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Virginia Society of Certified Public Accountants

# Ethics 2009 —

## Your License Depends On It!

Virginia Society of Certified Public Accountants

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## Instructor Manual

*CPE presentation developed by:*
*Virginia Society of CPAs*

*Edited by:*
*Arthur Auerbach, CPA*

 

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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 2009 — Your License Depends On It!*** has been carefully and thoroughly developed to give you the important information you need to meet the BOA's 2009 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 District of Columbia may use this course to satisfy two hours of their biennial ethics requirements. In addition, non-resident North Carolina certificate holders may satisfy the North Carolina ethics requirement by completing the ethics requirement in the state in which they reside. To qualify for non-resident status, the North Carolina certificate holder may not live in or maintain an office in North Carolina.

# Where Can CPAs Get More Information?

## General Information

**Virginia Society of CPAs**
www.vscpa.com
Phone: (804) 270-5344
Toll-free phone: (800) 733-8272
CPE Hotline: (800) 341-8189
Fax: (804) 273-1741
Street address: 4309 Cox Road, Glen Allen, VA 23060
E-mail: vscpa@vscpa.com

## Professional Ethics

**American Institute of CPAs**
www.aicpa.org
AICPA Ethics Hotline: (888) 777-7077
E-mail ethics inquiries: ethics@aicpa.org
*Code of Professional Conduct*: www.aicpa.org/about/code/index.htm

**International Ethics Standards Board**
www.ifac.org
Phone: (212) 286-9344

**Virginia Society of CPAs**
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: 9960 Mayland Drive Suite 402, Richmond, VA 23233
E-mail: boa@boa.virginia.gov

# Introduction

*The manual is a tool to support the PowerPoint presentation and is not intended to stand alone as a self-study manual. We have attempted to provide website information on additional resources in the text. However, links are not provided, as they are subject to change throughout the year. Before presenting this course, check the Virginia Board of Accountancy (BOA) and American Institute of CPAs (AICPA) websites for any updates to the BOA regulations or information as well as the AICPA* Code of Professional Conduct *and activity of the Professional Ethics Executive Committee (PEEC). This year we will e-mail occasional updates on issues as they arise. The updates may affect the information provided in the manual and PowerPoint.*

*The course outline provided by the BOA is in the appendix of this manual. The time allocations are suggestions by the BOA and are not mandatory. You may find yourself spending more time on the statute, regulations and PEEC update sections due to questions from the course attendees. If so, you may shorten the number of case studies in the* Code of Professional Conduct *section as necessary.*

Welcome to the Virginia Society of CPAs (VSCPA) continuing professional education (CPE) course, *Ethics 2009 — 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 (PEEC) recent activities along with an overview of selected provisions of the Virginia accountancy statutes, the BOA regulations and the AICPA *Code of Professional Conduct* (the *Code*). You will have an opportunity to participate in group discussion of various scenarios and cases to determine the best course of action for each. Through discussion of the correct answers, you will be exposed to new provisions of the Virginia accountancy statutes 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 PEEC. For specific advice related to ethical standards or BOA regulations, please research the applicable standards and/or seek advice from the AICPA, Virginia Society of CPAs (VSCPA) or BOA, as appropriate. Contact information for these organizations is located on the page 4. The *Code* is easily accessible through the AICPA and BOA websites.

## Ethics CPE Requirements

Developed in accordance with the BOA's required outline, this course meets Virginia's annual two-hour ethics requirement. This course also satisfies two hours of the Maryland State Board of Public Accountancy and District of Columbia Board of Accountancy ethics requirements. In addition, CPAs residing in Virginia and holding certificates in North Carolina may satisfy the North Carolina State Board of CPA Examiners' ethics requirement by completing the in-person, group study ethics course in Virginia. To qualify, you must not live in or maintain an office in North Carolina. For further information, please visit www.vscpa.com.

## Ethics — An Introduction

*During several meetings in 2008, the Virginia Board of Accountancy (BOA) debated changing the ethics course to a behavior-based course and either eliminating the regulatory ethics portion or only cycling the regulatory ethics portion every few years. The BOA deferred making a decision on this and sent the idea back to the Educational Committee for consideration. The Committee will meet in April 2009 to continue the discussion on this issue. In creating the course this year, we attempted to look at the behavior issues behind violations that came before the Enforcement Committee and to emphasize behavior as a first step in complying with the regulatory mandates. Please emphasize this issue throughout your presentation.* ***(PowerPoint slide 2)***

The most common use of the term "ethics" is related to regulatory ethics. As defined in the American Heritage Dictionary, ethics are "the rules or standards governing the conduct of the members of a profession." The Virginia Board of Accountancy (BOA) is the arbiter of regulatory ethics for CPAs using the title in Virginia. The rules promulgated by the BOA mandate the professional behavior of CPAs in Virginia in providing services regulated by the BOA.

Other interpretations of the word "ethics" relate to behavioral ethics, the process by which we make decisions regarding right and wrong. The word "ethics" comes from the Greek "ethos," meaning character. In most discussions on ethics, the term is used in reference to the individual character of a person or persons. In philosophy, the term ethics refers to the area of morality, concentrating on human conduct and human values. In Virginia, ethics as applied to the CPA profession encompass the rules and standards established by the BOA. However, in recent years, the BOA Enforcement Committee has resolved complaint cases by addressing the behavioral issues related to violations of statutes or regulations. This course will examine both the regulatory ethics and the behavior ethics of CPAs in providing professional services.

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 AICPA *Code of Professional Conduct*.

# Virginia Board of Accountancy (BOA) Highlights

*This section addresses the mandated sections of the Virginia accountancy statutes from the Virginia Board of Accountancy (BOA) outline. The manual also provides citations. Your presentation should emphasize how these rules apply. You may wish to give examples illustrating the application of the rules in CPAs' everyday practices. Also, please emphasize that the BOA is in the process of rewriting the regulations that underlie the statutes. The current regulations conflict in some areas with the statutes. Where these conflicts occur, the statutes win over the regulations. The BOA is expected to post on its website information on the status of the regulations. The BOA is not anticipating sending an e-mail to all regulants on the proposed regulations. Notices will only be sent to those individuals who sign up on the Virginia Regulatory Town Hall website, which all instructors are encouraged to do. Visit www.townhall.state.va.us to sign up today.* ***(PowerPoint slide 3)***

## BOA Activities ***(PowerPoint slide 4–5)***

During the 2007 session, the Virginia General Assembly passed legislation to modify the Virginia accountancy statutes. The responsibility of the Virginia Board of Accountancy (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 and compilation services in accordance with standards established by American Institute of CPAs (AICPA)-designated bodies. The AICPA *Code of Professional Conduct*, however, must cover all areas of practice by CPAs and is incorporated by reference in the BOA statutes.

## Unlicensed Practice: When Must an Individual or Firm Be Licensed? ***(PowerPoint slide 6)***

Unlicensed practice is one of the most common disciplinary complaints addressed by the BOA Enforcement Committee. The responsibility to maintain a valid license rests solely on the individual CPA and CPA firm's management. To check the status of a CPA license, visit the BOA website at www.boa.virginia.gov. Under the heading "CPA Licensure Services," select "CPA Lookup" and choose Virginia as the state licensing board you wish to search. Then type in the individual or firm name to obtain the current license status. ***(PowerPoint slide 7)***

The BOA will send license 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) approximately 60 days prior to your renewal date and again on the renewal date if the license has not yet been renewed. The CPA is responsible for maintaining current e-mail and mailing addresses with the BOA.

You can renew late for up to one year following your renewal date, after which your license completely expires and you must reinstate. (Note: A final notice is sent 30 days prior to your license's expiration date.)

The 2007 legislation clarified the ability of the BOA to impose penalties on individuals practicing without a current license. Penalty assessments are at the discretion of the BOA and based on the severity of the violation as well as the individual's cooperation or lack thereof. The BOA is authorized to impose monetary penalties of up to $100,000.

**§ 54.1-4409.1. Licensing requirements for persons.** ***(PowerPoint slide 8)***

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.

**§ 54.1-4411. Substantial equivalency provisions for persons who hold the license of another state.** ***(PowerPoint slide 9–10)***
(Visit www.boa.virginia.gov for the list of states that are substantially equivalent on education, CPA Exam and experience requirements.)

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.

### § 54.1-4412.1. Licensing requirements for firms. *(PowerPoint slide 11–13)*

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 ad 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 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 a death, retirement, or departure of an owner causes either of these requirements not to be met, the requirements 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 Certified Public Accountants 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.

**Note:** Principal place of business is not defined in the statutes. The definition will be included in the revised regulations under consideration by the BOA.

The AICPA Peer Review Program in Virginia is administered by the Virginia Society of CPAs (VSCPA). To obtain additional information on the registration requirements for this program, refer to the VSCPA website or call (800) 733-8272.

### § 54.1-4414. Prohibited acts. *(PowerPoint slide 14)*

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; or
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 may issue a compiled financial statement without footnote disclosures as long as the report letter does not reference any professional standards. When a CPA is performing significant work for a client in adjusting, reconciling or compiling a client's books, the CPA needs to look to professional standards and determine whether a financial statement should be issued for the work performed. Professional standards are available on the AICPA website, www.aicpa.org, under "Professional Resources."

# American Institute of CPAs (AICPA) Peer Review Program

*Significant changes to the American Institute of CPAs (AICPA) Peer Review Program took place as of January 1, 2009. Please go to the AICPA website, www.aicpa.org, and download the document referenced in the second paragraph. Be familiar with the peer review process in order to answer course attendees' questions regarding these changes. If you have any technical questions, contact Virginia Society of CPAs (VSCPA) Peer Review Coordinator Darshae Dabney at ddabney@vscpa.com or (800) 733-8272.* ***(PowerPoint slide 15)***

As of July 1, 2007, the American Institute of CPAs (AICPA) Peer Review Program is cited as the applicable monitoring program in Code of Virginia §54.1-4412.1.D.6. The AICPA Peer Review Program requires firms to submit to an initial peer review within 18 months of providing services covered by the program. Follow-up peer reviews are due three years and six months after the initial peer review date. There are two types of peer reviews: system and engagement. To which type the firm is subject depends on the services provided. ***(PowerPoint slide 16)***

As of January 1, 2009, the AICPA Peer Review Program underwent significant changes to allow for a simplified reporting process and increased usability. For full details of the new peer review process, go to the AICPA website, www.aicpa.org, and download the AICPA's peer review white paper, "Navigating Through the Revised AICPA Standards for Performing and Reporting on Peer Reviews and Related Interpretations." (www.aicpa.org/download/centerprp/White_Paper_final_6_23_08.pdf.)

According to the white paper: "It is important for reviewed firms and the public, including governmental entities and regulators, to have access to understandable peer review results that clearly articulate the quality of the CPA firm's practice. The board believes that the changes to the reporting model meet these objectives, and that the users of peer review reports will have the information they need to make informed decisions about reviewed firms in a more consistent and understandable format."

Among the major changes to the program, the report terms have been revised. In the past, firms received either an unmodified, modified or adverse report. The new terms for reports are pass, pass with deficiency and fail. The change in terms is intended to provide more clarity to users of peer review reports. The following table illustrates the changes in report types:

*(PowerPoint slide 17)*

| Previous Standards | Revised Standards |
|---|---|
| **Unmodified — No LOC**<br>(Matter — MFC)<br>-or-<br>**Unmodified — LOC**<br>(Finding — in LOC) | **Pass**<br>(Matter — MFC)<br>(Finding — FFC) |
| **Modified — LOC**<br>(Deficiency — in report)<br>(Finding — in LOC) | **Pass With Deficiency**<br>(Deficiency — in report) |
| **Adverse**<br>(Deficiency — in report) | **Fail**<br>(Significant deficiency — in report) |

For those firms that pass, any matter or finding is documented separately within either a Matter for Further Consideration (MFC) or Finding for Further Consideration (FFC) form. Neither type of finding is significant enough to warrant inclusion in the report. A firm receiving a pass with deficiency report will have those deficiencies described in the report. Deficiencies, whether significant or not, must be addressed by the firm through a corrective plan. Based on training and professional judgment, the peer reviewer will determine how far to elevate an initial matter or finding.

For further details on the AICPA Peer Review Program, go to the AICPA website, www.aicpa.org, and click on "Peer Review" in the "Professional Resources" section. The website contains significant information on how the Peer Review Program operates, details on how to register for the program, and a helpful question-and-answer section.

In Virginia, the AICPA Peer Review Program is administered by the Virginia Society of CPAs (VSCPA). The VSCPA website, www.vscpa.com, also contains information on the Peer Review Program. If you have additional questions, you can obtain assistance through AICPA or VSCPA contact information listed on page 4 of this manual.

# Virginia Board of Accountancy (BOA) Disciplinary Process

*Please study the flowcharts included in this manual and note when the CPA has rights and obligations to respond to the Virginia Board of Accountancy (BOA). Also, note when the CPA has a right to disagree with the BOA and continue further in the process. Please emphasize that the CPA needs to participate and respond in a timely manner in order to maintain his or her rights in the process.* ***(PowerPoint slide 18)***

Flowcharts have been provided that detail the procedures the Virginia Board of Accountancy (BOA) follows when a complaint is filed alleging improper conduct by an accounting practitioner (whether a licensed CPA or not). 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.

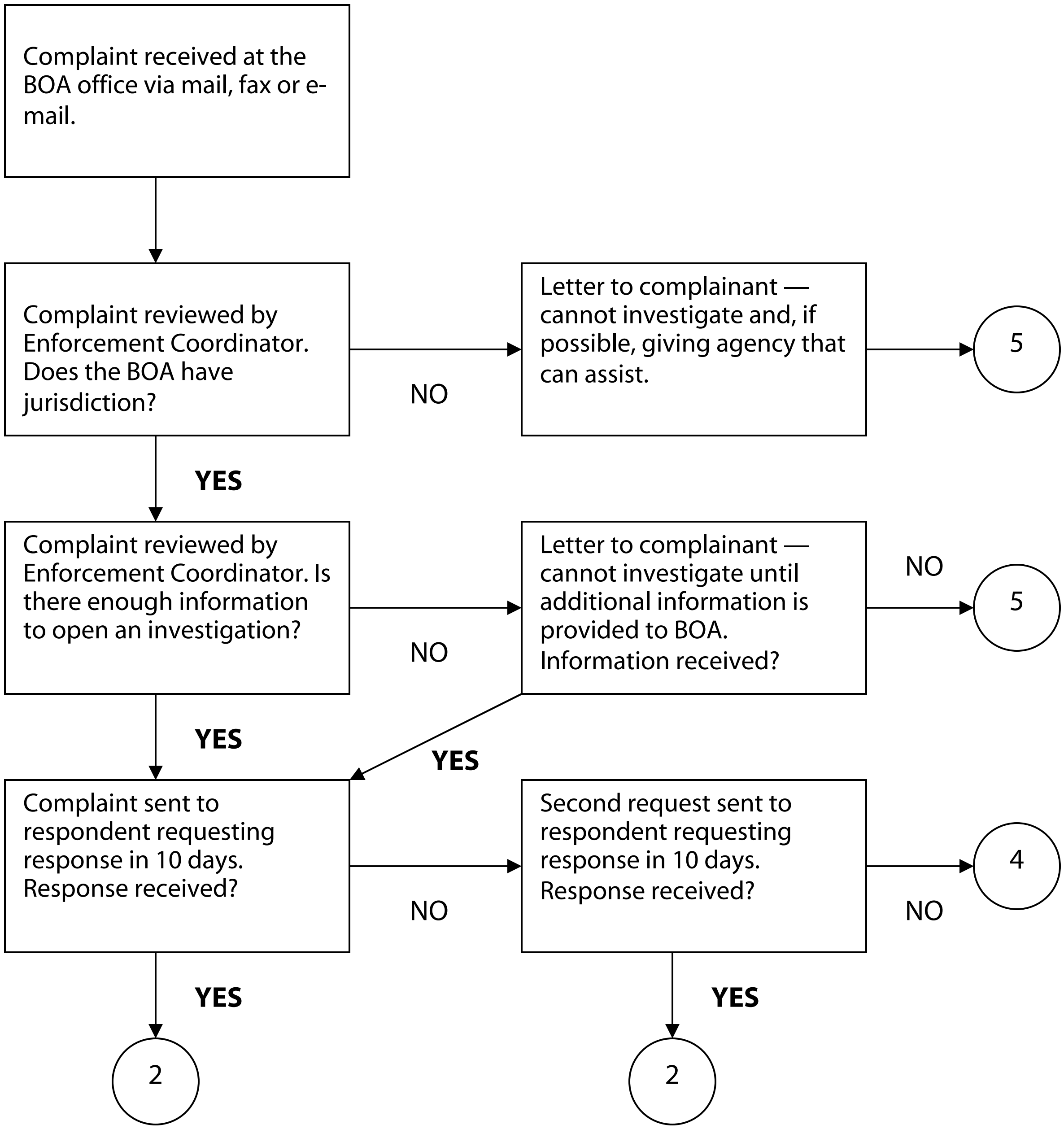
**Enforcement Committee** — A BOA committee whose responsibility it is to investigate complaints, conduct Informal Fact-Finding Conferences (IFF) and recommend actions to the full Board.

**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 Board.

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

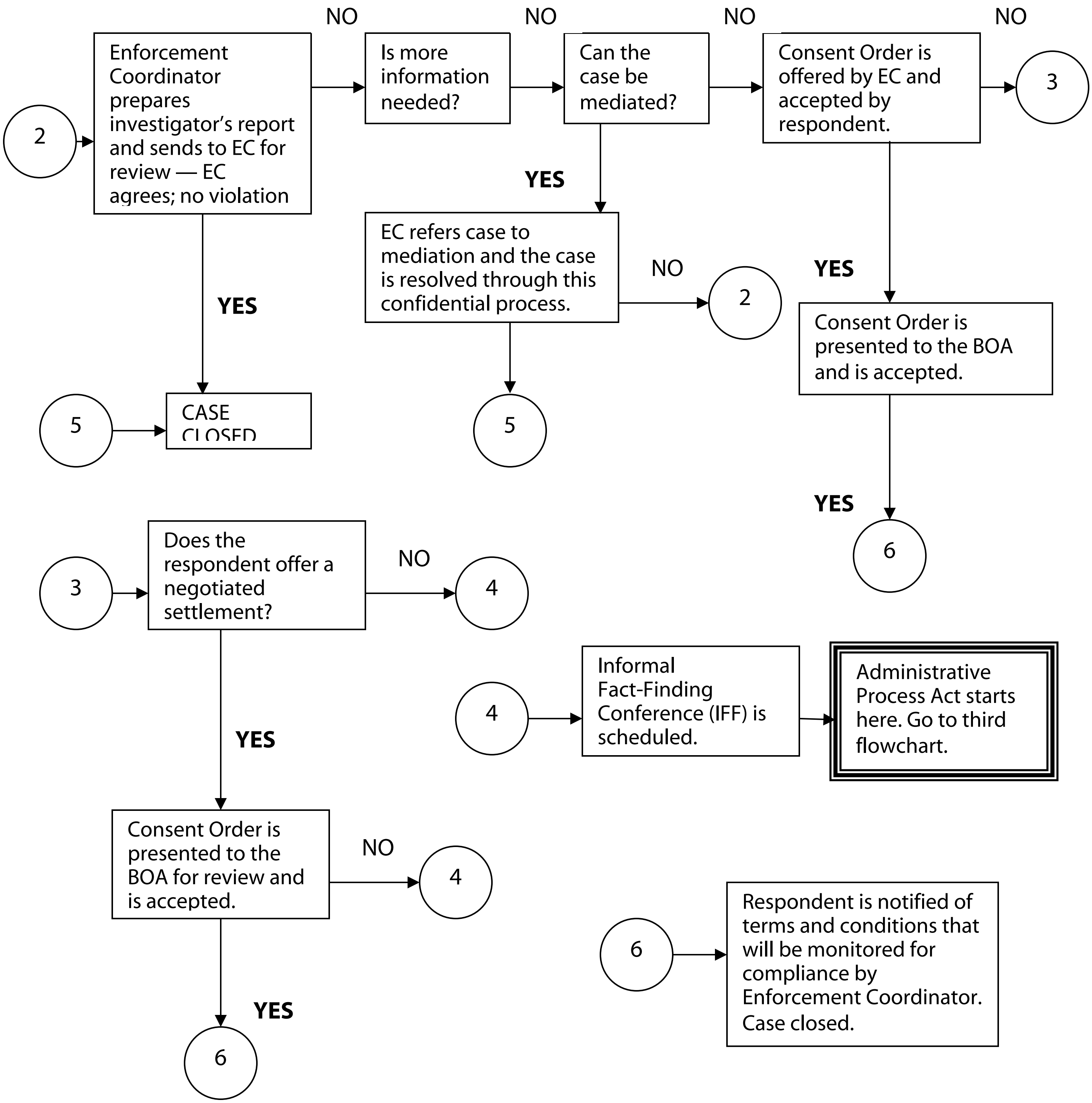
 

# Virginia Board of Accountancy (BOA) Complaint and Investigation Process



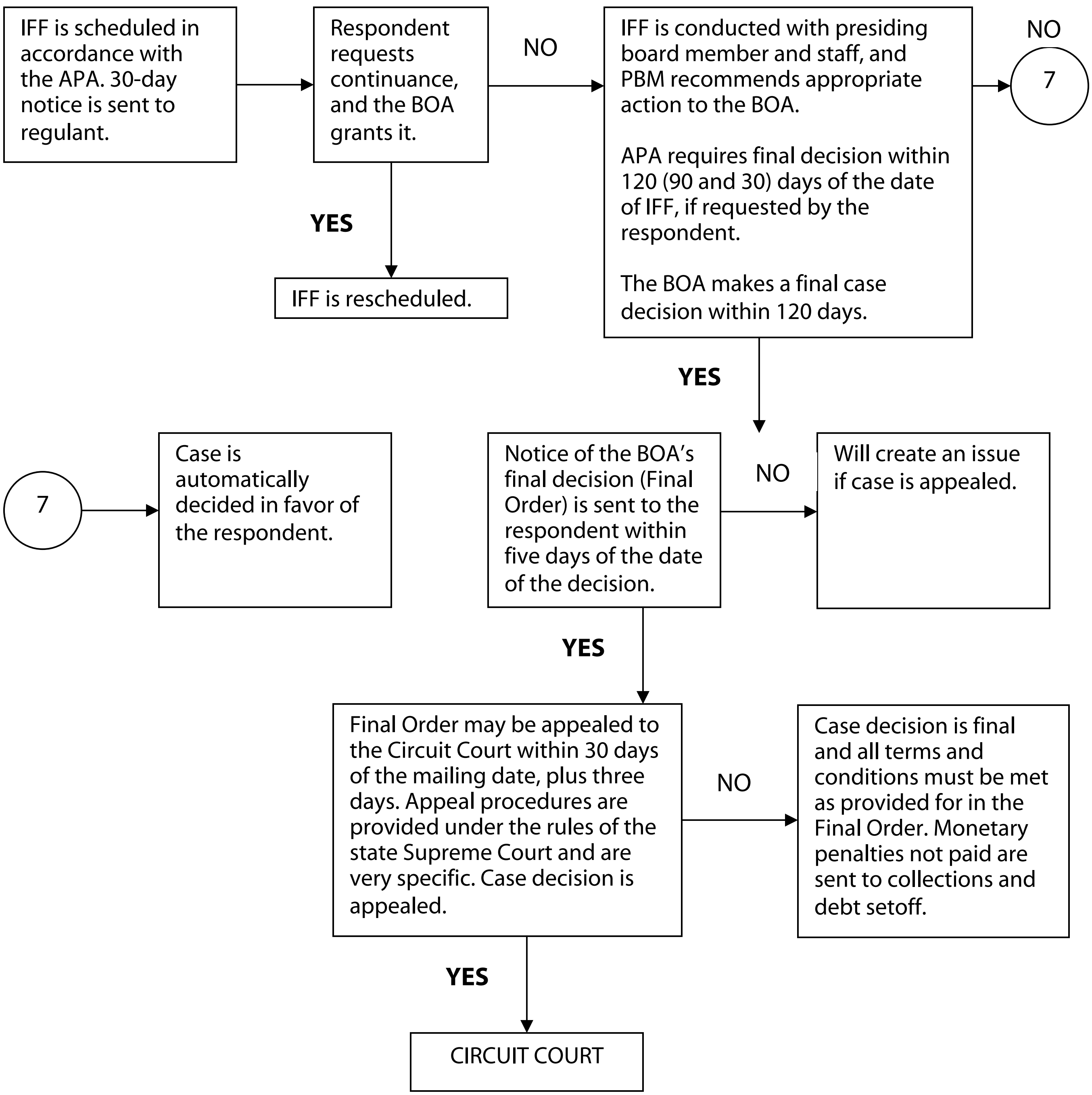

 

# Enforcement Committee (EC) Review Process



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



# Virginia Board of Accountancy (BOA) Disciplinary Cases

*The following cases represent actual disciplinary cases handled by the Virginia Board of Accountancy (BOA). All of the files can be accessed via a Freedom of Information Act request to the BOA. The names and some facts have been altered slightly to make the parties involved less identifiable. The correct answer is the actual sanction imposed by the BOA.* ***(PowerPoint slide 19)***

**Disciplinary Case 1** ***(PowerPoint slide 20)***

A CPA borrows money from a client and does not pay the money back, failing to perform all professional responsibilities with the highest sense of integrity and maintain objectivity. The Virginia Board of Accountancy (BOA) determined the CPA violated Regulation 18 VAC 5-21-120(C) and Code of Virginia 54.1-4413A. What was the BOA's response?

A. Revoked his license to practice in Virginia
B. Fined him $20,000, payable within 90 days of entry of the final order
C. Placed him on probation for one year, fined him $500 and mandated completion of 10 hours of ethics training to be pre-approved by the BOA and completed within one year
D. Suspended his license for five years and fined him $5,000

***(PowerPoint slide 21)*** *The correct answer is C. The regulant's certificate was placed on probation for one year. The regulant was also assessed an administrative fee of $500 and required to complete 10 hours of ethics training.*

**Disciplinary Case 2** ***(PowerPoint slide 22)***

A businessman advertised the CPA designation on yard signage and business cards without a valid Virginia CPA license. The BOA determined that the businessman violated the Code of Virginia §54.1-111 and §54.1-4414 by using the CPA designation without a license. What action did the BOA take?

A. Assessed a $6,000 fine, ordered that he remove all use of the CPA designation on signage, business cards, stationery and software, and required him to notify all clients that he was not currently licensed
B. Fined him $10,000 and required him to submit, in person, a 1,000-word essay on licensing requirements for CPAs in Virginia at the next BOA meeting
C. Did nothing because he was not a licensed CPA
D. Refused to reinstate his license

***(PowerPoint slide 23)*** *The correct answer is A. The BOA imposed a monetary penalty of $6,000, ordered the individual to immediately remove the CPA designation from all* *signage, business cards, letterhead stationery and software, and required a full disclosure to clients.*

**Disciplinary Case 3** ***(PowerPoint slide 24)***

A licensed CPA failed to meet the 2007 ethics continuing professional education requirements. The BOA determined that the CPA violated Code of Virginia §54.1-4400. What action did the BOA take?

A. Assessed a $500 fine
B. Suspended the CPA's license for six months
C. Entered a reprimand as a permanent part of the CPA's record and required the CPA to come before the BOA should another deficiency occur
D. Did nothing

***(PowerPoint slide 25)*** *The correct answer is C. The BOA imposed a permanent reprimand for not completing the ethics CPE course in 2007. Should another deficiency occur, the CPA would be required to come before the BOA and satisfy the Board that this would not re-occur.*

**Disciplinary Case 4** ***(PowerPoint slide 26)***

A CPA with a business client failed to exercise due professional care in the performance of professional services by neglecting to prepare the client's federal, state and state sales tax documents for 2005 and 2006. The BOA found the CPA in violation of Code of Virginia §54.1-4413.3 (as enacted at the time of the violation) and Regulation 18 VAC 5-21-120(F). What action did the BOA take?

A. Placed the CPA on probation for two years and required the completion of 10 hours of CPE in tax preparation
B. Assessed a $3,000 fine and ordered the CPA to submit an essay to the BOA detailing his/her obligation under Internal Revenue Service (IRS) *Circular 230* and the AICPA *Code of Professional Conduct*
C. Did nothing
D. Assessed a $10,000 fine and suspended his/her right to practice before the IRS

***(PowerPoint slide 27)*** *The correct answer is B. The BOA imposed a monetary penalty of $3,000, and the CPA had to complete an essay detailing the obligation under IRS* Circular 230 *and the AICPA* Code of Professional Conduct, *to be submitted within 90 days of the entry date of the order.*

**Disciplinary Case 5** ***(PowerPoint slide 28)***

The BOA suspended a CPA's license for noncompliance with a previous Board order. The respondent admitted to using the CPA designation and providing services without a valid Virginia CPA license by keeping the CPA designation on letterhead, business cards and power of attorney IRS forms. The BOA determined that the respondent was in violation of Code of Virginia §54.1-111 and 54.1-4414. What action did the BOA take?

A. Assessed a $50,000 fine because this was a second violation and the respondent failed to comply with the first order
B. Ordered the individual to pay a penalty of $7,500 and an additional $2,500 for representing him/herself as a CPA before a federal agency; additionally barred the individual from practicing as a CPA until he/she was in compliance with the previous order and had been granted a license by the BOA
C. Only reinstated the prior order
D. Did nothing because the respondent was subject to a prior BOA order

***(PowerPoint slide 29)*** *The correct answer is B. The BOA imposed a monetary penalty of $10,000 for unlicensed activity and using the CPA designation before a federal agency. The order also required the respondent to comply with the previous Board order and immediately remove the CPA designation from all signage, business cards and letterhead stationery.*

***(PowerPoint slide 30)*** All complaints become a permanent part of your record, even if the BOA dismisses them. To avoid this permanent mark, 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 website, www.boa.virginia.gov, and remember to renew your license before it lapses.

# AICPA Professional Ethics Executive Committee (PEEC)

***(PowerPoint slide 31)*** The American Institute of CPAs (AICPA) *Code of Professional Conduct* (the *Code*) is integrated by reference into the statutes of the Commonwealth of Virginia as a standard of conduct and practice for all licensed CPAs. The *Code* lists principles in Section 50, the applicability and definitions for rules in Section 90, and the enforceable rules in Sections 100 through 500. The purpose of the AICPA Professional Ethics Executive Committee (PEEC) is to continually monitor and revise the *Code* to ensure an enforceable modern standard of professional conduct. PEEC is a senior technical committee of the AICPA, charged with the responsibility of interpreting and enforcing the *Code*.

The following are proposed updates to the *Code*, currently under consideration by PEEC at press time. To obtain the most recent status of proposed changes to the *Code*, go to the AICPA website at www.aicpa.org and click on "Professional Ethics" under "Professional Ethics/Code of Conduct" in the "Professional Resources" section. The "Exposure Drafts/Standard Setting" section lists all past and current activity of PEEC as well as applicable enactment dates.

## Revisions to Definitions of Firm, New Definitions of Network and Network Firm and New Interpretation 101-17 *(PowerPoint slide 33)*

PEEC proposed the following changes to AICPA *Code* Section 90, *Rules: Applicability and Definitions*, and an additional Interpretation under Section 100, *Independence, Integrity, and Objectivity*:

**92.10 Firm.** A firm is a form of organization permitted by law or regulation whose characteristics conform to resolutions of the Council of the American Institute of Certified Public Accountants and that is engaged in the practice of public accounting. "Firm" includes the individual partners thereof except for purposes of applying Rule 101: *Independence* [ET Section 101.01]. For purposes of applying Rule 101, firm includes a network firm when the engagement is either a financial statement audit or review engagement for which the audit or review report is not restricted for use by only the intended users specified in the report.

Effective date: The additions to this definition would be effective for engagements covering periods beginning on or after December 15, 2010.

**92.28 Network.** For purposes of Interpretation 101-17, *Networks and Network Firms*, a network is an association of entities that includes one or more firms (as defined in ET Section 92.10) that (a) cooperate for the purpose of enhancing the firms' capabilities to provide professional services and (b) share one or more of the following characteristics:

- The use of a common brand name (including common initials) as part of the firm name
- Common control (as defined by generally accepted accounting principles in the United States of America) among the firms through ownership, management, or other means
- Profits or costs, excluding costs of operating the association; costs of developing audit methodologies, manuals, and training courses; and other costs that are immaterial to the firm
- Common business strategy that involves ongoing collaboration among the firms whereby the firms are responsible for implementing the association's strategy and are held accountable for performance pursuant to that strategy
- Significant part of professional resources
- Common quality control policies and procedures that firms are required to implement and that are monitored by the association

A network may comprise a subset of entities within an association if that subset of entities cooperate and share one or more of the characteristics set forth in the preceding list.

Effective date: This definition would be effective for engagements covering periods beginning on or after December 15, 2010.

**92.29 Network Firm.** A network firm is a firm or other entity that belongs to a network, as defined in ET Section 92.28. This would include any entity (including another firm) that the network firm, by itself or through one or more of its owners, controls (as defined by generally accepted accounting principles in the United States of America), is controlled by, or is under common control with.

Effective date: This definition would be effective for engagements covering periods beginning on or after December 15, 2010.

**Interpretation 101-17: Networks and Network Firms**

**General**

15. To enhance their capabilities to provide professional services, firms frequently join larger groups, which typically are membership associations that are separate legal entities that are otherwise unrelated to their members. These associations facilitate the use of association services and resources by their members. Such associations do not themselves typically engage in the practice of public accounting or provide professional services to clients of the association members or to other third parties. This interpretation covers firms that are members of such an association and, under the circumstances described in paragraph 6, components of such a firm that have been separated from the firm. Those firms cooperate with the firms and other entities that are members of the association to enhance their capabilities to provide professional services. For example, a firm may become a member of an association refer work to or receive referrals from other association members. That characteristic alone would not be sufficient for the association to constitute a network or for the firm to be considered a network firm. However, an association

would be considered a network under this interpretation if one or more other characteristics of a network are shared in addition to cooperation among member firms. [ET section 92.28] These additional characteristics are discussed in this interpretation.

16. A network firm is required to be independent of financial statement audit and review clients of the other network firms in the network if the audit or review report for the client is a general use report (that is, the use of the report is not restricted to specified users). For all other attest clients, consideration should be given to any threats the firm knows or has reason to believe may be created by network firm interests and relationships and, if those threats are not at an acceptable level, safeguards should be applied to eliminate the threats or reduce them to an acceptable level. The independence requirements apply to any entity within the network that meets the definition of a network firm [ET Section 92.29].

17. The determination of whether an association is a network or an entity is a network firm should be applied consistently by all members of the association. Due consideration should be given to what a reasonable and informed third party would be likely to conclude after weighing all the specific facts and circumstances. The determination that a firm or other entity or an association of firms or other entities meet~~s~~ the definition of a network firm and a network, as herein defined, is solely for purposes of this interpretation and should not be used or relied upon in any other context. In particular, the determination of whether a firm or other entity is a network firm or an association of firms or other entities is a "network" for purposes of defining legal responsibilities from one firm to the other, or to third parties, is beyond the scope of this interpretation, and the definitions contained herein should not be used or relied upon for that purpose.

### Characteristics of a Network

*Sharing Common Brand Name*

18. When the association is formed for the purpose of enhancing the firms' capabilities to provide professional services and when the members of the association or entities controlled by members of the association share the use of a common brand name or share common initials as part of the name of the firm, those members and entities are considered to be a network.

19. A firm that does not use a common brand name as part of its firm name but makes reference in its stationery or promotional materials to being a member of an association of firms should carefully consider how it describes that membership and take steps to avoid the perception that it belongs to a network. The firm may wish to avoid such a perception by clearly describing the nature of its membership in the association, for example, by stating on its stationery or promotional material that it is "an independently owned and operated member firm of XYZ Association."

20. If a firm that is a member of a network sells a component of its practice and allows the component to use the firm's name or an element of the firm's name for more than two years, the component entity will be considered to be part of the network

even though the entity is no longer connected to the firm or the association that the firm belongs to. If the firm allows the component to use the firm's name or an element of the firm's name for less than two years the firm and the component entity should disclose that they are separate legal entities and are not network firms when presenting themselves to outside parties.

*Sharing Common Control*

21. When the association is formed for the purpose of enhancing the firms' capabilities to provide professional services and the entities within the association are under common control (as defined by generally accepted accounting principles in the United States of America) with other firms in the association through ownership, management, or other means (for example, by contract), it is considered to be a network. However, an obligation to comply with certain association requirements as a condition of membership in the association does not indicate that the entities within the association are under common control; rather, it reflects the type of cooperation that is expected when an entity joins the association.

*Sharing Profits or Costs*

22. When the association is formed for the purpose of enhancing the firms' capabilities to provide professional services and when the firms share profits or costs, the association is considered to be a network. However, the sharing of immaterial costs or costs related to operating the association would not by itself create a network. In addition, the sharing of costs related to the development of audit methodologies, manuals, and training courses would not by itself create a network. Further, an arrangement between a firm and an otherwise unrelated entity to jointly provide a service or develop a product would not by itself create a network.

*Sharing Common Business Strategy*

23. When the association is formed for the purpose of enhancing the firms' capabilities to provide professional services and when the entities within the association share a common business strategy, the association is considered to be a network. Sharing a common business strategy involves ongoing collaboration among the firms whereby the firms are responsible for implementing the association's strategy and are held accountable for performance pursuant to that strategy. An entity's ability to pursue an alternative strategy may be limited by the common business strategy because it must act in accordance with the common business strategy and therefore in the best interest of the association. An entity is not considered to be a network firm merely because it cooperates with another entity solely to market professional services or respond jointly to a request for a proposal for the provision of a professional service.

*Sharing Significant Professional Resources*

24. When the association is formed for the purpose of enhancing the firms' capabilities to provide professional services and when the entities within the association share a significant part of professional resources, it is considered to be a network.

25. Professional resources include:
    - Common systems that enable firms to exchange information such as client data, billing, and time records;
    - Partners and staff;
    - Technical departments to consult on technical or industry-specific issues, transactions, or events for assurance engagements;
    - Audit methodology or audit manuals; and
    - Training courses and facilities.

    The determination of whether the professional resources shared are significant should be made based on both qualitative and quantitative factors.

26. When the entities within the association do not share a significant amount of human resources or significant client information (for example, client data, billing, and time records) and have the ability to make their own independent decisions regarding technical matters, audit methodology, training, and the like, the entities would not be considered to be sharing a significant part of professional resources.

27. When the shared professional resources are limited to a common audit methodology or audit manuals or common training courses and facilities, with no sharing of a significant amount of human resources or significant client or market information, the shared professional resources would not be considered significant. However, when the shared professional resources involve the exchange of client information or personnel, such as where staff are drawn from a shared pool, or a common technical department is created within the association to provide participating firms with technical advice that the firms are required to follow, a reasonable and informed third party is more likely to conclude that the shared professional resources are significant. An entity generally would not be deemed to be a network firm merely because it occasionally uses personnel of another firm in the association to assist with an engagement, such as observing a client's physical inventory count at a particular location.

*Sharing Common Quality Control Policies and Procedures*

28. When the association is formed for the purpose of enhancing the firms' capabilities to provide professional services and when the entities within the association are required to follow common quality control policies and procedures monitored by the association, it is considered to be a network. Monitoring is the process comprising an ongoing consideration and evaluation of the firm's system of quality control, the objective of which is to enable the association to obtain reasonable assurance that the firm's system of quality control is designed appropriately and operating effectively.

Effective date: This interpretation would be effective for engagements covering periods beginning on or after December 15, 2010.

## "Guide for Complying with Rules 102–505" *(PowerPoint slide 33)*

The "Guide for Complying with Rules 102–505" is proposed as a non-enforceable tool to assist CPAs in applying the conceptual framework. The guidance is proposed to appear after the appendix in the *Code* and will not be part of the rules sections. PEEC made this determination after the July 2008 meeting and after legal counsel recommended the guide appear after all authoritative text of the rules, interpretations and rulings.

The guide uses a threats and safeguards approach to assist practitioners in complying with the rules when the guidance in the interpretations and rulings within the *Code* does not explicitly address the situation encountered. First, the CPA should identify threats to compliance with the rules and evaluate the significance of those threats. If the threats are not at an acceptable level, the practitioner should determine whether a safeguard is available to eliminate or reduce the threat to an acceptable level.

The presence of a threat does not automatically mean the CPA is not in compliance with the rules. The CPA must determine whether the threat, when viewed by a reasonable and informed third party and having weighed the facts and circumstances, would likely compromise the practitioner's compliance with the rules. This evaluation process also includes determining how safeguards might reduce the threats to acceptable levels.

## Future Activities of PEEC *(PowerPoint slide 34)*

Additional activity is underway with PEEC in addressing the following issues:

- Public interest entities under the conceptual framework
- Interpretation 101-3, assisting clients with IFRS-related services
- Participation in retirement or savings plans by immediate family members
- Inadvertent violations

The complete listing of PEEC's three-year agenda is available at www.aicpa.org. Click on "Professional Ethics Executive Committee" under "Professional Ethics" in the "Professional Ethics/Code of Conduct" section of "Professional Resources."

In addition to the activities of PEEC, the Statements on Standards for Tax Services (SSTS) are being revised to reflect changes in the Internal Revenue Code related to preparer positions on tax returns and client confidentiality. The proposed SSTS language is subject to public comment through May 15, 2009.

Please keep an eye on the AICPA website, www.aicpa.org, for the latest information.

## Additional Ethical Standard Setters *(PowerPoint slide 35)*

Pursuant to Code of Virginia §54.1-4413.3, *Standards of Conduct and Practice*, we are required to follow the standards of conduct promulgated by not only the AICPA, but also other government agencies and bodies including:

### International Accounting Standards Board (IASB) *(PowerPoint slide 36)*

At the May 18, 2008, AICPA Council meeting, the Council voted to recognize the IASB as a designated standards setter. This change impacts the AICPA *Code of Professional Conduct* Appendix A to Rules 202 and 203. IASB standards, known as International Financial Reporting Standards (IFRS), are now available as an option for CPAs reporting on financial statements, in place of generally accepted accounting principles (GAAP) issued by the Financial Accounting Standards Board (FASB). In 2007, the U.S. Securities and Exchange Commission (SEC) adopted IFRS as allowed reporting standards. For complete details on the impact of IFRS and continued SEC and AICPA activity, refer to the AICPA's IFRS website, www.ifrs.com The actions by the SEC and AICPA bring IFRS into the Code of Virginia automatically under §54.1-4413.3.6.

### International Ethics Standards Board (IESB) *(PowerPoint slide 37–39)*

Developed by the IESB, Sections 290 and 291of the *International Code of Ethics*, regarding independence of audit and review engagements and other assurance engagements, become effective January 1, 2009.

This relates to the proposed ethical standard regarding network firms, as many U. S. accounting firms have networks or have affiliated abroad. Copies of this pronouncement can be obtained at www.ifac.org.

Illustrations:

- You are providing attest services to a U.S. entity that is acquired by an international company. You are asked by the international accounting firm to confirm that you are independent pursuant to the international standards.
- Your firm is a part of an international network of firms. As such, all firms in the network must be independent of the other firms' attests clients under the international standards.
- You are providing attest services to an American company that acquires a foreign entity. The shareholders and lenders of the foreign entity expect that you will meet the international standard for independence.
- You are providing attest services to a company that opens a subsidiary in a foreign country and is dealing with lenders in that foreign country. The company expects that you will meet the international independence standards.

### Internal Revenue Service (IRS) *(PowerPoint slide 40–41)*

For tax practitioners, there are new laws and regulations regarding tax practice and procedure as well as client privacy rights.

For those practice units using preparers outside of the United States, be aware of the addendum to the privacy rules, which requires that you inform your clients of this fact and obtain client permission in writing. This is pursuant to a change in Internal Revenue Code Section 7216 regarding privacy of client data.

Each practice unit must demonstrate it has protected the integrity of client information, to prevent identity theft.

Practitioners must adhere to the new regulations regarding substantial authority for a position on a tax return to avoid disciplinary action from the IRS Off ice of Professional Responsibility. The head of that office has already indicated that violations under the Internal Revenue Code that are deemed to be ethical violations or failure to follow the rules and regulations will bring disciplinary action and referral to any state in which the practitioner is licensed.

**Other** ***(PowerPoint slide 42–43)***

In addition, a draft of the new Statements on Standards for Tax Services (SSTS), which are the basic standards by which all CPA tax preparers will be held accountable, is available on the AICPA website. These are being rewritten to coincide with the new Internal Revenue Code requirements.

Also, the Public Company Accounting Oversight Board (PCAOB), Securities and Exchange Commission (SEC) and other organizations and agencies have recently updated their standards of conduct, requiring applicable practice units to adjust their practice procedures.

The Auditing Standards Board adopted Statement on Quality Control Standards (SQCS) No. 7, *A Firm's System of Quality Control*, which is effective January 1, 2009. The purpose of this SQCS is to establish standards and provide guidance for CPA firms in creating their accounting and auditing practices' system of quality controls. This statement describes the elements of quality control and other matters essential to the effective design implementation and maintenance of the system. This statement is to be used in conjunction with the AICPA *Code of Professional Conduct*.

# Ethical Decision Model *(PowerPoint slide 44–45)*

There are countless models practitioners can employ to assess their decisions and ensure they are making ethical choices. The Ethics Resource Center, a nonprofit organization devoted to the advancement of organizational ethics by helping leaders identify ethical risks and establishing systems to emphasize higher standards for business conduct, offers a six-step decision-making model as well as four PLUS ethics filters that CPAs can use in making daily decisions. Visit www.ethics.org for detailed information on the PLUS model.

According to this model, the six steps to ethical decision-making are:

- Step 1: Define the problem.
- Step 2: Identify available alternative solutions to the problem.
- Step 3: Evaluate the identified alternatives.
- Step 4: Make the decision.
- Step 5: Implement the decision.
- Step 6: Evaluate the decision.

It is then critical to apply ethical filters to the critical steps (1, 3 and 6) to ensure choices are ethical. Those filters are:

- P = Policies
  Is it consistent with my organization's policies, procedures and guidelines?
- L= Legal
  Is it acceptable under the applicable laws and regulations?
- U = Universal
  Does it conform to the universal principles/values my organization has adopted?
- S= Self
  Does it satisfy my personal definition of right, good and fair?



## Ethics Example

Use any of the situations in this manual to generate discussion on the application of this ethical decision model and various issues that must be addresses in order to choose a course of action.

Using the Ethics Resource Center's decision-making model and PLUS filters, the CPA should take the following steps:

- Step 1: Define the problem. (Apply PLUS filters.)
- Step 2: Identify available alternative solutions to the problem.
- Step 3: Evaluate the identified alternatives. (Apply PLUS filters.)
- Step 4: Make the decision.
- Step 5: Implement the decision.
- Step 6: Evaluate the decision. (Apply PLUS filters.)

# Principles of Professional Conduct and 2009 Ethics Topics

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

The BOA outline for the 2009 ethics CPE course lists three required topics along with three additional topics from which to choose, with only one of the three required. The three required topics are:

The following situations are intended for group discussion. As we are rapidly approaching a principles-based set of guidance rather than rules-based approach, the discussion format is more representative of what will or should be taking place in any practice unit.

There is no right or wrong answer when using a principles-based system, but rather judgment must be exercised to determine a course of action. Using the decision models from prior versions of the ethics program and the decision-making model in this year's program, come to some conclusion as to an acceptable course of action and the effects on the various parties involved. ***(PowerPoint slide 46)***

**Accounting Principles: BOA Regulation 18 VAC 5-21-120 I and Rule 203, Accounting Principles of the AICPA *Code of Professional Conduct***

**I. Accounting principles.** A CPA certificate holder shall not express an opinion or state affirmatively that financial statements or other financial data of any entity are presented in conformity with generally accepted accounting principles or state that the CPA certificate holder is not aware of any material modifications that should be made to such statements or data in order for them to be in conformity with generally accepted accounting principles, if such statements or data contain any departure from any of the standards described in the definition of the "standards of practice for CPA certificate holders" that has a material effect on the statements or data taken as a whole with the following exception: the CPA certificate holder can demonstrate that, due to unusual circumstances, the financial statements or data would otherwise have been misleading without the departure, and the approximate effects of the departure, if practicable, and the reasons why compliance with the principle would result in a misleading statement are provided in the statements or data.

Responses to the situations would require some knowledge of both the domestic and foreign rules due to the convergence of U.S. and foreign standards.

**Situation 1:** ***(PowerPoint slide 47)*** Use any changing principle as an example. The *Journal of Accountancy* and www.aicpa.com frequently list these changes, so choose one that may apply to most practitioners in the class. FIN 48 would be a good illustration. The practitioner is aware of a changing accounting principle that would adversely affect the client. What action should the practitioner take in light of the comparative financial statements the client will require?

The practitioner would need to determine the effect on the client and, potentially, third-party users of the client financial statements. Subsequent events after the date of the report should be considered in advising the course of action to be taken. Potential parties to advise include the client, third-party users of the statements and, if detrimental, the firm's insurance carrier. The proposed AICPA ethics interpretations regarding networking would also apply. Should the firm determine it would not be expedient to learn foreign rules, it may affiliate with a firm in the applicable foreign country.

Being unfamiliar with the foreign standards may render the firm unable to satisfy a client need.

**Situation 2:** ***(PowerPoint slide 48)*** Illustrate this example by referencing a CPA in the United States who has a client that is co-venturing with a foreign entity, and explore the related independence rules. This applies to CPAs in industry as well as those in public practice. Or use the reverse situation — a CPA in the United States who has to prepare statements to be incorporated into an international filing. The practitioner is aware of the client's involvement in international transactions. In light of International Financial Reporting Standards (IFRS), what approach should the practitioner take with the client and staff and regarding future engagement planning?

The firm or practitioner should know the professional standards that apply to attest engagements in the countries where the client is going to conduct business. In addition, the practitioner should explore the tax effects — both domestic and foreign — and become knowledgeable in the laws governing both foreign and domestic transactions.

The international standards use a conceptual framework approach to evaluating ethical conduct. The *Code* requires, in many instances, that professionals exercise judgment to identify and analyze threats to their independence and apply appropriate conditions that eliminate those threats. Generally, the AICPA and U.S. standards are more restrictive because they are rules-based and usually advise CPAs as to what they should NOT do rather than proactively identifying what actions CPAs can take.

***(PowerPoint slide 49)*** **Responsibilities: BOA Regulation 18 VAC 5-21-120 A and Section 52, Article 1, Responsibilities of AICPA *Code of professional Conduct***

**A. Responsibilities.** A regulant shall exercise sensitive professional judgment in all activities.

**Situation 3:** ***(PowerPoint slide 50)*** Any illustration of disclosure is valid. There would have to be some knowledge of subsequent events and the appropriate disclosure. This could apply to practitioners in industry or public practice as well as those who are employed by a governmental agency. Issues regarding fair value accounting are relevant. In light of the recent financial climate, the practitioner becomes aware of client actions and events subsequent to the issuance of the financial statements and tax returns. What responsibility does the practitioner have to the client, third-party users of the information and tax agencies?

The practitioner must be aware of subsequent events after the date of issuance of an attest report. In addition, there are restrictions and advisements concerning the events that occur between the date field work is completed and when the report is signed. Discrepancies in what knowledge the practitioner had as of the date of field work completion and the report date may have to be subsequently noted for users of the financial statements. Because tax compliance is performed until the statements are issued in most cases, subsequent events could affect elections on the tax returns and, thus, the ultimate end result. With the advent of Schedule M-3 for larger clients or preparation of schedule M-1 for smaller clients, any differences between book and tax results have to be disclosed to taxing authorities.

***(PowerPoint slide 51)*** **Public Interest: BOA Regulation 18 VAC 5-21-120 B and Section 53, Article 11, Public Interest of the AICPA *Code of Professional Conduct***

**B. Public interest.** A regulant shall act in a way that serves the public interest, honors the public trust, and demonstrates commitment to professionalism.

**Situation 4:** ***(PowerPoint slide 52)*** Mention in this situation that the SSTSs are in a new proposed form with the comment period ending in May. Reference the new Section 6694 disclosure rules or the FIN 48 issue regarding statement preparation. The CPA prepares tax returns for a client and performs a calculation incorrectly. What should the CPA do?

The CPA has an obligation to inform the client of the error and, if a notice is received, to reach an amicable solution with the client concerning interest and penalties. The use of an engagement letter would be a considerable benefit.

The AICPA Statements on Standards for Tax Services (SSTS) require that CPAs advise clients of such errors and inform clients they may have to amend their tax reports if they have already been submitted to tax agencies. The AICPA rules do not require the professional to notify the tax agencies; that would be the client's responsibility. However, the new paid preparer rules put some obligation on the CPA to prepare amended returns for the client to correct any errors. If the CPA intentionally disregards any rules or regulation, he/she could be subject to paid preparer penalties.

**Situation 5:** ***(PowerPoint slide 53)*** This could involve acquiring a new client and discovering errors on a previously filed and prepared return. The practitioner prepares financial statements and tax returns for a client and subsequently discovers an error in the calculations. What is the professional's responsibility to the client, tax agency or other party (particularly if the tax returns or financials were to be used for borrowing purposes)?

In addition to the response above, third-party users may be effected by the error, and judgment requires the use of a materiality factor to determine the extent of harm to any party using the information containing the error.

The three additional topics from which to choose one include:

***(PowerPoint slide 54)*** **Contingent Fees, Commissions and Referral Fees: BOA Regulations 18 VAC 5-21-120 K and 18 VAC 5-21-120 L and Rules 302 and 503 of the AICPA *Code of Professional Conduct***

**K. Contingent fees.** As provided in § 54.1-4414 D 2 and 3 of the Code of Virginia, a CPA certificate holder shall not perform for a contingent fee: (i) any services for, or receive such a fee from, a client for whom the CPA certificate holder or the CPA certificate holder's firm performs services which involve the practice of public accounting, during the period when such services are being provided and during the period covered by the financial statements; or (ii) prepare an original tax return or claim for a tax refund for a contingent fee for any client.

1. Preparation of an original tax return or claim for a tax refund includes giving advice on events that have occurred at the time the advice is given if such advice is directly relevant to determining the existence, character, or amount of a schedule, entry, or other portion of a return or claim for refund.
2. A fee is considered determined based on the findings of governmental agencies if the regulant can demonstrate a reasonable expectation, at the time of a fee arrangement, of substantive consideration by an agency with respect to the regulant's client. Such an expectation is deemed not reasonable in the case of preparation of original tax returns.

**L. Commissions and referral fees.**

1. Prohibited commissions. As provided in § 54.1-4414 D 1 of the Code of Virginia, a CPA certificate holder shall not recommend to a client any product or services for a commission, or, for a commission, recommend or refer any product or service to be supplied by a client, or receive a commission when the CPA certificate holder also performs for that client any service which involves the practice of public accounting. This prohibition applies during the period in which the CPA certificate holder is providing services which involve the giving of an assurance or during the period covered by any financial statements that were prepared by the CPA certificate holder as a part of such services.
2. Disclosure of permitted commissions. As provided in § 54.1-4414 E of the Code of Virginia, a CPA certificate holder who is not prohibited from accepting 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 CPA certificate holder recommends or refers a product or service to which the commission applies.
3. Disclosure of referral fees. As provided in § 54.1-4414 F of the Code of Virginia, a CPA certificate holder who accepts a referral fee for recommending or

referring any service of a CPA certificate holder shall disclose such payment to the client.

**Situation 6:** ***(PowerPoint slide 55)*** The example here is of a CPA who holds dual licensing in another discipline and uses the CPA clients as a base for the second business. Be sure to mention the related party rules. A CPA practice referring clients to a business owned by the spouse is an example. The professional owns a CPA firm in which he/she has a controlling interest and also owns a controlling interest in a firm that provides consulting or investment services to the CPA firm clients. Is this permitted?

If the professional controlled the separate business, such an arrangement would not be permitted. If the professional did not own a controlling interest in the second business, then such an arrangement would be permitted.

**Situation 7:** ***(PowerPoint slide 56)*** Many practitioners are affiliated with software providers and accept referral fees or commissions for selling their products. Use this situation as an illustration. The professional recommends to a client a specific product or investment or recommends to others a specific product made by a client. The professional receives a commission or referral fee. Is this permitted?

If the professional provides attestation services, such referral fees and commissions are prohibited by Section 503 of the *Code of Professional Conduct*. This prohibition includes both the commissions paid to the professional by a client and commissions paid by third-party suppliers of products or services. This guidance is the same as contingent fees.

**Situation 8:** ***(PowerPoint slide 57)*** If no prohibited services were rendered in Situation 7, could the professional accept a commission or referral fee?

With appropriate disclosure, the professional may accept a commission or referral fee.

**Situation 9:** ***(PowerPoint slide 58)*** The CPA firm receives a commission or referral fee for a product or service that the firm offers.

If no attest services are rendered, this is permitted with appropriate disclosure.

**Situation 10:** ***(PowerPoint slide 59)*** This is a contingent fee issue. Whether the CPA is independent should be the major point of discussion. The professional agrees to prepare a claim for refund with a tax agency and agrees to do so for a contingent fee based on success of the claim.

If the client is not an attest client, there is no AICPA prohibition against the contingent fee. However, new responsibility rules issued by the Internal Revenue Service (IRS) may prohibit this engagement. See the new rules under Section 6694 of the Internal Revenue Code.

**Situation 11:** ***(PowerPoint slide 60)*** Many practitioners use social networking sites or referral clubs to obtain new business. Privacy rules and disclosures should be the main topic of discussion for this situation. The practitioner is a member of a referral network that meets on a regular basis. The purpose of the network is to exchange clients to benefit other members of the network. What steps should the CPA take to advise the client about potential use of the client's name to other service or product suppliers?

The actions required involve privacy rules and the extent of any disclosure without the permission of the client. Simply discussing fact patterns that may allow the unrelated party to draw conclusions and determine the client's identity could potentially violate the client's rights. Disclosing tax information is now covered by Internal Revenue Code Section 7216, which could bring criminal sanctions if client confidential information is revealed without the permission of the client.

***(PowerPoint slide 61)*** **Planning and Supervision: BOA Regulations 18 VAC 5-21-120 G and Rule 201 C of the AICPA *Code of Professional Conduct***

**G. Planning and supervision.** A regulant shall adequately plan and supervise the performance of professional services.

**Situation 12:** ***(PowerPoint slide 62)*** Again this would involve changing principles and methods. FIN 48 and FIN 46R are prime illustrations for this situation. A new attest client has recently been engaged. The CPA firm designates a planning team to prepare for the engagement. The planning team does not include a tax specialist. In light of the FIN 48 and other recent pronouncements, is this considered adequate planning?

The firm or professional involved would need to evaluate the tax-to-book differences and be prepared to determine the affect on the tax return and financial statements. The Internal Revenue Code has amended to return to the "realistic possibility" standard while the Financial Accounting Standards Board (FASB) has set in FIN 48 a "more likely than not" standard for book-tax differences. When doing adequate planning, the tax effect of transactions need to be measured, and it is generally not likely that audit staff can either recognize potential tax problems or measure their effects on the tax provision. Thus, the absence of a tax staff person on the planning team may render the engagement improperly planned.

**Situation 13:** ***(PowerPoint slide 63)*** The prime example is a CPA who accepts an engagement or in-house assignment and represents that he/she can do the work without the appropriate experience or background. Use potential international engagements to explore this point. At what point should a practitioner in public practice refuse an engagement? At what point should a practitioner in industry explicitly state more time is needed to complete a task? A client enters into a complex transaction that the CPA or firm has not previously seen. The CPA or firm advises the client it can accurately complete the necessary tax work and any related financial statements. What would proper planning entail for this client?

The response here would involve the application of rules regarding client acceptance. Do you accept a client having the above-referenced situation and then educate the members of the firm on the transaction? Has an ethical violation been committed by telling the client on acceptance of the engagement that the firm can perform the work? Would it not be better to advise the client that the firm or professional does not have the knowledge and that they should seek counsel with other professionals more knowledgeable in the area in question?

***(PowerPoint slide 64)* Acts Discreditable: BOA Regulation 18 VAC 5-21-120 M and Rule 501, Acts Discreditable of the AICPA *Code of Professional Conduct***

**M. Acts discreditable.** A regulant shall not commit acts discreditable to the profession, as listed in § 54.1-4413 of the Code of Virginia and this chapter.

**Situation 14:** ***(PowerPoint slide 65)*** Apply common sense to daily office issues, such as multi-tasking when charging client time, using the Internet or Facebook while on-site at a client's office, etc. The CPA uses the employer's computer and network to post inappropriate material on a social networking website. The claim is that this is a professional network and will provide valuable contacts for future referrals. Employer rules prohibit the use of the network or computers for personal purposes, and they are certainly not to be used for any inappropriate material. What is the appropriate action to be taken?

This is a clear indication of behavior that is detrimental to the profession. Unprofessional behavior is a violation of the *Code of Professional Conduct*. Action should be taken by the employer to discipline the offender and provide proper documentation as to the severity of the action for future actions.

**Situation 15:** ***(PowerPoint slide 66)*** An employee of a CPA firm discusses client situations with friends who are employed by other CPA firms to gain some insight on how to handle certain tax and accounting situations with which he or she is confronted. What is the appropriate action to be taken?

This is a clear violation of the client privacy rights. Actions to be taken vary depending on the jurisdiction in which the violation occurred. Many of the jurisdictions have enacted privacy protection rules in consumer statutes. Violation of those rules may be considered a felony, which would require the professional to notify the professional board overseeing licensing.

**Situation 16:** ***(PowerPoint slide 67)*** You become aware of staff trading answers and questions from the CPA Exam. Is this permitted?

Since the advent of the computerized Exam, candidates have not been permitted to discuss Exam questions or the specific topics tested. Statements are signed to this effect. This would be a clear violation of professional conduct.

# Conclusion *(PowerPoint slide 68)*

Hopefully the course material has provided a useful update on standard-setting activities related to the Virginia Board of Accountancy (BOA) and ethics for CPAs and also provided a review of topics selected by the BOA for emphasis in this year's course. Please check the status of your CPA license at the BOA website, www.boa.virginia.gov. If you have additional questions, contact the Virginia Society of CPAs (VSCPA), American Institute of CPAs (AICPA) or BOA using the information on page 2 of this manual.

# Appendix

**VIRGINIA BOARD OF ACCOUNTANCY**
**2009 ETHICS CPE COURSE OUTLINE*****
**(A copy of the Board's outline must be presented to each participant prior to the class.)**

- Updates on current code of conduct and regulatory developments (30 - 45 minutes*)

    - Virginia Board of Accountancy (VBOA)
        - Practice without a current license
            - Checking BOA website for license expiration date
    - Understanding Revised Peer Review Standards - AICPA White Paper – www.aicpa.org
    - Alert: International Accounting Standards Board (IASB) recognized by AICPA and SEC approves release of IFRS proposals
    - Firm registration requirements and related peer review
        - VBOA disciplinary process**
        - Ten Myths of Ethics**
        - Handouts of actual VBOA enforcement cases (new cases for 2009)**
    - 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:

    - Accounting Principles – VBOA regulation 18 VAC 5-21-120 I and Rule 203, Accounting Principles of the *AICPA Code of Professional Conduct*

    - Responsibilities – VBOA regulation 18 VAC 5-21-120 A and Section 52, Article I, Responsibilities of the *AICPA Code of Professional Conduct*

    - Public Interest – VBOA regulation 18 VAC 5-21-120 B and Section 53, Article II Public Interest of the *AICPA Code of Professional Conduct*

One of following three is required:

- 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*

- Planning and Supervision - VBOA regulations 18 VAC 5-21-120 G and Rule 201 C of the *AICPA Code of Professional Conduct*

- Acts Discreditable – VBOA regulation 18 VAC 5-21-120 M and Rule 501, Acts Discreditable of the *AICPA Code of Professional Conduct*

- Process for ethical decision making (5 minutes) **
(A handout shall be provided.)

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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 2009, the Virginia Board of Accountancy will continue 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.**

# VIRGINIA BOARD OF ACCOUNTANCY DISCIPLINARY CASES

The following cases were adjudicated by the Virginia Board of Accountancy as a result of the Board's enforcement process

| SUMMARY OF VIOLATIONS | BOARD ACTION | DATE CLOSED BY THE BOARD |
|---|---|---|
| **CONSENT ORDER**<br>54.1-4413.A<br>18 VAC 5-21-120-(C) Integrity and Objectivity<br>Failure to perform all professional responsibilities with the highest sense of integrity, maintain objectivity by borrowing money from his client without the proper procedures in place for providing the client with all rights. | The Regulants Certificate was placed on probation for one year and assessed an administrative fee of $500 along with the additional requirement to provide satisfactory completion of 10 hours of Ethics training | **2008**<br>February 26 |
| **FINAL ORDER**<br>54.1-4414, 54.111<br>The Respondent advertised the CPA designation on yard signage and business cards without a valid Virginia CPA license. | The Board imposed a monetary penalty of $6,000, an order to immediately remove all signage, business cards, letterhead stationery and software and make full disclosure to all clients. | **2008**<br>May 15 |
| **CONSENT ORDER**<br>**54.1-4400**<br>**18VAC 5-21-170 D CPE Deficiency**<br>The Respondent failed to meet the continuing professional education (CPE) requirements for the required course in ethics for CPAs for 2007. | The Board imposed a permanent reprimanded for not completing the Ethics CPE Course in 2007 which will remain permanently on the record and should another deficiency occur, the Respondent shall agree to come before the Board to satisfy the Board that this will not re-occur. | **2008**<br>June 4 |
| **CONSENT ORDER**<br>54.1-4413.3<br>18 VAC 5-21-120 (F) Due Professional Care by failing to exercise due professional care in the performance of professional services, and by failing to prepare the clients Federal, State, and State sales tax documents for 2005 and 2006. | The Board imposed a monetary penalty of $3,000 and the Regulant shall submit an essay to the Board detailing his obligation under IRA Circular 230 and the AICPA Code of Professional Conduct to be submitted within 90 days of the entry date of the order. | **2008**<br>September 20 |
| **FINAL ORDER**<br>54.1-4413.4, 54.1-111 and 54.1-4414<br>Respondent's License was previously suspended for non compliance of a previous Board Order. The Respondent admitted to using the CPA designation and providing services without a valid Virginia CPA license by keeping the CPA designation on letterhead, business cards and Power of Attorney IRS Forms. | The Board imposed a monetary penalty of $10,000, for unlicensed activity and using the CPA designation before a Federal Agency. The Order also required the Respondent to comply with the previous Board Order and immediately remove all signage, business cards, letterhead stationery. | **2008**<br>October 21 |

Why Do Good People Do Bad Things?

Since the day the news broke about New York's ex-Governor Elliot Spitzer I knew I wanted to comment about his story in this column. I can't help but be fascinated by his downfall and wonder, why do good people do bad things? My Internet searches on that topic led me to a newly published book by Debbie Ford, *Why Good People Do Bad Things: How to Stop Being Your Own Worst Enemy.* Ford believes that almost all of us have hidden forces of self-sabotage. Most interesting to me is Ford's assessment that the reason most of us are so captivated by these shocking tales is because it provides us with some shelter from our own behavior –we aren't as bad as those we see portrayed around us. That may be true, but one thing I have always believed is—everyone's sorry when they get caught. When disciplining my children, I'm pleased to accept their apologies but point out, I really want them to change their behavior, not rely on a request for forgiveness. On the other hand, I have an inverse approach to Ford's thinking, I believe everyone has some good qualities and find it difficult to accept that all of us are suppressing evil urges.

One of our goals at the CPT is to be a conduit for information about the admirable activities people engage in. Our challenge is to make the reports on virtuous behavior as exciting as client number nine's story.

In this, our second issue of EM, we announce the closing of our Founding Membership. Make a donation to the CPT by the end of the year and you will always be on our Founding Members' roster. As you will see, our list of upcoming activities is very impressive and I hope many of you are motivated to start thinking about participating in this year's Talent Show—A Night of 101 Stars.

You'll also read about the Connecticut Board's Ethics Symposium which was a huge success. Coincidentally, one of the speakers at the Symposium made a statement in agreement with Debbie Ford, "we are our own worst enemy." That's god news, because we can teach and learn positive behavior and become our best selves.

Summer is my favorite season. I hope you enjoy yours.

Lisa Axisa

Vice President, NASBA Center for the Trust

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Virginia Society of Certified Public Accountants

*Ethics 2009 — Your License Depends On It!*

## Ethics — An Introduction

### Regulatory

- "The rules or standards governing the conduct of the members of a profession."

  — The American Heritage Dictionary

### Behavioral

- *Ethics* is derived from the Greek *ethos,* meaning character.
- In philosophical terms, *ethics* refers to morality, concentrating on human conduct and values.



## Virginia Board of Accountancy

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

This course is designed to comply with the BOA outline for 2009.

## BOA Highlights — Revised Accountancy Statutes

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

- The enactment date for changes was July 1, 2007.
- The AICPA *Code of Professional Conduct* is incorporated by reference into the statutes.



## BOA Highlights — Revised Accountancy Statute

This course will examine the following changes:

- Unlicensed practice
- Licensing requirements for individuals
- Substantial equivalency
- Licensing requirements for firms
- Peer review requirements and the new AICPA Peer Review Program



## BOA Highlights — Revised Accountancy Statutes

**Practice Without a License**

- Unlicensed practice is one of the most common disciplinary complaints the BOA receives.
- **Check the status of you license online at the BOA website, www.boa.virginia.gov!**
- 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 Statutes

**License Renewal**

- The BOA sends renewal notices via e-mail.
- The first notice is e-mailed approximately 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 Statutes

**§ 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 you do need a license from another state and must comply with substantial equivalency.



## BOA Highlights — Revised Accountancy Statutes

**§ 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 Statutes

**§ 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 Statutes

**§ 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 Statutes

**§ 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 Statutes

### § 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.

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## BOA Highlights — Revised Accountancy Statutes

### § 54.1-4414 Prohibited Acts

Anyone who does not hold a Virginia license or does not meet the requirements to use the CPA title in Virginia and any entity that does not comply with §54.1-4411.D shall not:

> Practice public accounting
> Claim to hold a license to use the CPA title
> Make any claim of licensure, registration or approval related to preparation of financial statements that is misleading
> Use the CPA title
> Refer to any standard-setting authorities listed in §54.1-4413.3 in any manner of communication about services to persons or entities located in Virginia

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

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## AICPA Peer Review Program

- Incorporated into Virginia statutes at §54.1-4412.1.D.6
- First peer review due within 18 months of providing services covered by the program
- Follow-up peer reviews due three years and six months after the initial peer review date

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## AICPA Peer Review Program

Two types of peer reviews:

- System
- Engagement

The type of peer review needed is determined by the services provided by the firm.

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## AICPA Peer Review Program

New report types:

- Pass (replaces Unmodified)
- Pass With Deficiency (replaces Modified)
- Fail (replaces Adverse)

The goal of these revisions is to make peer review reports more understandable to the users.

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## 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

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## BOA Example Disciplinary Cases

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

The answers to these cases are the ***actual*** sanctions imposed by the BOA.



## BOA Example Disciplinary Cases

**Case 1**

A CPA borrows money from a client and does not pay the money back, failing to perform all professional responsibilities with the highest sense of integrity and maintain objectivity. The Virginia Board of Accountancy (BOA) determined the CPA violated Regulation 18 VAC 5-21-120(C) and Code of Virginia 54.1-4413A. What was the BOA's response?



## BOA Example Disciplinary Cases

**Case 1: Answer C**

Placed him on probation for one year, fined him $500 and mandated completion of 10 hours of ethics training to be pre-approved by the BOA and completed within one year

## BOA Example Disciplinary Cases

**Case 2**

A businessman advertised the CPA designation on yard signage and business cards without a valid Virginia CPA license. The BOA determined that the businessman violated the Code of Virginia §54.1-111 and §54.1-4414 by using the CPA designation without a license. What action did the BOA take?



## BOA Example Disciplinary Cases

**Case 2: Answer A**

Assessed a $6,000 fine, ordered that he remove all use of the CPA designation on signage, business cards, stationery and software, and required him to notify all clients that he was not currently licensed



## BOA Example Disciplinary Cases

**Case 3**

A licensed CPA failed to meet the 2007 ethics continuing professional education requirements. The BOA determined that the CPA violated Code of Virginia §54.1-4400. What action did the BOA take?

## BOA Example Disciplinary Cases

**Case 3: Answer C**

Entered a reprimand as a permanent part of the CPA's record and required the CPA to come before the BOA should another deficiency occur



## BOA Example Disciplinary Cases

**Case 4**

A CPA with a business client failed to exercise due professional care in the performance of professional services by neglecting to prepare the client's federal, state and state sales tax documents for 2005 and 2006. The BOA found the CPA in violation of Code of Virginia §54.1-4413.3 (as enacted at the time of the violation) and Regulation 18 VAC 5-21-120(F). What action did the BOA take?



## BOA Example Disciplinary Cases

**Case 4: Answer B**

Assessed a $3,000 fine and ordered the CPA to submit an essay to the BOA detailing his/her obligation under Internal Revenue Service (IRS) *Circular 230* and the AICPA *Code of Professional Conduct*

## BOA Example Disciplinary Cases

**Case 5**

The BOA suspended a CPA's license for noncompliance with a previous Board order. The respondent admitted to using the CPA designation and providing services without a valid Virginia CPA license by keeping the CPA designation on letterhead, business cards and power of attorney IRS forms. The BOA determined that the respondent was in violation of Code of Virginia §54.1-111 and 54.1-4414. What action did the BOA take?



## BOA Example Disciplinary Cases

**Case 5: Answer B**

Ordered the individual to pay a penalty of $7,500 and an additional $2,500 for representing him/herself as a CPA before a federal agency; additionally barred the individual from practicing as a CPA until he/she was in compliance with the previous order and had been granted a license by the BOA



## BOA Disciplinary Process

Complaints are often filed because of poor communication and failure to resolve issues.

- 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.**

## AICPA Activity

### AICPA *Code* Format

- Section 50: Principles
- Section 90: Applicability & Definitions
- Sections 100 through 500: Enforceable Rules, Interpretations and Rulings

Professional Ethics Executive Committee (PEEC) continually monitors and revises the *Code*.

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## 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* under Section 92**

- 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
- Proposed effective date December 15, 2010

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## AICPA Activity

### Guide for Complying with Rules 102 & 505

- Initially presented as a proposed interpretation
- Now anticipated as non-enforceable guidance, located after the appendix of the *Code*
- Threats and safeguards guidance to assist CPAs with compliance

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## AICPA Activity

**Future planned issues activity for PEEC**

- Public interest entities under conceptual framework
- Interpretation 101-3, assisting clients with IFRS-related services
- Participation in retirement or savings plans by immediate family members
- Inadvertent violations



## Other Ethical Standards Setters

Pursuant to Section 54.1-4413-3, *Standards of Conduct and Practice*, we are required to follow the standards of conduct promulgated by not only the AICPA, but other government agencies and bodies as well.



## IASB

- International Accounting Standards Board (IASB) recognized by AICPA as designated standard setter at the May 18, 2008, Council meeting
- International Financial Reporting Standards (IFRS) adopted by Securities and Exchange Commission (SEC) as allowed reporting standards in 2007
- Both automatically incorporated into Code of Virginia §54.4-4413.3.6

## IESB

- January 1, 2009, Sections 290 and 291 of the *International Code of Ethics*, developed by the International Ethics Standards Board (IESB) regarding independence and other assurance engagements, becomes effective.
- This relates to the proposed ethical standard regarding network firms, as many U. S. accounting firms have networks or have affiliated abroad.
- Copies of this pronouncement may be obtained at www.ifac.org.



## IESB

Some illustrations:

- You are providing attest services to a U.S. entity that is acquired by an international company. You are asked by the international accounting firm to confirm that you are independent pursuant to the international standards.
- Your firm is a part of an international network of firms. As such, all firms in the network must be independent of the other firms' attests clients under the international standards.



## IESB

- You are providing attest services to an American company that acquires a foreign entity. The shareholders and lenders of the foreign entity expect that you will meet the international standard for independence.
- You are providing attest services to a company that opens a subsidiary in a foreign country and is dealing with lenders in that foreign country. The company expects that you will meet the international independence standards.

## IRS

- For those practitioners in tax, there are new laws and regulations regarding tax practice and procedure as well as client privacy rights.
- For those practice units using preparers outside of the United States, be aware of the addendum to the privacy rules which requires that you inform your client of this fact and obtain client permission in writing. This is pursuant to a change in Internal Revenue Code Section 7216 regarding privacy of client data.



## IRS

- Each practice unit must demonstrate it has protected the integrity of client information, to prevent identity theft.
- Practitioners must adhere to the new regulations regarding substantial authority for a position on a tax return to avoid disciplinary action from the IRS Off ice of Professional Responsibility.



## Other

- A draft of the new Statements on Standards for Tax Services (SSTS), which are the basic standards by which all CPA tax preparers will be held accountable, is available on the AICPA website. These are being rewritten to coincide with the new Internal Revenue Code requirements.
- The Public Company Accounting Oversight Board (PCAOB), Securities and Exchange Commission (SEC) and other organizations and agencies have recently updated their standards of conduct, requiring applicable practice units to adjust their practice procedures.

## Other

- The Auditing Standards Board adopted Statement on Quality Control Standards (SQCS) No. 7, *A Firm's System of Quality Control*, which is effective January 1, 2009.
- The purpose of this SQCS is to establish standards and provide guidance for CPA firms in creating their accounting and auditing practices' system of quality controls.



## Ethical Decision Model

The Ethics Resource Center offers a six-step decision-making model as well as four PLUS ethics filters that CPAs can use in making daily decisions:

- Step 1: Define the problem.
- Step 2: Identify available alternative solutions to the problem.
- Step 3: Evaluate the identified alternatives.
- Step 4: Make the decision.
- Step 5: Implement the decision.
- Step 6: Evaluate the decision.



## Ethical Decision Model

It is then critical to apply ethical filters to the critical steps (1, 3 and 6) to ensure choices are ethical. Those filters are:

- P = Policies
  *Is it consistent with my organization's policies, procedures and guidelines?*
- L= Legal
  *Is it acceptable under the applicable laws and regulations?*
- U = Universal
  *Does it conform to the universal principles/values my organization has adopted?*
- S= Self
  *Does it satisfy my personal definition of right, good and fair?*

## Principles of Professional Conduct

The BOA outline for the 2009 ethics course includes three required topics:

- Accounting Principles: BOA Regulation 18 VAC 5-21-120 I and Rule 203, Accounting Principles of the AICPA *Code of Professional Conduct*



## Principles of Professional Conduct

**Situation 1:** The practitioner is aware of a changing accounting principle that would adversely affect the client. What action should the practitioner take in light of the comparative financial statements the client will require?



## Principles of Professional Conduct

**Situation 2:** The practitioner is aware of the client's involvement in international transactions. In light of International Financial Reporting Standards (IFRS), what approach should the practitioner take with the client and staff and regarding future engagement planning?

## Principles of Professional Conduct

- Responsibilities: BOA Regulation 18 VAC 5-21-120 A and Section 52, Article 1, Responsibilities of AICPA *Code of Professional Conduct*



## Principles of Professional Conduct

**Situation 3:** In light of the recent financial climate, the practitioner becomes aware of client actions and events subsequent to the issuance of the financial statements and tax returns. What responsibility does the practitioner have to the client, third-party users of the information and tax agencies?



## Principles of Professional Conduct

- Public Interest: BOA Regulation 18 VAC 5-21-120 B and Section 53, Article 11, Public Interest of the AICPA *Code of Professional Conduct*

## Principles of Professional Conduct

**Situation 4:** The CPA prepares tax returns for a client and performs a calculation incorrectly. What should the CPA do?



## Principles of Professional Conduct

**Situation 5:** The practitioner prepares financial statements and tax returns for a client and subsequently discovers an error in the calculations. What is the professional's responsibility to the client, tax agency or other party (particularly if the tax returns or financials were to be used for borrowing purposes)?



## Principles of Professional Conduct

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

- Contingent Fees, Commissions and Referral Fees: BOA Regulations 18 VAC 5-21-120 K and 18 VAC 5-21-120 L and Rules 302 and 503 of the AICPA *Code of Professional Conduct*

## Principles of Professional Conduct

**Situation 6:** The professional owns a CPA firm in which he/she has a controlling interest and also owns a controlling interest in a firm that provides consulting or investment services to the CPA firm clients. Is this permitted?



## Principles of Professional Conduct

**Situation 7:** The professional recommends to a client a specific product or investment or recommends to others a specific product made by a client. The professional receives a commission or referral fee. Is this permitted?



## Principles of Professional Conduct

**Situation 8:** If no prohibited services were rendered in Situation 7, could the professional accept a commission or referral fee?

## Principles of Professional Conduct

**Situation 9:** The CPA firm receives a commission or referral fee for a product or service that the firm offers.

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## Principles of Professional Conduct

**Situation 10:** The professional agrees to prepare a claim for refund with a tax agency and agrees to do so for a contingent fee based on success of the claim.

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## Principles of Professional Conduct

**Situation 11:** The practitioner is a member of a referral network that meets on a regular basis. The purpose of the network is to exchange clients to benefit other members of the network. What steps should the CPA take to advise the client about potential use of the client's name to other service or product suppliers?

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## Principles of Professional Conduct

- Planning and Supervision: BOA Regulations 18 VAC 5-21-120 G and Rule 201 C of the AICPA *Code of Professional Conduct*



## Principles of Professional Conduct

**Situation 12:** A new attest client has recently been engaged. The CPA firm designates a planning team to prepare for the engagement. The planning team does not include a tax specialist. In light of the FIN 48 and other recent pronouncements, is this considered adequate planning?



## Principles of Professional Conduct

**Situation 13:** A client enters into a complex transaction that the CPA or firm has not previously seen. The CPA or firm advises the client it can accurately complete the necessary tax work and any related financial statements. What would proper planning entail for this client?

## Principles of Professional Conduct

- Acts Discreditable: BOA Regulation 18 VAC 5-21-120 M and Rule 501, Acts Discreditable of the AICPA *Code of Professional Conduct*



## Principles of Professional Conduct

**Situation 14:** The CPA uses the employer's computer and network to post inappropriate material on a social networking website. The claim is that this is a professional network and will provide valuable contacts for future referrals. Employer rules prohibit the use of the network or computers for personal purposes, and they are certainly not to be used for any inappropriate material. What is the appropriate action to be taken?



## Principles of Professional Conduct

**Situation 15:** An employee of a CPA firm discusses client situations with friends who are employed by other CPA firms to gain some insight on how to handle certain tax and accounting situations with which he or she is confronted. What is the appropriate action to be taken?

## Principles of Professional Conduct

**Situation 16:** You become aware of staff trading answers and questions from the CPA Exam. Is this permitted?



## Resources

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

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

100th Anniversary
Virginia Society of Certified Public Accountants

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