for two or three volunteers to provide solutions. Ask for the answer and the reason they believe the answer is correct. After, read the course solution to the participants. If your time is short, pick the most relevant cases from each section. Read the scenarios, then give the answer and the reason for the answer.

The American Institute of CPAs (AICPA) Code of Professional Conduct (the Code) discusses the principles of professional conduct and the standards of conduct. The broad principles in the Code establish the foundation for the ethics rules, interpretations and ethics rulings and the principles are incorporated by reference into the statutes of the Virginia Board of Accountancy (BOA) in §54.1-4413.3.

The BOA outline for the 2008 ethics CPE course lists three required topics along with three other topics from which to choose one, with only one or the three required. The three required topics are:

- **Sufficient Relevant Data** — Rule 201 of the Code
- **Acts Discreditable** — Rule 501 of the Code
- **Confidential Client Information** — Rule 301 of the Code

The three topics from which to choose one are:

- **Due Professional Care** — Rule 201 of the Code
- **Contingent Fees, and Commissions and Referral Fees** — Rules 302 & 503 of the Code
- **Advertising and Other Forms of Solicitation** — Rule 502 of the Code

Sufficient Relevant Data

Rule 201 requires the CPA to obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.

PowerPoint slide 42:

Case Scenario 1

Billy, CPA, works as the comptroller for Binky's Bikinis, Inc., in Virginia. Binky Blue, the company's owner, went to an investment seminar, where he learned about spinning off all of his company's fully depreciated equipment, including his specially designed bikini bottom super knitting machine, to another company, formed in Delaware. The Delaware company would then lease back the equipment. Binky's Bikinis would be able to write off a huge lease payment, thereby reducing its Virginia tax liability. The other company would start depreciating the rental equipment all over again, sheltering the rental income in the Delaware company. The investment advisor stated that no gain or loss would be recognized in moving the equipment from Binky's Bikinis to the Delaware company. Binky asked Billy whether this was a good idea. Billy read all of the material Binky provided from the investment advisor, but failed to check the Virginia Department of Taxation Web site for current rulings from the Tax Commissioner, thereby missing a ruling that disallowed this structure as an avoidance of tax nexus. Billy recommended that Binky go ahead with the plan. Billy met his professional duty to his employer when he gave Binky advice.

- A. True
- B. False

The answer is False. Before Billy provided any advice to Binky, he should have considered all of the ramifications to Binky's Bikinis, Inc., including tax issues and accounting and financial statement presentation issues, as he was the comptroller and Binky relied on Billy's professional knowledge for advice.

PowerPoint slide 44:

Case Scenario 2

Lisa Listliss, CPA, worked as an assistant to the commissioner of revenue for Big City government. Her duties included recording business license and real estate transaction information in the city's computer system. Lisa also volunteered at the local soup kitchen, a nonprofit organization, helping to serve soup and wash dishes every other weekend. One Saturday, Molly Monk, the soup kitchen's director, asked Lisa if she could do the annual audit for the soup kitchen because the kitchen's old auditor could not do the work any longer. Lisa agreed and proceeded to gather the information from Molly to work on the audit. Molly told Lisa not to bother contacting the old auditor because he was a cranky old man and had nothing nice to say about anyone. Lisa agreed and didn't think any further about contacting the old auditor. Lisa completed the audit without contacting the prior auditor. Six months later, Molly was arrested for embezzling money from the soup kitchen after the old auditor reported her to the police. During court testimony, the old auditor stated that he resigned because he became aware of the embezzlement. Lisa met her professional duty in gathering sufficient relevant data before completing the audit.

- A. True
- B. False

The answer is False. Communicating with the prior auditor is one of the steps a successor auditor must take. Therefore, Lisa should have contacted the old auditor in order to gather information about the soup kitchen before performing the audit. If Molly had refused to authorize communication with the old auditor, Lisa would have needed to reconsider whether to accept the audit work. There is a second issue under Rule 201 — Competence. Lisa did not perform audit work as part of her day job. She would have needed to either possess the competence and knowledge to do the work before starting the job or develop the expertise during the job to meet the professional standards for audit services.

PowerPoint slide 46:

Case Scenario 3

Jimmy Jetz, CPA, is a partner with Jetz and Joints, CPA, P.C., where he specializes in business valuations and litigation support services. Each time Jimmy starts an engagement, he works from a checklist he created based on his 20 years of business valuation experience. Jimmy gathers the information outlined in the checklist, analyzes it and then asks additional questions that he believes are relevant to the engagement. Barry Bucks asks Jimmy to provide a business valuation on his business, Bucks Barber & Shave Shops, Inc., because he was getting a divorce from his wife, Buffy Bucks, and her attorney was looking for assets. While Jimmy worked on the information Barry provided, Jimmy discovered an offshore account in Belize in the company's name that was never disclosed to the U.S. Treasury as an offshore account owned by a U.S. citizen. Nor was it reported on the company's financial statements. Jimmy factors in the value of the account less the potential penalty for failure to disclose the account when he valued the business and provides the report to Barry. Barry passes the report onto Buffy's attorney without looking at the information. Sixteen months later, Barry is in the federal penitentiary, serving time for tax evasion, due to the offshore account. Jimmy met his professional duty in gathering sufficient relevant data when he performed the business valuation.

- a. True
- b. False

The answer is True. While Barry might not be happy with the outcome, Jimmy gathered the correct information to perform the work and considered the information when he calculated the value of the business. Jimmy is not required to place a large warning label on the report that says, "DO NOT DISTRIBUTE THIS REPORT BEFORE YOU READ IT; AND IF YOU DON'T LIKE WHAT IT SAYS, SHRED IT!"

Acts Discreditable

Rule 501 states a member shall not commit an act discreditable to the profession. The section contains seven interpretations for CPA requirements under acts discreditable, related to:

- Response to requests by clients and former clients for records
- Discrimination and harassment in employment practices
- Failure to follow standards and/or procedures or other requirements in governmental audits
- Negligence in the preparation of financial statements or records

- Failure to follow requirements of governmental bodies, commissions or other regulatory agencies
- Solicitation or disclosure of CPA Examination questions and answers
- Failure to file tax return or pay tax liability

PowerPoint slide 50:

Case Scenario 4

Nola Nitz, CPA, purchased an accounting practice and acquired all of the archived client files as part of the purchase. The files included the work papers for reconciling the books of Pete's Plumbing (an unincorporated business) to the owner's, Pete's Pipes, tax returns for the years 2002, 2003 and 2004. One day, Pete called Nola and told her that he was under audit by the Internal Revenue Service (IRS) for 2004. Nola told Pete that she could not represent him on the audit and to go to the IRS meeting by himself. Pete was not happy with this recommendation and, after calling several friends for recommendations, hired Nola's competitor, Nancy Sharp, CPA, to represent him on the audit. Nancy obtained a written authorization from Pete to request any information Nola possessed related to Pete's 2004 tax return. Nancy faxed the authorization to Nola, along with a list of requested items, including the workpapers on which the former firm owner reconciled Pete's books to his tax return. Nancy also included a cover letter, explaining that she needed the documents very quickly because the IRS audit was in two weeks. Nola demanded that Pete pay an outstanding bill for his 2006 tax return before she would release the documents. Nola Nitz committed an act discreditable to the profession.

- A. True
- B. False

The answer is True. Under Interpretation 501-1, workpapers that a CPA created to adjust the client's books are considered supporting records. Supporting records relating to a completed and issued work product should be provided to the client, except that such supporting records may be withheld if there are fees due to the member for the specific work product. Since the bill outstanding is not related to the 2004 tax return work, Nola cannot withhold the 2004 information for non-payment of the 2006 tax return bill. However, Nola may charge a reasonable fee to provide the information to Pete. Nola should also be aware that she is obligated under Internal Revenue Service (IRS) Circular 230 §10.28 to provide this information to Pete to meet his federal tax obligation with the audit.

PowerPoint slide 52:

Case Scenario 5

Harry, CPA, worked for Whole Wheat Flour Co. as the head of the accounting department. Due to an allergic reaction to wheat flour, Harry developed an uncontrollable hand spasm that caused him to grope only the young, female employees in his division. Harry could take medication to control the problem, but the drugs made him sleepy and unable to perform his job. After numerous complaints, Paul Polish, the manager of human resources, warned Harry to stay away from his fellow employees, cease his groping or be terminated. Harry tried to stay on his medication, but accidentally missed two doses. The following day, Harry was back to uncontrolled groping. His coworker filed a formal

complaint of sexual harassment, resulting in Harry's termination. However, no formal charges were ever brought against Harry. Harry has not committed an act discreditable.

- A. True
- B. False

The answer is True. Harry's medical condition is actually irrelevant. Under Interpretation 501-2, because Harry was never charged and found guilty of sexual harassment, his behavior, while unfortunate, does not constitute an act discreditable.

PowerPoint slide 54:

Case Scenario 6

Wanda Wishful, CPA, works in the accounting department for the corrections department in Smallpoint County. Since Wanda works long hours and is a single parent, she hired Granny B as the nanny for her two children, Willie and Wilma. Wanda pays Granny every two weeks and withholds social security and Medicare taxes from Granny B's pay. When Wanda timely filed her 2007 federal income tax return, she omitted the Schedule H for household employees and did not pay any household employee taxes with the return. Wanda has committed an act discreditable.

- A. True
- B. False

The answer is True. According to Interpretation 501-7, even though Wanda filed her tax return in a timely manner, she failed to pay over payroll taxes collected on behalf of others (Granny B). Therefore, she has committed an act discreditable. The same would be true of anyone who had the decision-making authority to direct the payment of payroll or withheld taxes and failed to remit the payment.

Confidential Client Information

Rule 301 states a member in public practice shall not disclose any confidential client information without the specific consent of the client.

This rule shall not be construed (1) to relieve a member of his or her professional obligations under rules 202 Compliance with Standard and 203 Accounting Principles, (2) to affect in any way the member's obligation to comply with a validly issued and enforceable subpoena or summons, or to prohibit a member's compliance with applicable laws and government regulations, (3) to prohibit review of a member's professional practice under American Institute of CPAs (AICPA), state CPA society or board of accountancy authorization or (4) to preclude a member from initiating a complaint with, or responding to any inquiry made by, the professional ethics division or trial board of the AICPA or a duly constituted investigative or disciplinary body of a state CPA society or board of accountancy.

Members of any of the bodies identified in (4) above and members involved with professional practice reviews identified in (3) above shall not use to their own advantage or disclose any member's confidential client information that comes to their attention in carrying out those activities. This prohibition shall not restrict members' exchange of

information in connection with the investigative or disciplinary proceedings described in (4) above or the professional practice reviews described in (3) above.

Interpretation 301-3 describes confidential information and the purchase, sale or merger of a practice.

Rule 301 prohibits a member in public practice from disclosing any confidential client information without the specific consent of the client. The rule provides that it shall not be construed to prohibit the review of a member's professional practice under AICPA or state CPA society authorization.

For purposes of rule 301, a review of a member's professional practice is hereby authorized to include a review in conjunction with a prospective purchase, sale or merger of all or part of a member's practice. The member must take appropriate precautions (for example, through a written confidentiality agreement) so that the prospective purchaser does not disclose any information obtained in the course of the review, as such information is deemed to be confidential client information.

Members reviewing a practice in connection with a prospective purchase or merger shall neither use to their advantage nor disclose any member's confidential client information that comes to their attention.

PowerPoint slide 59:

Case Scenario 7

Frank Flame, CPA, receives a letter from an attorney requesting three prior year tax returns for Frank's client, Milton Marvel. Since Frank knows that the attorney is Milton's attorney, without consulting Milton, Frank copies and mails the tax returns to the attorney. Frank has violated client confidentiality.

- A. True
- B. False

The answer is True. Rule 301 requires the specific consent of the client before releasing confidential information. In addition to violating Rule 301, Frank also violated IRC §7216 by not obtaining Milton's written permission prior to sending the tax returns to Milton's attorney.

PowerPoint slide 61:

Case Scenario 8

Suzy Swift, CPA, works as the assistant comptroller for Mega Equipment Company, Inc., and is thinking about retiring to open a small accounting practice in her hometown of Geesburg. Suzy sees an ad in the state CPA society magazine for a practice for sale in the town next to Geesburg and decides to explore the possibility of buying the firm. Suzy meets with the owner, Sam Ageless, and signs a confidentiality agreement to not disclose any of the client information that Sam allows Suzy to review in making her decision to buy his firm. During Suzy's review, she discovers that Sam allowed his firm license to lapse but continued to issue audited financial statements for several local nonprofits. Suzy decides not to buy Sam's firm because of the potential liability issues and also files a complaint with the state's board of accountancy, disclosing the nonprofits' identities and copies of

Sam's audit reports that she obtained during her review of the firm. Suzy has violated Rule 301.

- A. True
- B. False

The answer is False. The fourth exception to Rule 301 allows Suzy to provide the information in filing the complaint. Suzy would have violated Interpretation 301-3 had she used that information in an effort to put Sam out of business to eliminate competition or solicited his client list upon opening her own firm.

Due Professional Care

Rule 201 requires a CPA to exercise due professional care in the performance of professional services. This requirement is one of the overarching general standards of the Code.

PowerPoint slide 64:

Case Scenario 9

Vinny Vine, CPA, provides audit services for governmental entities, including the city of Vineyardvale. During the annual audit of Vineyardvale, Vinny becomes ill and turns the audit over to his new employee, Clay Newby, after he is hospitalized. From his hospital bed, Vinny tells Clay to just follow along with last year's workpapers and that he will check on him again at the end of the week. Clay dutifully copies last year's workpapers, inserting the current year's information, and attempts to follow the audit steps from the prior year. Clay finishes his work two days ahead of schedule, writes up the audit report and gives everything to Vinny while Vinny is still in the hospital. Vinny does not look at the audit work and simply signs the report the following week in order to meet the deadline that he promised the mayor of Vineyardvale. In completing and issuing the audit report for Vineyardvale, Vinny exercised due professional care.

- A. True
- B. False

The answer is False. As Clay is inexperienced, Vinny is required to exercise more care in providing professional services than leaving Clay alone and unsupervised to perform the audit work. Vinny is also required to review Clay's work to determine whether the services provided were executed by Clay with due professional care.

PowerPoint slide 66:

Case Scenario 10

Helga Hops, CPA, is a partner in Hops and Barley, CPAs. While Helga is a very experienced CPA, her office appears as though she has not cleaned or filed in 20 years. Client files are stacked in piles on the floor and reach as high as her office windowsills. Helga meets with clients in the firm's conference room because she does not have room in her office for visitor chairs. After completing an audit for her client, Big Bill's Carpets, Helga piled the Big Bill's records on top of one of the piles, causing a landslide of the entire pile. When Helga straightened the files out, she misfiled part of Big Bill's documents into another client's set

of records. Helga returned both sets of records to the respective clients. A week later, Helga receives a call from Big Bill, asking when the rest of his company's records will be returned. Helga mentally flashes back to the pile landslide and realizes that she probably mixed up the records. Helga has exercised due professional care.

- A. True
- B. False

The answer is False. Not only has Helga not exercised due professional care in the handling of her client's records, she has violated client confidentiality by inadvertently giving the records to another client.

Contingent Fees and Commissions and Referral Fees

Rule 302 describes the duties of CPAs and contingent fees. According to Rule 302, a member in public practice shall not:

- A. Perform for a contingent fee any professional services for or receive such a fee from a client for whom the member or the member's firm performs:
 - An audit or review of a financial statement
 - A compilation of a financial statement when the member expects, or reasonably might expect, that a third party will use the financial statement and the member's compilation report does not disclose a lack of independence
 - An examination of prospective financial information

OR

- B. Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client

The prohibition in (A) above applies during the period in which the member or the member's firm is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in any such listed services.

Except as stated in the next sentence, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for the purposes of this rule, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

A member's fees may vary depending, for example, on the complexity of services rendered.

Rule 503 addresses the requirements for Commissions and Referral Fees as follows:

Prohibited Commissions

A member in public practice shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the member or the member's firm also performs for that client any of the following:

- An audit or review of a financial statement
- A compilation of a financial statement when the member expects, or reasonably might expect, that a third party will use the financial statement, and the member's compilation report does not disclose a lack of independence
- An examination of prospective financial information

This prohibition applies during the period in which the member is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

Disclosure of Permitted Commissions

A member in public practice who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the member recommends or refers a product or service to which the commission relates.

Referral Fees

Any member who accepts a referral fee for recommending or referring any service of a CPA to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.

PowerPoint slide 71:

Case Scenario 11

Tim Tickle, CPA, works for Smoothe & Weston, Inc., a manufacturer of handguns. Tim's cousin, Terence Tickle, CPA, owns a tax practice. Tim hands out Terence's business card to his co-workers and recommends that they use Terence for their tax preparation needs. Terence pays Tim a referral fee of \$50 for each of Tim's co-workers who hire Terence to prepare their taxes. Neither Tim nor Terence disclose the referral fee arrangement to Tim's co-workers. Tim and Terence have violated Rule 503.

- A. True
- B. False

The answer is True. While referral fees are not prohibited in these cases, disclosure by both CPAs is required.

PowerPoint slide 73:

Case Scenario 12

Barb Simpson's CPA firm provides audit services to Green Grocer's Organic Markets, owned by Gil Green. Gil owes a huge amount of taxes and heard that he could buy tax credits at a discount to pay his tax liability. Barb's firm has clients that wish to sell tax credits. Barb offers to help Gil purchase the tax credits and discloses to Gil that her firm

will receive a commission on the transaction. Barb has complied with Rule 503 by disclosing to Gil that her firm will earn a commission.

- A. True
- B. False

The answer is False. Because Gil is an audit client of the firm, the firm is prohibited from recommending any product for which it earns a commission. As a secondary issue, Bart and the firm probably have a conflict of interest between their two clients, the buyers and sellers of the tax credits, particularly if they are limited in their disclosures to each party due to client confidentiality rules.

PowerPoint slide 75:

Case Scenario 13

Lucy Lucky, CPA, provides services for bankrupt estates. She sent an engagement letter to a potential client, stating, "Fees are charged based on the firm's standard hourly rates. Hourly rates are subject to change and contingent on the approval of the court of jurisdiction for the bankruptcy action." As part of the services, Lucy is required by the court to audit the client's books. Lucy has violated Rule 302 regarding contingent fees because she provides audit services.

- A. True
- B. False

The answer is False. Making a fee contingent on court approval does not violate Rule 302, even though Lucy may not get paid if the court does not approve her fee. This is one of the few exceptions to the rule.

Advertising and Other Forms of Solicitation

Rule 502 of the Code states a member in public practice shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading or deceptive. Solicitation by the use of coercion, over-reaching or harassing conduct is prohibited.

PowerPoint slide 78:

Case Scenario 14

Sammy Slick, CPA, owns Slick & Associates, CPAs, and advertises during tax season in the local paper. His ads read, "Slick & Associates, CPAs, extensive and experienced professionals can service all of your tax and accounting needs." Sammy is the only owner and employee of Slick & Associates, CPAs. Sammy has violated Rule 502.

- A. True
- B. False

The answer is True. Since Sammy is the only professional employee, he is misleading the public by indicating there are additional professionals working for him. The name of his firm is also misleading because he allows the perception that more services are available than his own. The answer would be different if Sammy had other employees with sufficient experience and knowledge to meet his advertised representations.

PowerPoint slide 80:

Case Scenario 15

Carl Casteye, CPA, advertises his services on the Internet, including a link to his Web page. On his Web page, Carl lists his educational degrees, employment history and participation in civic and other nonprofit organizations, as a method of demonstrating his expertise. In actuality, Carl has never served an active role in any of the nonprofits he listed; he simply donates to each organization annually. Carl's Web page also lists two former employees and their experience, even though neither employee has worked for Carl for two years. Carl has not violated Rule 502.

- A. True
- B. False

The answer is False. By claiming that he has participated in nonprofit organizations, Carl is creating a perception that he has experience that he does not possess. Also, continuing to promote two former employees as part of his firm adds to the misperception that he employs more experienced staff members than he currently does. Web sites should be updated on a regular basis if they are used as a method of advertising to the public to ensure they accurately represent the real services and experience of the CPA.

Attendees will find the answers to the case scenarios in the PowerPoint presentation in the Appendix.

Conclusion

Hopefully the course material has provided a useful update on standard setting activities related to the BOA and ethics for CPAs, and provided a review of topics selected by the BOA for emphasis in this year's course. When you have the chance, please check the status of your CPA license at the BOA Web site, www.boa.virginia.gov.

Appendix



a fresh look at ...

licensing requirements

By Stephen D. Holton, CPA, and Lawrence D. Samuel, CPA

The Code of Virginia establishes the Virginia Board of Accountancy (BOA) as the state agency that oversees licensing of CPAs providing services in Virginia. The BOA views licensing as a broad concept that offers the public significant protection by prescribing requirements for formal and continuing professional education, examination and experience, as well as standards of conduct and practice. The Code of Virginia gives the BOA a wide variety of enforcement powers, including the ability to impose monetary penalties up to \$100,000 per violation.

Licensing requirements are found in two sources — the statutes and the related BOA regulations. The statutes are in the Code of Virginia under Title 54.1, Chapter 44. Only the Virginia General Assembly can revise the statutes. If the BOA believes revisions are necessary, it must follow the proper channels to have the revisions introduced into the legislative process. Revisions to the statutes therefore generally require the approvals of the House of Delegates, the Senate and the governor.

The BOA, however, can revise the regulations, but the revision process is rigorous, requiring exposure for public comment, interaction with other state agencies and approval by the governor. The statutes and regulations that are in effect now are available on the BOA Web site at www.boa.virginia.gov.

The BOA has embarked on a project to ensure the statutes and regulations are up-to-date, remain evergreen and have sufficient clarity so that CPAs and those who use the services of CPAs can apply them to practice situations.

Why did the BOA take on this project?

In 2004, the BOA exposed for public comment significant revisions to the regulations. The proposed revisions were discussed in ethics training throughout Virginia during the comment period. Those discussions generated enough questions and comments that in October 2004 the BOA withdrew the proposed

revisions and took a fresh look at the statutes and regulations.

The BOA identified specific practice issues and decided on the appropriate solution. The BOA then looked at the statutes and regulations to see whether they would provide the same solution. This process highlighted that the clarity of the guidance in the statutes and the regulations could be improved significantly. The BOA believes strongly that clarity helps ensure compliance, which better protects the public.

This process led the BOA to embark early in 2005 on a three-part project, under which it would:

1. Develop proposed revisions to the statutes that would adopt a principles-based approach.
2. Once those revisions are adopted, revise the regulations to provide detailed requirements for the principles as needed.
3. Develop a series of questions and answers that would illustrate how to apply the requirements of the revised statutes and regulations to real-life situations and make those questions and answers available through the BOA Web site.

Status of the project

The BOA has completed the first part of the project. In January 2007, Senate Majority Leader Walter A. Stosch, CPA, a long-time VSCPA member, introduced SB 1395, which the BOA wrote to sub-

stantially revise the statutes. The bill was approved unanimously by both the Senate and the House of Delegates, and was approved by Gov. Kaine on March 23, 2007. The revised statutes, which are on the BOA Web site, became effective July 1, 2007.

The BOA has started the second part of the project — revising the regulations. The BOA has a mandate to issue conforming regulations within 280 days of the effective date of the revised statutes. That period ends in early April 2008.

Now that the revised statutes are in effect, there are disparities between the statutes and the regulations. Those disparities will not be resolved until revised regulations are approved. However, the BOA is mindful of the confusion that may result and is developing appropriate interim guidance. In the meantime, as general guidelines:

- a. A complaint filed about an act performed prior to July 1, 2007, will be evaluated based on the statutes and regulations that were in effect at the time of the act.
- b. A complaint filed about an act performed after June 30, 2007, but before revised regulations are approved, will be evaluated based on the revised statutes and the current regulations unless there is a relevant disparity. In that instance, the revised statutes govern. As a rule of thumb, “statutes trump regulations.” ▷

The BOA started the third part of the project — developing questions and answers — when it was developing the revisions to the statutes. Those questions and answers were developed to test the revisions. The BOA will develop additional questions and answers as it develops the revised regulations.

The BOA may put questions and answers that relate just to the statutes on the Web site relatively soon. However, it will not put questions and answers that relate to the proposed revisions to the regulations on the Web site until the revised regulations are approved.

Nothing is simple anymore

When the statutes were first drafted in the early 1920s, requiring licenses for auditing was the main focus. Now, however, the profession is much more complex. An audit is designed to lead

to the expression of a conclusion about financial statements. However, there are a variety of other services that result in the expression of a conclusion on not just financial statements but also other assertions. Those expressions may be positive or limited. In addition, the assertions may be about entire financial statements or parts of them, the information may be historical or prospective, and the information may not even be financial.

Think about the vast array of other services CPAs provide, from tax planning and tax return preparation to consulting on a variety of issues. Tax services alone are broad, encompassing individuals and entities, taxable and nontaxable entities, and estate and a variety of other types of taxes. It is not necessary to be a CPA to perform these services.

There are other complicating factors as well. For example:

- a. The Internet has dramatically increased the geographical area over which services can be provided.
- b. There is much more emphasis on moving between states and even countries.
- c. The number of persons who use the CPA title and primarily provide services to employers in academia, government and industry is probably greater than the number of persons who use the CPA title and are primarily employed in providing services to the public.

To properly address these complexities, the BOA was mindful of the need to get input from a wide variety of perspectives in developing the revised statutes. The BOA formed a task force consisting of individuals with different perspectives and also had drafts reviewed by

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other individuals with a wide variety of perspectives.

Revised statutes

Here's a summary of what the revised statutes accomplish:


- a. The revisions comprehensively update the statutes.
- b. They implement a principles-based approach to the statutes.
- c. They reduce licensing requirements without increasing risk to the public.
- d. They address use of the Internet, interstate and international commerce and other changing business conditions.
- e. They establish the requirements for obtaining, renewing, reinstating and lifting the suspension of privileges.
- f. They clarify the consequences of having privileges revoked.

- g. They add clear standards of conduct and practice.
- h. They facilitate mobility between states while clarifying that all persons and firms using the CPA title in Virginia or providing attest or compilation services to persons or entities located in Virginia are subject to the same statutes and regulations — whether or not they are required to hold a Virginia license.
- i. The principles-based approach improves the understandability of the statutes and provides a better framework on which to base regulations.
- j. The revised statutes authorize the BOA to enter into confidential consent agreements for minor violations.

Some observations about the effects of the revised statutes may be helpful.

- a. Some form of licensure is required in two instances:

- 1. A person uses the CPA title in Virginia.
 - 2. Attest or compilation services are provided to persons or entities located in Virginia.
- b. Whether or not a Virginia license is required generally depends on the location of the principal place of business of the person or firm using the CPA title or providing the services.
 - c. Generally, if a Virginia license is not required, there is no need to notify the BOA. However, those persons and firms are subject to the same statutes and regulations that apply to holders of Virginia licenses, and they are subject to the jurisdiction of the BOA for all complaints filed against them for acts committed in Virginia.
 - d. The standards of conduct and practice are those prescribed by ▶



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recognized standards-setting authorities, and they remain evergreen.

The next step: Revised regulations

The BOA is designing a new set of regulations rather than revising the present ones. The new regulations will relate directly to the new framework that is provided by the revised statutes.

The BOA believes it can significantly reduce the volume of regulations, partly because the framework provided by the revised statutes addresses some topics that previously were only covered in the regulations. For example, the new framework updates definitions, covers all the categories of licensing considerations and prescribes standards of conduct and practice. Therefore, sections of the present regulations that provide definitions, discuss licensing by endorsement and provide standards of conduct and practice will no longer be necessary.

The BOA also believes some of the detail that is presently in the regulations can be eliminated by prescribing operating policies for them. The BOA is authorized to set operating policies without going through the rigorous process for prescribing regulations. However, those policies are typically detailed, address day-to-day concerns and are not likely to be controversial. BOA policies are published and available for public inspection.

The BOA views regulations as interpretations of the statutes and believes a regulation is needed only if a statute needs interpreting. The BOA has developed a preliminary list of statutes that likely need regulations. For example, whether a person or firm needs a Virginia license generally depends on the location of the principal place of business of the person or firm.

“Principal place of business” is a term that may be interpreted differently as time goes on, and the BOA therefore did not define it in the revised statutes. Instead, principal place of business will be defined in the regulations. If a change is needed later as the notion of mobility evolves, it will be much easier for the BOA to change the definition if it is in the regulations than if it had been in the

statutes.

In some cases, the statutes note that the BOA will prescribe regulations. For example, the new statute permitting confidential consent agreements says that regulations will identify the type of minor violations for which confidential consent agreements can be offered, and limit the number of confidential consent agreements that may be offered to a licensee in any given period.

The BOA has begun drafting regulations based on its preliminary list of statutes that likely need regulations. However, the BOA is keenly aware that it needs input from a wide variety of perspectives. Accordingly, it is developing a task force to help with development of the revised regulations. Because task forces must be relatively small to be effective, the BOA is also developing a bank of reviewers to review drafts. This process worked well in developing the revised statutes.

The final piece: Questions and answers

Questions and answers, or Q&As, are an effective means of enabling CPAs and the users of their services to better understand how to apply the statutes and regulations. The BOA also has found that Q&As are a great way to test guidance being developed. Accordingly, in developing the revised statutes, the BOA developed 30 Q&As, and it will create additional Q&As while developing the new regulations.

Provide your input

You will have opportunities this fall to participate in discussions about

the revised statutes in various seminars. In addition, after the BOA finishes the revised regulations, they will be discussed in seminars late in the year.

If you have suggestions for revisions to the regulations or for Q&As, please let us know. The best way to communicate with us is to send an e-mail to boa@boa.virginia.gov. Please be specific in your suggestions. For example, if you believe a Q&A would be helpful, please give some background information, and then rough out the question and what you think the answer should be. □

Stephen D. Holton, CPA, is the immediate past chairman of the Virginia Board of Accountancy and a stockholder with Martin, Dolan & Holton, Ltd. in Richmond. Contact him at sholton@mdhltd.com.

Lawrence D. Samuel, CPA, is the current chairman of the Virginia Board of Accountancy and a partner with Deloitte & Touche LLP in McLean. Contact him at lsamuel@deloitte.com.



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VIRGINIA BOARD OF ACCOUNTANCY DISCIPLINARY ACTIONS

The following actions were taken by the Virginia Board of Accountancy as a result of the Board's enforcement process.

SUMMARY OF VIOLATIONS	BOARD ACTION	DATE ENTERED BY THE BOARD
<p><u>CONSENT ORDER</u> 54.1-4413. A 18 VAC 5-21-120-(A) Responsibilities 18 VAC 5-21-120 (B) Public Interest Failure to act in a way that demonstrates commitment to professionalism by using vulgar language in official correspondence.</p>	<p>The Board imposed a monetary penalty of \$500 and proof of satisfactory completion of anger management class no later than December 31, 2007.</p>	<p><u>2007</u> Jun</p>
<p><u>FINAL ORDER</u> 54.1-4413.1, 54.1-111 and 54.1-4414 Respondent never licensed as a CPA, signed an Independent Auditors Report for a non-profit organization which was used to secure grants from the government. The Respondent had a Master's degree in accounting and taught at a local college.</p>	<p>The Board imposed a monetary penalty of \$2,000 to be paid within 90 days of the entry date of the Final Order.</p>	<p><u>2007</u> Jul</p>
<p><u>FINAL ORDER</u> 54.1-4413.1, 54.1-111 and 54.1-4414 The Respondent never licensed in Virginia and used the CPA title without a valid Virginia license in eleven instances. The Respondent had an expired CPA License in a another state.</p>	<p>The Board imposed a monetary penalty of \$5,000 for using the CPA title and providing services as a CPA without a valid Virginia License.</p>	<p><u>2007</u> May</p>
<p><u>FINAL ORDER</u> 54.1-4413 18 VAC 5-21-120 (F)- Due Professional Care Failure to exercise due professional care in the performance of professional service.</p> <p>18 VAC 5-21-120(I) Accounting Principles 18 VAC 5-21-130 Standards of practice. Failure to perform an audit for a municipality in accordance with required standards and failed to respond to notification by the Office of the Inspector General.</p>	<p>The Board placed the Respondent's license on indefinite suspension. The Respondent may petition the Board to have the suspension lifted upon satisfactory completion of 24 CPE hours of A-133 Yellow Book training, an Unqualified Peer Review, execution of a Practice Continuation Agreement (PCA), presentation of a Medical Authorization that the Respondent is mentally and physically fit to practice, and completion of 120 CPE current hours.</p>	<p><u>2007</u> Sept</p>
<p><u>CONSENT ORDER</u> 54.1-4413 A (5) 18 VAC 5-21-120 (M) Acts discreditable to the profession by failing to file personal Federal income tax for tax years 2002, 2003, and 2004.</p> <p>Violation of section 10.51 (f) of Treasury Department Circular 230. Suspended by the IRS from practicing (representing clients) before IRS</p>	<p>The Board imposed a monetary penalty of \$500. The Respondent shall provide the Board with a notarized Affidavit that the Respondent's personal tax returns have been filed in a timely manner to the appropriate taxing authorities by the tax due dates for the years 2006, 2007 and 2008.</p>	<p><u>2006</u> Nov</p>

VIRGINIA BOARD OF ACCOUNTANCY 2008 ETHICS CPE COURSE OUTLINE

- Updates on current ethics and regulatory developments (30 - 45 minutes*)
 - Virginia Board of Accountancy (VBOA)
 - “A Fresh Look at Licensing Requirements,” article from Virginia Society of CPAs *Disclosures* magazine, September/October 2007 issue**
 - Practice without a current license
 - Checking BOA website for license expiration date
 - Importance of resolving issues with clients and others
 - Complaint remains on CPA’s record permanently
 - New firm registration requirements and related peer review
 - Virginia practice privilege for out-of-state CPAs and discussion of practice mobility in Virginia’s neighboring states
 - VBOA disciplinary process**
 - Top ten list of Dos and Don’ts for Virginia licensees**
 - Handouts of actual VBOA enforcement cases (new cases for 2008)**
 - AICPA Professional Ethics Executive Committee (PEEC)
(CPE providers should ensure that topics presented cover all recent significant PEEC activity.)
- Core Content (60 - 75 minutes*)
(These topics should be covered by referring to relevant VBOA regulations and *AICPA Code of Professional Conduct* sections. Practical situations and potential solutions must be included and illustrated with short scenarios or simulations.)

Required:

- Sufficient Relevant Data – VBOA regulation 18 VAC 5-21-120 H and Rule 201, General Standards of the *AICPA Code of Professional Conduct*
- Acts Discreditable – VBOA regulation 18 VAC 5-21-120 M, § 54.1-4413 of the Code of Virginia, and Rule 501, Acts Discreditable of the *AICPA Code of Professional Conduct*

- Confidential Client Information – VBOA regulation 18 VAC 5-21-120 J and Rule 301, Confidential Client Information of the *AICPA Code of Professional Conduct*

One of following three is required:

- Due Professional Care – VBOA regulation 18 VAC 5-21-120 F and Section 50 (Subsection 56) and Rule 201 of the *AICPA Code of Professional Conduct*
 - Contingent Fees, and Commissions and Referral Fees – VBOA regulations 18 VAC 5-21-120 K and L and Rules 302 and 503 of the *AICPA Code of Professional Conduct*
 - Advertising and Other Forms of Solicitation – VBOA regulation 18 VAC 5-21-120 N and Rule 502 of the *AICPA Code of Professional Conduct*
- Process for ethical decision making (5 minutes*)
(A handout should be provided.)

Note: CPE providers must provide a copy of this outline to each participant. It is recommended that CPE providers make cases and other materials available to participants in advance, e.g., by posting them on provider websites.

*Time allocations are suggestions only. Times allocated to the Core Content subjects may vary depending on the appropriate emphasis for the target audience (e.g., CPAs in public practice versus CPAs in private industry or government).

**Available to CPE providers at the Virginia Board of Accountancy website: <http://www.boa.virginia.gov>. Also see the Virginia Board of Accountancy website for more information on the accountancy statute, regulations, and other important information.

Important: During 2008, the Virginia Board of Accountancy will be in the process of developing new regulations based on the new accountancy statute that became effective July 1 2007. The references to VBOA regulations in this outline are to existing regulations in effect until the new regulations are issued. CPE providers should include this information in their materials and urge participants to monitor the VBOA website for more information. The new regulations will be posted on the website when they become effective.



Ethics 2008 — Your License Depends On It!

BOA Required CPE in Ethics and Professional Standards

What are ethics?

- “The rules or standards governing the conduct of the members of a profession.”
— The American Heritage Dictionary
- *Ethics* is derived from the Greek *ethos*, meaning character.
- In the terms for philosophy, *ethics* refers to morality, concentrating on human conduct and values.

BOA Required CPE in Ethics and Professional Standards

The role of the Virginia Board of Accountancy (BOA), as with all professional and regulatory boards in Virginia, is to protect the health, safety and welfare of the citizens of the Commonwealth.

Events of recent years led the BOA to require CPE specifically covering BOA regulations and the Code of Professional Conduct (the Code).

BOA Highlights — Revised Accountancy Statute

In 2007, the Virginia Accountancy Statute was modified by the General Assembly.

- The enactment date for changes was July 1, 2007.
- VSCPA *Disclosures* article, "A Fresh Look at Licensing Requirements," provides a history of the need for changes and a summary of changes to the statute. (See manual appendix.)



BOA Highlights — Revised Accountancy Statute

This course will examine the following changes:

- New firm registration requirements
- Standards of conduct and practice
- Practice privileges for out-of-state CPAs
- Practice without a current license
- Penalties the BOA may impose



BOA Highlights — Revised Accountancy Statute

§ 54.1-4412.1. Licensing requirements for firms

- The statute changes licensure so that only a firm may perform attest services.
- Individuals doing an attest (even for free) must be associated with a firm.
- This change pulls all attest functions under peer review requirements.
- Firms must have a Virginia license if their principal place of business is in Virginia.



BOA Highlights — Revised Accountancy Statute

§ 54.1-4412.1. Licensing requirements for firms

Firms not primarily located in Virginia may perform attest work here if:

- The personnel of the firm working on the engagement are licensed in Virginia or are licensed elsewhere and comply with substantial equivalency
- The personnel of the firm working on the engagement are supervised by someone who is either licensed in Virginia or licensed elsewhere and comply with substantial equivalency



BOA Highlights — Revised Accountancy Statute

§ 54.1-4412.1. Licensing requirements for firms

- Principal place of business is not defined in the Statute and will need to be defined in the regulations.
- Sole proprietors need two licenses — individual and firm — to provide attest services or compiled financial statements under professional standards.
- The AICPA Peer Review Program is the current peer review standard. The program is administered by the VSCPA in Virginia.



BOA Highlights — Revised Accountancy Statute

§ 54.1-4413.3 Standard of conduct and practice

- There are seven standards listed in the code section.
- The AICPA Code of Professional Conduct (the Code) is incorporated as part of the Statute.
- The technical standards and related interpretive guidance of AICPA committees are incorporated as part of the Statute.
- Other oversight agency standards are incorporated as part of the Statute.



BOA Highlights — Revised Accountancy Statute

§ 54.1-4409.1. Licensing requirements for persons

- A person must be licensed in order to use the CPA title in Virginia.
- Changes to the Statute:
 - If your principal place of business is in Virginia, you must have a Virginia license.
 - If principally located elsewhere, you do not need a Virginia license, but do need a license from another state and must comply with substantial equivalency.



BOA Highlights — Revised Accountancy Statute

§ 54.1-4411. Substantial equivalency provisions for persons who hold the license of another state.

Substantially equivalent means:

- The BOA has evaluated and listed the state as substantially equivalent
(or)
- The person has demonstrated meeting education, CPA Exam and experience requirements that are substantially equivalent to those in Virginia.



BOA Highlights — Revised Accountancy Statute

§ 54.1-4411. Substantial equivalency provisions

The Statute clarifies that when you use the CPA title in Virginia, you consent to the jurisdiction of the BOA and the requirements of its regulations, disciplinary procedures and authority to revoke the ability to use the CPA title in Virginia.



BOA Highlights — Revised Accountancy Statute

Practice Without a License

- Unlicensed practice is one of the most common disciplinary complaints the BOA deals with.
- **Check the status of you license online at the BOA Web site!**
- Renewal notices are sent to your last known e-mail address. Paper notices are only sent if an e-mail is undeliverable or no e-mail address exists for the licensee.
- **Keep your contact information current!**



BOA Highlights — Revised Accountancy Statute

License Renewal

- The BOA sends renewal notices via e-mail.
- The first notice is e-mailed 60 days prior to your renewal date.
- The second notice is e-mailed on your renewal date.
- Paper renewal notices are sent only if no e-mail address is on file or e-mail notices are undeliverable.
- If you have not renewed, the BOA sends a notice 11 months after the renewal date (just before expiration date).



BOA Highlights — Revised Accountancy Statute

§ 54.1-4413.4. Penalties

- New language covering what the BOA can do to firms and individuals for violations of the Code and regulations
- Additional abilities for the BOA to enter into confidential consent agreements for minor violations under § 54.1-4413.5
- Penalties for individuals not licensed in Virginia who violate the Code and regulations of the BOA
- New language for prohibited acts under § 54.1-4414

Note: The BOA may impose up to \$100,000 in fines for violations of the Code and regulations.



BOA Highlights — Revised Accountancy Statute

BOA Regulatory Process

- The BOA has 280 days from Statute enactment to promulgate regulations to implement changes.
- The BOA Web site provides the current status on the regulatory process.



BOA Disciplinary Process

The flowcharts in your course manual detail the procedures the BOA follows when a complaint is filed alleging improper conduct by an accounting practitioner.

The terms abbreviated in the flowcharts are described in the manual:

- Administrative Processes Act
- Consent Order
- Enforcement Coordinator
- Enforcement Committee
- Informal Fact-Finding Conference
- Mediation



BOA Example Disciplinary Cases

The following cases are based on actual complaints investigated by the BOA.

The answers to each case are the **actual** sanctions imposed by the BOA.

Note: Only four out of the five cases are discussed in this presentation. Please read the other case and sanctions in the appendix of the manual.



BOA Example Disciplinary Cases

Case 1

Lenny Loudmouth
18 VAC 5-21-120(A) & (B)



BOA Example Disciplinary Cases

Case 1: Answer B



BOA Example Disciplinary Cases

Case 2

Connie Clueless
§ 54.1-111
§ 54.1-4414



Case 2: Answer C



Case 3

I.M. Taxking
18 VAC 5-21-150(M)
IRS Circular 230 §10.51(f)



Case 3: Answer D



BOA Example Disciplinary Cases

Case 4
Bob Bongo
§54.1-111
§54.1-4414



BOA Example Disciplinary Cases

Case 4: Answer A



BOA Disciplinary Process

Complaints are often filed because of poor communication and a lack of issue resolution.

- Communicate with your clients.
- Resolve disputes before clients feel their only recourse is to seek the BOA's assistance.
- **All complaints become a permanent part of your record.**



BOA Example Disciplinary Cases

The following are examples of actual BOA Enforcement Committee cases resulting in a determination of no violation.



BOA Example Disciplinary Cases

Case 1

Bobby Bookkeeper
Return of Client Documents



BOA Example Disciplinary Cases


Case 2

Trudy
Unlicensed Practice




BOA Example Disciplinary Cases

Case 3
John Q. Public
A Lapsed License



AICPA Activity



AICPA Activity


Revision to Interpretation 101-1

One of the useful items in the Conceptual Framework is a definition of independence.

Independence is defined as:

- Independence of mind
- Independence in appearance

Effective date — April 30, 2007



AICPA Activity

Revision to Interpretation 101-3 Nonattest Services

- Applicable to tax compliance services and forensic accounting services for determination of when independence impaired
- Effective date February 28, 2007, with transition for engagement commenced prior to February 28, 2007, and completed by January 1, 2008



AICPA Activity

Exposure Draft — Interpretation 102-7, *Other considerations — Meeting the Objectives of the Fundamental Principles and Proposed Framework for Meeting the Objectives of the Fundamental Principles*

- Applies to CPAs in all areas — public practice and industry
- Identifies threats and safeguards for CPAs in public practice and industry



AICPA Activity

Exposure Draft — Interpretation 101-17, *Networks and Network Firms and Proposed New Definitions of Network and Network Firms and Proposed Revised Definition — Firm*

- Identifies common characteristics for network status of associations with others
- Requirement for independence with network to provide audit and review services when report not restricted to specified users
- Need to consider threats and apply safeguards to reduce threats to acceptable levels



AICPA Activity

Exposure draft — Interpretation 501-8, *Failure to Follow Requirements of Governmental Bodies, Commissions or Other Regulatory Agencies on Indemnification and Limitation of Liability Agreements with a Client*

- Prohibits entities subject to their regulation from entering into certain indemnification and limitation agreements when providing audit or attest services required by regulators



Ethical Decision Model



Ethical Decision Model Example Johnny Junior



Principles of Professional Conduct

The BOA outline for the 2008 ethics course includes three required topics:

- Sufficient Relevant Data
- Acts Discreditable
- Confidential Client Information

The BOA also included three other topics from which to choose one:

- Due Professional Care
- Contingent Fees, and Commissions and Referral Fees
- Advertising and Other Forms of Solicitation



Principles of Professional Conduct

Sufficient Relevant Data

Rule 201 requires the CPA to obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.



Principles of Professional Conduct

Sufficient Relevant Data

Case Scenario 1

Billy and Binky's Bikinis, Inc.




Principles of Professional Conduct

Sufficient Relevant Data

Case Scenario 1: False

Before Billy provided any advice to Binky, he should have considered all of the ramifications to Binky's Bikinis, Inc., including tax issues and accounting and financial statement presentation issues, as he was the comptroller and Binky relied on Billy's professional knowledge for advice.




Principles of Professional Conduct

Sufficient Relevant Date

Case Scenario 2

Lisa Listless and Molly Monk




Principles of Professional Conduct

Sufficient Relevant Date

Case Scenario 2: False

Communicating with the prior auditor is one of the steps a successor auditor must take. Therefore, Lisa should have contacted the old auditor in order to gather information about the soup kitchen before performing the audit. If Molly had refused to authorize communication with the old auditor, Lisa would have needed to reconsider whether to accept the audit work.




Principles of Professional Conduct

Sufficient Relevant Data

Case Scenario 3

Jimmy Jetz and Bucks Barber & Shave Shops, Inc., Business Valuation




Principles of Professional Conduct

Sufficient Relevant Data

Case Scenario 3: True


While Barry might not be happy with the outcome, Jimmy gathered the correct information to perform the work and considered the information when he calculated the value of the business.



Principles of Professional Conduct

Acts Discreditable

Rule 501 states a member shall not commit an act discreditable to the profession.



Principles of Professional Conduct

Acts Discreditable interpretations related to:

- Response to requests by clients and former clients for records
- Discrimination and harassment in employment practices
- Failure to follow standards and/or procedures or other requirements in governmental audits
- Negligence in the preparation of financial statements or records
- Failure to follow requirements of governmental bodies, commissions or other regulatory agencies
- Solicitation or disclosure of CPA Examination questions and answers
- Failure to file tax return or pay tax liability



Principles of Professional Conduct

Acts Discreditable

Case Scenario 4

Nola Nitz and Pete's Pipes Papers



Principles of Professional Conduct

Acts Discreditable

Case Scenario 4: True

Under Interpretation 501-1, workpapers that a CPA created to adjust the client's books are considered supporting records. Supporting records relating to a completed and issued work product should be provided to the client, except that such supporting records may be withheld if there are fees due to the member for the specific work product. Since the bill outstanding is not related to the 2004 tax return work, Nola cannot withhold the 2004 information for non-payment of the 2006 tax return bill. However, Nola may charge a reasonable fee to provide the information to Pete.




Principles of Professional Conduct

Acts Discreditable

Case Scenario 5

Harry and His Allergy Issues




Principles of Professional Conduct

Acts Discreditable

Case Scenario 5: True

Harry's medical condition is actually irrelevant. Under Interpretation 501-2, because Harry was never charged and found guilty of sexual harassment, his behavior, while unfortunate, does not constitute an act discreditable.




Principles of Professional Conduct

Acts Discreditable

Case Scenario 6

Wanda Wishful and Household Employee Taxes



Principles of Professional Conduct

Acts Discreditable

Case Scenario 6: True

According to Interpretation 501-7, even though Wanda filed her tax return in a timely manner, she failed to pay over payroll taxes collected on behalf of others (Granny B). Therefore, she has committed an act discreditable. The same would be true of anyone who had the decision-making authority to direct the payment of payroll or withheld taxes and failed to remit the payment.



Principles of Professional Conduct

Confidential Client Information

Rule 301 states a member in public practice shall not disclose any confidential client information without the specific consent of the client.



Principles of Professional Conduct

Confidential Client Information

Rule 301 does not:


- Relieve a CPA of obligations under Rule 202 (compliance with standards) or Rule 203 (accounting principles)
- Affect CPAs' obligation to comply with a validly issued and enforceable subpoena or summons
- Prohibit review of practice for peer review purposes
- Preclude a CPA from initiating or responding to inquiry by the professional ethics divisions of the BOA, AICPA or VSCPA



Principles of Professional Conduct

Confidential Client Information

Interpretation 301-3 describes confidential information and the purchase, sale or merger of a practice.




Principles of Professional Conduct

Confidential Client Information

Case Scenario 7

Frank Flame and Milton Marvel's Attorney




Principles of Professional Conduct

Confidential Client Information

Case Scenario 7: True.

Rule 301 requires the specific consent of the client before releasing confidential information. In addition to violating Rule 301, Frank also violated IRC §7216 by not obtaining Milton's written permission prior to sending the tax returns to Milton's attorney.




Principles of Professional Conduct

Confidential Client Information

Case Scenario 8

Suzy Swift and Sam Ageless




Principles of Professional Conduct

Confidential Client Information

Case Scenario 8: False


The fourth exception to Rule 301 allows Suzy to provide the information in filing the complaint. Suzy would have violated Interpretation 301-3 had she used that information in an effort to put Sam out of business to eliminate competition or solicited his client list upon opening her own firm.



Principles of Professional Conduct

Due Professional Care

Rule 201 requires a CPA to exercise due professional care in the performance of professional services. This is one of the overarching general standards of the Code.




Principles of Professional Conduct

Due Professional Care

Case Scenario 9

Vinny Vine and Vineyardvale's Audit




Principles of Professional Conduct

Due Professional Care

Case Scenario 9: False

As Clay is inexperienced, Vinny is required to exercise more care in providing professional services than leaving Clay alone and unsupervised to perform the audit work. Vinny is also required to review Clay's work to determine whether the services provided were executed by Clay with due professional care.




Principles of Professional Conduct

Due Professional Care

Case Scenario 10

Helga Hops and Big Bill's Records



Principles of Professional Conduct

Due Professional Care

Case Scenario 10: False

Not only has Helga not exercised due professional care in the handling of her client's records, she has violated client confidentiality by inadvertently giving the records to another client.



Principles of Professional Conduct

Contingent Fees

Rule 302 describes contingent fees as those fees established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.



Principles of Professional Conduct

Contingent Fees

CPAs in public practice may not:

- Perform any professional service for a contingent fee if the CPA or CPA's firm also performs an audit, review or compilation (if the compilation is reasonably expected to be used by a third party) or examines prospective financial information
- Prepare an original or amended tax return or claim for tax refund for a contingent fee




Principles of Professional Conduct

Commissions and Referral Fees

CPAs shall not recommend or refer for a commission, to a client, any products or services when the CPA or CPA's firm also performs an audit or review or compilation (if the compilation is reasonably expected to be used by a third party) or examines prospective financial information.

Any allowed commissions and referral fees shall be disclosed to the client.




Principles of Professional Conduct

Contingent Fees, Commissions and Referral Fees

Case Scenario 11

Tim and Terence Tickle




Principles of Professional Conduct

Contingent Fees, Commissions and Referral Fees

Case Scenario 11: True

While referral fees are not prohibited in these cases, disclosure by both CPAs is required.




Principles of Professional Conduct

Contingent Fees, Commissions and Referral Fees

Case Scenario 12

Barb Simpson and Gil Green




Principles of Professional Conduct

Contingent Fees, Commissions and Referral Fees

Case Scenario 12: False

Because Gil is an audit client of the firm, the firm is prohibited from recommending any product for which it earns a commission. As a secondary issue, Bart and their firm probably have a conflict of interest between their two clients, the buyers and sellers of the tax credits, particularly if they are limited in their disclosures to each party due to client confidentiality rules.




Principles of Professional Conduct

Contingent Fees, Commissions and Referral Fees

Case Scenario 13

Lucy Lucky



Principles of Professional Conduct

Contingent Fees, Commissions and Referral Fees

Case Scenario 13: False

Making a fee contingent on court approval does not violate Rule 302, even though Lucy may not get paid if the court does not approve her fee. This is one of the few exceptions to the rule.



Principles of Professional Conduct

Advertising and Other Forms of Solicitation

- A CPA in public practice shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading or deceptive.
- Solicitation by the use of coercion, over-reaching or harassing conduct is prohibited.



Principles of Professional Conduct

Advertising and Other Forms of Solicitation

Case Scenario 14

Sammy Slick



Principles of Professional Conduct

Advertising and Other Forms of Solicitation

Case Scenario 14: True

Since Sammy is the only professional employee, he is misleading the public by indicating there are additional professionals working for him. The name of his firm is also misleading because he allows the perception that more services are available than his own. The answer would be different if Sammy had other employees with sufficient experience and knowledge to meet his advertised representations.



Principles of Professional Conduct

Advertising and Other Forms of Solicitation

Case Scenario 15

Carl Casteye and His Web site



Principles of Professional Conduct

Advertising and Other Forms of Solicitation

Case Scenario 15: False

By claiming that he has participated in nonprofit organizations, Carl is creating a perception that he has experience that he does not possess. Also, continuing to promote two former employees as part of his firm adds to the misperception that he employs more experienced staff members than he currently does. Web sites should be updated on a regular basis if they are used as a method of advertising to the public to ensure they accurately represent the real services and experience of the CPA.



Resources

The BOA Web site is www.boa.virginia.gov.
Check to be sure your individual/firm license is current.

The VSCPA Web site is www.vscpa.com.
Check for updates on BOA activity and find resources to help you and your firm.