PERSONAL AND PROFESSIONAL ETHICS FOR TEXAS CPAs

By
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ABOUT THE AUTHOR

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Dr. Clay received his Bachelors and Master’s degrees in Accounting from Northern Illinois University and his Doctorate from the University of Kentucky. He has held accounting faculty positions at Indiana State University and Texas Tech University. His public accounting experience was with Price Waterhouse & Co. in their Chicago office.

Dr. Clay served as a member of the AICPA’s Accounting and Review Services Committee assisting in the development of Statements on Standards for Accounting and Review Services Nos. 1-6. He has also held significant committee appointments with the American Accounting Association and the Institute of Internal Auditors.

Dr. Clay is the author of three books, ten continuing professional education courses, and numerous articles appearing in professional journals. He performs consulting services for several firms and has been named Outstanding Continuing Professional Education Discussion Leader by the American Institute of Certified Public Accountants and by the Texas Society of Certified Public Accountants. In June 1999, Dr. Clay received the Leon Radde Educator of the Year Award from the Institute of Internal Auditors. In October 2000, he was the recipient of the Texas Society of CPAs Outstanding Educator Award.
WHY SHOULD WE CONTINUE TO STUDY ETHICS?

• Most people fail to recognize the moral implications and moral consequence of their behavior.

• Discussing ethics helps strengthen our resolve to behave ethically.

• Ethics provides an essential foundation for business transactions.

• The company and supervisor’s role as moral educator becomes more important as other centers of moral influence – religion and family for example – tend to diminish.

• Ethics are essential for effective organizations.

• As service providers we need to be aware of our responsibility to the public.

• Our commitment to choose the right path is not fixed in childhood but continues to develop (or weaken) throughout our lives.

• Periodically we need to revisit the behavioral and ethical beliefs embraced by our employer and our profession.
CASE ANALYSIS

PERSONAL vs PROFESSIONAL OBLIGATIONS

Cindy Miller, CPA has been employed at Dalton Financial as their controller for the past 10 months. She loves the position and finds it to be a vast improvement over her previous job. During a recent review of Dalton’s loan portfolio Cindy was disturbed to find that a high profile company, Stanton Industries, had loans that totaled almost 24% of the portfolio. State law prohibits any one company from having loans greater than 25% of a financial institution’s loan portfolio. When Cindy pointed this out to Dan Hardy, Dalton’s president, he said his good friend Phil Tucker was CEO and the loans were solid as a rock! Cindy had some concerns as her husband, Lance, was sales manager for one of Stanton’s divisions, Stanton Equipment. She knew from conversations with Lance that financially things were not good at Stanton Industries. Her husband was optimistic that the company would be on solid ground once the economy had an upswing. Also, he told Cindy if Dalton approved their pending loan request it would be a big boost to Stanton’s economic situation. Cindy reviewed the current Stanton loan application and concluded that, if granted, the new loan would push Stanton’s loan balance to 28% of Dalton’s loan portfolio. When she pointed this out to Dan Hardy he said “that percentage stuff is just a rough guide for analysis purposes and it’s never really considered by anyone but the auditors.” He concluded by telling Cindy that “as a CPA he was sure she could make the number look good and keep the auditor’s from raising any issues.” Cindy discussed the matter with her husband and he said he was confident the loan was necessary for Stanton Industries to survive and for him to keep his job. Also, if she didn’t make sure Dalton’s numbers passed the auditor’s tests, they might both be looking for a job.

1. What are Cindy’s personal obligations?
2. What are Cindy’s professional obligations?
3. Which are more important, the personal or professional obligations?
HONESTY AND INTEGRITY

Do you consider yourself to be an honest person? Why?

Honesty means (a) to be free from deceit and fraud, (b) to be open and above board in your transactions, and (c) to treat other fairly and justly.

Some people narrowly define honesty as simply telling the truth.

Honesty involves more than what you say; it also involves what you do and how you act. Giving false impressions or evasive answers to hide the truth is being dishonest.

We are told that honesty is the best policy. Do you agree with this statement? Are there situations you face where honesty is not the best policy?

THREE IMPORTANT DIMENSIONS OF HONESTY

Honesty can be a personality trait, but it is not a single trait and it does not act alone when influencing behavior. True honesty is composed of at least three important dimensions.

A. Have very high, well-defined general standards of morality.

B. Internalize these standards as moral imperatives.

C. Live a moral life to the extent that violating these standards causes feelings of remorse.
SOME THINGS TO CONSIDER WHEN YOU’RE TEMPTED TO LIE

Be sure the benefit you’re trying to gain by lying is important enough to risk the loss of trust.

Don’t lie if you can accomplish noble goal without lying (remember, necessity is not a fact, it’s an interpretation).

Be careful that the lie doesn’t cause serious unintended consequences (like telling a child a monster will take them away for misbehaving).

INTEGRITY

Integrity means to be true at all times to high moral principles and to be consistent in attitudes, behaviors, and speech.

The following three steps are essential for a person to act with integrity:

A. Discern what is right and wrong.

B. Act on what you have discerned even if it entails a personal cost.

C. Openly declare that you’re acting on your understanding of what you have discerned to be right.

While honesty refers to behaviors that are consistent with reality, integrity refers to behaviors that are at the core of high moral character.
THE DISHONESTY CULPRIT

What’s causing the hole in our moral ozone?

Why are cheating and lying so common in schools, on sports fields, and in business and politics?

Apparently, it’s a thing called **PRESSURE!** Pressure impacts the actions of kids, athletes, coaches, and business professionals.

What we call pressure today used to be called *temptations*.

Lots of people give in to pressure. But pressure is merely an explanation, not a justification!

Sure, it would be helpful if we had less pressure, but it’s far more important that we strive to have MORE CHARACTER!
TRUST

Trust is the ability to place total reliance on the honesty, integrity, competence and behavior of a person.

There is no shortcut to building trust. In fact, rebuilding trust on the rubble of lost credibility is extremely difficult.

Where trust is important, there are no small lies.

While honesty and forthrightness may not always pay dividends, dishonesty and concealment always cost.

Lies breed more lies. Don’t be seduced by the “fight fire with fire” excuse.

In business, confidence in character is not enough to justify trust. In business, trust also involves the conviction that the person or organization will do what is expected.
CASE ANALYSIS

IT WAS ONLY A WHITE LIE

Kathy Westfield graduated from college with a degree in accounting in May 1990. She began her career on the audit staff of a regional public accounting firm in June, 1990. Her first audit assignment was on the audit of a retail client and her supervisor was Janet Nelson who had been on the audit staff for six years. Early in the audit Janet asked Kathy if she had taken the CPA Exam when she graduated in May. Kathy indicated that she had not taken the exam but hoped to study and take the exam in November. Janet told her she had some material that she could borrow and use in her studies. In reality, Kathy had actually taken the May 1990 CPA Examination, but felt that her performance was not sufficient to have passed any part of the examination. She decided to protect her ego by not telling Janet that she had taken the exam. Kathy performed well on the audit and Janet had often complemented her on her efforts and quick grasp of the audit process. In early August, Kathy received her grades on the CPA Exam and to her surprise she passed all parts. She was so excited she immediately called Janet to inform her of the accomplishment. To Kathy’s surprise, Janet was less than enthusiastic about the news. Kathy then remembered that she had told Janet that she did not take the CPA Exam in May. She immediately apologized to Janet but the conversation ended quickly. Over the next few days Janet was working on another audit and Kathy did not have a chance to talk to her. On the following Friday Kathy was called into the office of the firm’s managing partner, Bob Richards. Bob informed Kathy that Janet was concerned about Kathy’s failure to tell the truth about taking the CPA Exam and she would be reluctant to have Kathy work on any of her jobs in the future. Bob indicated that he had talked the matter over with three other audit partners and they agreed that it would be difficult to have her assigned to any of their audit engagements. Thus, Bob informed Kathy that she would be given two month’s severance pay and they would not indicate the reason for her dismissal to any prospective employer.
1. Do you believe Janet overreacted to Kathy’s failure to admit she had taken the CPA Examination? If so, how would you have handled the situation?

2. Did the managing partner act appropriately?

3. Janet obviously had a problem with Kathy’s personal integrity. Is a person’s personal integrity an indication of his/her professional integrity?
BEHAVIORAL STRATEGIES OF EFFECTIVE LEADERS

MAKE EMPLOYEES AWARE OF WHAT’S IMPORTANT

1. Employees have a simple way of deciding what’s important at work, they watch their leaders.
2. Do you walk the talk?
3. Successful leaders say what they stand for and support those words by standing for what they say.

HAVE CONSEQUENCES FOR FAILURE TO COMPLY

1. Without accountability or sanctions for wrong-doing, employees will conclude that “it doesn’t matter what we do.”
2. Good employees don’t mind rules and reprimand, what they mind is rules that are not enforced.
3. We discipline our children to enforce expected behavior, employees are no different. Without discipline or enforcement there are no rules.
SET A GOOD EXAMPLE

1. As a leader you’re a role model, and the only decision you have to make is what role you’re going to model.

2. One thing we know about professional people when they work for you in your firm or company – they want to be you!

3. People hear what we say and see what we do – and believe me, ACTIONS SPEAK LOUDER THAN WORDS!

REINFORCE BEHAVIOR WITH EDUCATION

1. You can train people to do their jobs, or you can train them to do their jobs conscientiously and with integrity. Either way, you get what you train for.

2. Reinforce the *HOW* with the *WHY*. It’s easy to show them *HOW*, it’s much more difficult and time consuming to explain *WHY*.

3. Many employers question the cost/benefit of training programs.
ADHERE TO SOUND HIRING AND PROMOTION PRACTICES

1. What criteria has your organization established for hiring and promotion practices? Consistency or expediency?

2. Does your criteria include integrity and ethical conduct? If it does, are those traits imperative or merely desirable?

3. Greater effort put into hiring practices result in much less time being spent on “people problems.”

USE VALUES AS A BASIS FOR ACTION

1. The primary purpose of values in an organization is to guide employee actions.

2. “Words to live by” are only words – unless you live by them!
GENERAL ETHICS CHECK LIST

Does my decision treat me, or my firm/company, as an exception to a convention I expect others to follow?

Would my actions “turn off” clients/customers if they knew?

Would my actions “turn off” qualified job applicants if they knew?

Would I prefer to avoid the consequences of this decision?

Did I avoid any of the questions by telling myself that I could get away with it?

FIVE STEPS TO BUILDING MORAL CHARACTER

These five steps can take a person from behavior that they consider to be inappropriate and help them transform their behavior to a more acceptable level.

Recognize what is wrong.

Feel remorse.

Resolve to change.

Plan new behavioral intentions.

Demonstrate improved moral behavior.
THE GENERATION GAP IN THE
PROFESSIONAL WORKPLACE

Current Generations in the Workplace:

A. Traditionalists born 1922 to 1943
B. Baby Boomers born 1944 to 1960
C. Generation X born 1961 to 1980
D. Millennials born 1981 to 2000

SIGNIFICANT WORLD EVENTS

**Trad**itionalists:

- Great Depression
- WW II
- Pearl Harbor

**Baby Boomers:**

- Ear of Economic Prosperity
- Assassination of JFK, RFK, MLK, Jr.
- Civil Rights & Vietnam War
- Sexual Revolution
Generation X

Raised in Two-Earner Households
Latchkey Kids
Rise in Divorce Rate
Widespread use of Computers
Economic Uncertainty

Millennials

Grew up with e-mail, internet, cell phones
Violence and Terrorism
Columbine High
9/11
Globalization
Most Scheduled Childhoods in US History

POSITIVE TRAITS

Traditionalists

Hard Work
Respect Authority
Value Loyalty

**Baby Boomers**

Hard Working

Idealistic

Committed To Harmony

**Generation X**

Entrepreneurial

Flexible and Self-Reliant

Comfortable with Technology

**Millennials**

Tech Savvy

Appreciative of Diversity

Skilled Multi-Taskers

**NEGATIVE TRAITS**

**Traditionalists**

Conformers

Resist Change
Baby Boomers
   Sense of Entitlement
   Workaholics
   Self-Centered

Generation X
   Skeptical and Cynical
   Lazy, Slackers
   Question Authority Figures

Millennials
   Lack Literacy Fundamentals
   Very Short Attention Span
   Not loyal to Employer’s Organization

WORKPLACE ATTRIBUTES

Traditionalists
   Work and Family Life Will Never Meet
   Disciplined and Pragmatic
Look for Stability
Assume People Will Stay in Their Jobs for a Long Time

**Baby Boomers**
Belief that Hard Work = Long Hours
Long-Term Commitment to Employing Organization
Self-Motivated
Do Not Appreciate Feedback, Especially Negative Feedback

**Generation X**
Desire for Work-Life Balance, Flexible Work Schedule
Less Hierarchical Input
Expect to have Multiple Employers, Even Multiple Careers
For the First Time, Women in the Workplace Educated as much as Men

**Millenials**
Excellent at Integrating Technology into Workplace
Demand Immediate Feedback and Recognition
Expect to have many Employers, Multiple Careers
Accustomed to Rules and Regulations, Expect them to be Enforced

**SOME ADDITIONAL CHARACTERISTICS**

**Traditionalists**

They are past oriented and history absorbed.
Their spending style is conservative.
Be aware of the importance of gender roles to Traditionalists.
They are excellent candidates for part-time or project based work.

**Baby Boomers**

They think of themselves as stars of the show.
They tend to be optimistic.
They have pursued their own personal gratification uncompromisingly and often at a high price.
Boomers need help with soft skills.

**Generation X**

Gen Xers are self-reliant.
They are seeking a sense of family.
They like informality.
They are attracted to the edge.

**Millennials**

They want to have a say about when they work.

They want to have a say about how they do their work.

They don’t expect you to be their best friend, but when you evaluate them or critique them, they want you to do it in a friendly way (just like their parents did).

They are most comfortable in large organizations where roles are well defined and the workplace structure is more ridged.
PRINCIPLES OF THE AICPA CODE OF PROFESSIONAL CONDUCT

RESPONSIBILITIES: In carrying out their responsibilities as professionals, members should exercise sensitive professional and moral judgments in all their activities.

PUBLIC INTEREST: Members should accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate commitment to professionalism.

INTEGRITY: To maintain and broaden public confidence, members should perform all professional services with the highest sense of integrity.

OBJECTIVITY & INDEPENDENCE: A member should maintain objectivity and be free of conflicts of interest in discharging professional responsibilities.

DUE CARE: A member should observe the profession’s technical and ethical standards, strive continually to improve competence and the quality of services, and discharge professional responsibilities to the best of the member’s ability.

SCOPE AND NATURE OF SERVICES: A member in public practice should observe the Principles of the Code of Professional Conduct in determining the scope and nature of professional services.
GENERAL STANDARDS OF THE PROFESSION

PROFESSIONAL COMPETENCE: Undertake only those professional services that the member’s firm can reasonably expect to complete with professional competence.

DUE PROFESSIONAL CARE: Exercise due professional care in the performance of the professional services.

PLANNING & SUPERVISION: Adequately plan and supervise the performance of professional services.

SUFFICIENT RELEVANT DATA: Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional service performed.
PREAMBLE AND GENERAL PRINCIPLES (501.51)

1. These rules of professional conduct were promulgated under the Public Accountancy Act, which directs the Texas State Board of Public Accountancy to promulgate rules of professional conduct "in order to establish and maintain high standards of competence and integrity in the practice of public accountancy and to ensure that the conduct and competitive practices of licensees serve the purposes of the Act and the best interest of the public."

2. The services usually and customarily performed by those in the public, industry, or government practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature.

3. The use of professional designations implies possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants.

4. The public’s reliance, in turn, imposes obligations on persons utilizing professional designations, both to their clients, employers and to the public in general.

APPLICABILITY (501.53)

1. Certificate or registration holders in the client practice of public accountancy must follow all the rules of professional conduct.

2. No certificate or registration holder shall issue, or otherwise be associated with, financial statements that do not conform to the accounting principles described in Rule 501.61 dealing with Accounting Principles.
3. Certificate or registration holders not engaged in the client practice of public accountancy must follow the following rules.

A. 501.73 Integrity and Objectivity.
B. 501.74 Competence.
C. 501.77 Acting Through Others.
D. 501.78 Withdrawal or Resignation.
E. 501.90 Discreditable Acts.
F. 501.91 Reportable Events.
G. 501.92 Frivolous Complaints.
H. 501.93 Responses.
I. 501.94 Mandatory Continuing Professional Education.

PROFESSIONAL STANDARDS

Section 501.60 Auditing Standards
Section 501.61 Accounting Principles
Section 501.62 Other Professional Standards

AUDITING STANDARDS (501.60)

1. An audit represents a systematic process of objectively obtaining and evaluating evidence regarding assertions about economic actions and events to ascertain the degree of correspondence between those assertions and established criteria and communicating the results to interested users.

2. A person shall not permit his/her name to be associated with financial statements in such a manner as to imply that he/she is acting as an auditor with respect to such financial statements, unless he/she has complied with applicable Generally Accepted Auditing Standards (GAAS).
ACCOUNTING PRINCIPLES (501.61)

1. A certificate or registration holder shall not issue a report asserting that financial statements are presented in accordance with generally accepted accounting principles (GAAP) if such statements contain a departure from GAAP which has a material effect on the financial statements taken as a whole.

2. Financial statements may contain a departure from GAAP if the certificate or registration holder can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading.

3. A person practicing under the practice privilege as provided for in paragraph 901.462 of the Public Accountancy Act (relating to Practice by Out-of-State Practitioner With Substantial Equivalency Qualifications), shall not issue a report asserting that financial statements are presented in conformity with GAAP if such financial statements contain any departure from such accounting principles which has a material effect on the financial statements taken as a whole, unless the person practicing under that practice privilege can demonstrate that by reason of unusual circumstances the financial statements would otherwise be misleading.

OTHER PROFESSIONAL STANDARDS (501.62)

1. A person in the performance of consulting services, accounting and review services, or tax services shall conform to the professional standards applicable to such services.

2. For the purpose of this section, such professional standards are considered to be interpreted by:
   A. *Statements on Standards on Consulting Services* (SSCS);
   B. *Statements on Standards for Accounting and Review Services* (SSARS);
   C. *Statements on Standards for Attestation Engagements* (SSAE);
   D. *Statements on Standards for Tax Services* (SSTS); or
   E. Similar pronouncements by other entities having national or international authority recognized by the board.

Financial Statement Standards (501.63)

1. A licensee who is an employee or officer of a business entity or governmental agency may prepare the business entity’s or governmental agency’s financial statements and may issue non-attest transmittals or information regarding non-attest transmittals if the transmittals or information do not purport to be in compliance with standards for accounting and review services adopted by the
AICPA or another national or international accountancy organization recognized by the board.

2. A licensee who is not an employee or officer of a business entity or governmental agency shall not submit the business entity’s or governmental agency’s financial statements to a client or third party unless the person complies with the Statements on Standards for Accounting and Review Services (SSARS) issued by the AICPA and other professional standards adopted by the board.

**RESPONSIBILITIES TO CLIENTS**

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**RECEIPT OF COMMISSIONS AND OTHER COMPENSATION (501.71)**

1. A person shall not for a commission, compensation or other benefit recommend or refer to a client any product or service or refer any product or service to be supplied to a client, or receive a commission, compensation or other benefit when the person also performs services for that client requiring independence.

2. This prohibition applies during the period in which the person is engaged to perform any of the services requiring independence and during the period covered by any of the historical financial statements involved in such services requiring independence.
3. A person who receives, expects or agrees to receive, pay, expects or agrees to pay, other compensation in exchange for services or products recommended, referred, or sold by him/her shall, no later than the making of such recommendation, referral, or sale, disclose to the client in writing the nature, source, and amount or an estimate of the amount when the amount is not known, of all such other compensation.

4. The disclosure shall be made regardless of the amount or nature of the other compensation involved.

5. This section does not apply to payments received from the sale of all, or a material part, of an accounting practice.

CONTINGENCY FEES (501.72)

1 A contingent fee is a fee for any service where no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. However, a person’s non-contingent fees may vary depending, for example, on the complexity of the services rendered.

2 Fees are not considered contingent if fixed by courts or governmental entities acting in a judicial or regulatory capacity, or in tax matters if determined based on the results of judicial proceedings or the findings of governmental agencies acting in a judicial or regulatory capacity, or if there is a reasonable expectation of substantive review by a taxing authority.

3 A person shall not perform for a contingent fee any professional accounting services or professional accounting work for, or receive such a fee from, a client for whom the person performs professional accounting services or work requiring independence.

4 A person shall not perform an engagement as a testifying accounting expert for a contingent fee. A testifying accounting expert is one that at any time during the proceeding becomes subject to disclosure and discovery under the procedural rules of the forum where the matter for which his/her services were engaged is pending.

5 A consulting accounting expert may become a testifying accounting expert when the client for whom he/she is working makes his/her work available to a testifying expert. A consulting accounting expert who is working on a contingent fee basis should work closely with his/her client to ensure that he/she does not inadvertently become a testifying expert through the actions of his client. An accounting expert may not accept a contingent fee for part of an engagement and a set fee for part of the same engagement. A consulting accounting expert who becomes a testifying expert may not accept a contingent fee for the part of his/her work done as a consultant, but must be compensated on a set fee basis for all of the work performed on the same engagement.
A consulting accounting expert who enters into a contingent fee engagement should reach an agreement, preferably in writing, with the client as to how he/she will be compensated should he/she become a testifying expert prior to beginning the engagement.

COMPETENCE (501.74)

1. A person shall not undertake any engagement for the performance of professional accounting services or professional accounting work which he/she cannot reasonably expect to complete with due professional competence, including compliance with applicable professional standards. (See Rules 501.60, Auditing Standards; 501.61, Accounting Principles; and 501.62, Other Professional Standards).

2. Competence to perform professional services or work involves both the technical qualifications of the person and the person’s staff and the ability to supervise and evaluate the quality of the work being performed.

3. If a person is unable to gain sufficient competence to perform professional accounting services or work, the person shall suggest to the client the engagement of someone competent to perform the needed professional accounting service or professional accounting work, either independently or as an associate.

4. The competent performance of professional accounting services or professional accounting work by a CPA licensed in the State of Texas includes the following elements:
   A. The exercise of due professional care.
   B. Adequate planning of the engagement and supervision of subordinates.
   C. Obtaining and maintaining sufficient documentation to afford a reasonable basis for conclusions and recommendations in relation to any professional services performed.

The person must have the knowledge required to complete the professional services with competence prior to performance. In some cases, however, additional research or consultation with others may be necessary during the performance of the professional services.
CONFIDENTIAL CLIENT COMMUNICATIONS (501.75)

1. Except by permission of the client or the authorized representative of the client, a person or any partner, officer, shareholder, or employee of a person shall not voluntarily disclose information communicated to him/her by the client relating to, and in connection with, professional accounting services or professional accounting work rendered to the client by the person. Such information shall be deemed confidential.

2. Nothing in this Rule shall be construed as prohibiting disclosure:
   A. of information required to be disclosed by applicable federal laws, federal government regulations, including requirements of the PCAOB;
   B. under a summons under the provisions of the Internal Revenue Code of 1986 and its subsequent amendments, the Securities Act of 1933 and its subsequent amendments, or the Securities Exchange Act of 1934 and its subsequent amendments;
   C. required by the standards of the public accounting profession in reporting on the examination of financial statements;
   D. pursuant to a court order signed by a judge, a congressional or grand jury subpoena, investigations or proceedings under the Act, ethical investigations conducted by private professional organizations; or in the course of peer reviews.

RECORDS AND WORK PAPERS (501.76)

Records

1. A person shall return original client records to a client or former client within a reasonable time (promptly, not to exceed 10 business days) after the client or former client has made a request for those records.

2. Client records are those records provided to the person by the client or former client in order for the person to provide professional accounting services to the client or former client. Client records also include those documents obtained by the person on behalf of the client or former client in order for the person to provide professional accounting services to the client or former client.

3. Client records include only the original client documents and do not include the electronic and hard copies that the firm produces.
4. The person shall provide these records to the client or former client, regardless of the status of the client’s or former client’s account and cannot charge a fee to provide such records.

5. Such records shall be returned to the client or former client in the same format, to the extent possible, that they were provided to the person by the client or former client. The person may make copies of such records and retain those copies.

6. A person’s work papers, to the extent that such work papers include records which would ordinarily constitute part of the client’s or former client’s books and records and are not otherwise available to the client or former client, shall also be furnished to the client within a reasonable time (promptly, not to exceed 20 business days) after the client has made a request for those records. The person can charge a reasonable fee for providing such work papers.

Work Papers

1. Work papers, regardless of format, are those documents developed by the person incident to the performance of his/her engagement which do not constitute records that must be returned to the client in accordance with preceding information under the subheading of Records.

2. Work papers developed by a person during the course of a professional engagement as a basis for, and in support of, an accounting, audit, consulting, tax, or other professional report prepared by the person for a client, shall be and remain the property of the person who developed the work papers.

3. For a reasonable charge, a person shall furnish to his client or former client, upon request from his client made within a reasonable time after original issuance of the document in question:
   A. a copy of the client’s tax return; or
   B. a copy of any report or other document previously issued by the person to or for such client of former client provided that furnishing such reports to or for such client or former client would not cause the person to be in violation of the portion of Rule 501.60, Auditing Standards, concerning subsequent events.

4. This rule imposes no obligation on the person who provides services to a business entity to provide documents to anyone involved with the entity except the authorized representative of the entity.
5. Documentation or work documents required by professional standards for attest services shall be maintained in paper or electronic format by a person for a period of not less than five years from the date of any report issued in connection with the attest service, unless otherwise required by another regulatory body. Failure to maintain such documentation or work papers constitutes a violation of this section and may be deemed an admission that they do not comply with professional standards.

As a practical matter, it is recommended that a person obtain a receipt or other written documentation of the delivery of records to a client.

**ACTING THROUGH OTHERS (501.77)**

1. A person is often in a position to supervise and direct the efforts of subordinates.

2. A person shall not permit others including non-CPA owners and employees, to carry out on his/her behalf, either with or without compensation, acts, which, if carried out by the person, would place him/her in violation of these rules of professional conduct.

3. The Board shall consider that the conduct of any non-CPA owner or employee in connection with the business of a licensed firm is the conduct of that licensed firm for the purposes of the rules of professional conduct.

**WITHDRAWAL OR RESIGNATION (501.78)**

1. If a person cannot complete an engagement to provide professional services and professional accounting work or employment assignment in a manner that complies with the requirements of this section, the person shall withdraw from the engagement or resign from the employment assignment.

2. If a person withdraws from an engagement or resigns from an employment assignment pursuant to this section, the person shall inform the client or employer of the withdrawal or resignation.
RESPONSIBILITIES TO THE PUBLIC

Section 501.80     Practice of Public Accountancy
Section 501.81     Firm License Requirements
Section 501.82     Advertising
Section 501.83     Firm Names
Section 501.84     Form of Practice
Section 501.85     Complaint Notice

PRACTICE OF PUBLIC ACCOUNTANCY (501.80)

1. A person may not engage in the practice of public accountancy unless he/she holds a valid license or qualifies under a practice privilege.

2. A person may not use the title or designation “certified public accountant,” the abbreviation “CPA,” or any title, designation, word, letter, abbreviation, sign, card, or device tending to indicate that the person is a CPA unless he/she holds a valid license issued by the board or qualifies under a practice privilege.

3. A license is not valid for any date or for any period prior to the date it is issued by the board and it automatically expires and is no longer valid after the end of the period for which it is issued.

4. Any licensee of this board in good standing as a CPA or public accountant may use such designation whether or not the licensee is in the client, industry, or government practice of public accountancy.

FIRM LICENSE REQUIREMENTS (501.81)

1. A firm may not provide or offer to provide attest services or use the title “CPA’s,” “CPA Firm,” “Certified Public Accountants,” “Certified Public Accounting Firm,” or “Auditing Firm” or any variation of those titles unless the firm holds a firm license issued by the board or qualifies under a practice privilege.

2. A firm license is not valid for any date or for any period prior to the date it is issued by the board and it automatically expires and is no longer valid after the end of the period for which it is issued. A firm license does not expire when the application for license renewal is received by the board prior to its expiration date. An expiration
date for a firm license may be extended by the board, in its sole discretion, upon a demonstration of extenuating circumstances that prevented the firm from timely applying for or renewing a firm license.

3. A firm is required to hold a license issued by the board if the firm establishes or maintains an office in this state.

4. A firm is required to hold a license issued by the board and an individual must practice through a firm that holds such a license, if for a client that has its principal office in this state, the individual performs:
   
   A. A financial statement audit or other engagement that is to be performed in accordance with SAS;
   
   B. An examination of prospective financial information that is to be performed in accordance with SSAE; or
   
   C. An engagement that is to be performed in accordance with auditing standards of the PCAOB or its successor.

5. Each advertisement or written promotional statement that refers to a CPA’s designation and his/her association with an unlicensed entity in the client practice of public accountancy must include the disclaimer: “This is not a CPA firm.” This disclaimer must be included in conspicuous proximity to the name of the unlicensed entity and be printed in type not less bold than that contained in the body of the advertisement or written statement. If the advertisement is in audio format only, the disclaimer shall be clearly declared at the conclusion of each such presentation.

6. The requirements of paragraph “5” above do not apply to a person performing services:
   
   A. as a licensed attorney at law of this state while in the practice of law or as an employee of a licensed attorney when acting within the scope of the attorney’s practice of law;
   
   B. as an employee, officer, or director of a federally-insured depository institution, when lawfully acting within the scope of the legally permitted activities of the institution’s trust department; or
   
   C. pursuant to a practice privilege.

7. On the determination by the board that a person has practiced without a license or through an unlicensed firm in violation of paragraph “5” above, the person’s certificate shall be subject to revocation and may not be reinstated for at least 12 months from the date of revocation.
ADVERTISING (501.82)

1. A person shall not use or participate in the use of:
   A. any communication having reference to the person’s professional services that contains a false, fraudulent, misleading or deceptive statement or claim; nor
   B. any communication that refers to the person’s professional services that is accomplished or accompanied by coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct.

2. Definitions relevant to the Advertising rule.
   A. A “false, fraudulent, misleading or deceptive statement or claim.”
   B. Broadcast – Any transmission over the airwaves or over a cable, wireline, Internet, cellular, e-mail system or any other electronic means.
   C. Coercion – Compelling by force so that one is constrained to do what his/her free will would otherwise refuse.
   D. Compulsion – Driving or urging by force or by physical or mental constraint to perform or forbear from performing an act.
   E. Direct Personal Communication – Either a face-to-face meeting or a conversation by telephone.
   F. Duress – Any conduct which overpowers the will of another.
   G. Harassing – Any word, gesture, or action which tends to alarm and verbally abuse another person.
   H. Intimidation – Willfully to take, or attempt to take, by putting in fear of bodily harm.
   I. Overreaching – Tricking, outwitting, or cheating anyone into doing an act which he would not otherwise do.
   J. Threats – Any measure of such a nature and extent as to unsettle the mind of anyone on whom it operates, and to take away from his acts that free and voluntary action which alone constitutes consent.
   K. Vexatious – Irritating or annoying.
3. It is a violation of these rules for a person to persist in contacting a prospective client when the prospective client has made known to the person, or the person should have known the prospective client’s desire not to be contacted by the person.

A person is allowed to solicit existing clients, potential clients that invite solicitations and non-clients that are currently being serviced by other certificate or registration holders. However, the rules of conduct make it clear that once a potential client declines a solicitation it is a violation of the rules to persist in contacting that potential client.

4. In the case of an electronic or direct mail communication, the person shall retain a copy of the actual communication along with a list or other description of parties to whom the communication was distributed. Such copy shall be retained by the person for a period of at least 36 months from the date of its last distribution.

5. The requirements found in paragraph “4” above do not apply to anyone when:
   A. the communication is made to anyone who is at that time a client of the person;
   B. the communication is invited by anyone to whom it was made; or
   C. the communication is made to anyone seeking to secure the performance of professional accounting services.

6. In the case of broadcasting, the broadcast shall be recorded and the person shall retain a recording of the actual transmission for at least 36 months.

FIRM NAMES (501.83)

Rules Applicable to All Firms

1. A firm name may not contain words, abbreviations or other language that are misleading to the public, or that may cause confusion to the public as to the legal form or ownership of the firm.

2. A firm licensed by the Board may not conduct business, perform or offer to perform services for or provide products to a client under a name other than the name in which the firm is licensed.
3. A word, abbreviation or other language is presumed to be misleading if it:
   A. Is a trade name or assumed name that does not comply with paragraph “4 A or B” shown below.
   B. States or implies the quality of services offered, special expertise, expectation as to outcomes or favorable results, or geographic area of service.
   C. Includes the name of a non-owner of the firm.
   D. Includes the name of a non-CPA, except as provided in paragraph “4 B” shown below.
   E. States or implies educational or professional attainment not supported by fact.
   F. States or implies licensing recognition for the firm or any of its owners not supported in fact.
   G. Includes a designation such as “and company,” “company,” “associates,” “and associates,” “group” or abbreviations thereof or similar designations implying that the firm has more than one employed licensee unless there are at least two employed licensees involved in the practice. Independent contractors are not considered employees under this subsection.

Additional Requirements Based on Legal Form or Ownership

1. The names of a corporation, professional corporation, limited liability partnership, professional limited liability company or other similar forms of ownership must contain the form of ownership or an abbreviation thereof, such as “Inc,” “P.C.,” “L.L.P.” or “P.L.L.C,”; except that a limited liability partnership organized before September 1, 1993 is not required to utilize the words “limited liability partnership” or any abbreviation thereof.

2. The following apply to Sole Proprietorships:
   
   i. The name of a firm that is a sole proprietor must contain the surname of the sole proprietor as it appears on the individual license issued to the sole proprietor by the Board.
   
   ii. A partner surviving the death of all other partners may continue to practice under the partnership name for up to two years after becoming a sole proprietorship, notwithstanding the information in paragraph “9” below.

3. The name of any current or former owner may not be used in a firm name during any period when such owner is prohibited from practicing public accountancy and prohibited from using the title “certified public accountant,” “public accountant” or any abbreviation thereof, unless specifically permitted by the board.
4. A firm licensed by the board is required to report to the board any change in the legal organization of the firm and amend the firm name to comply with this section regarding firm names for the new organization within thirty days of the effective date of such change.

5. This section regarding firm named does not affect firms licensed by the board prior to the effective date of this section (December 7, 2011), but does apply to any change in legal organization or name that occurs after the effective date of this section. Nothing in this subsection prohibits the board from placing conditions on the licensing of a firm pursuant to paragraph “5” above in this section at the time of renewal of the firm license.

FORM OF PRACTICE (501.84)

1. A person may practice public accountancy only in a sole proprietorship, partnership, limited liability partnership, limited liability company, corporation or other legally recognized business entity that provides professional accounting services or professional accounting work, organized under the laws of the State of Texas or an equivalent law of another jurisdiction, or as an employee of one of these entities.

COMPLAINT NOTICE (501.85)

1. When a person receives a complaint that an alleged violation of the Act or Rules of Professional Conduct has occurred, a person shall provide the complainant a statement that: Complaints concerning Certified Public Accountants may be addressed in writing to:

Texas State Board of Public Accountancy
333 Guadalupe, Tower 3, Suite 900
Austin, TX 78701-3900

Other means of communication include:

Telephone: (512) 305-7866
Email: enforcement@tsbpa.state.tx.us
Fax: (512) 305-7854
DISCREDITABLE ACTS (501.90)

1. A person shall not commit any act that reflects adversely on that person’s fitness to engage in the practice of public accountancy.

2. No attempt is made to provide a person with an all-inclusive list of those acts that the Board would consider a discreditable act. However, the Board has included examples of those acts that they would consider to be discreditable in the Code of Professional Conduct. Some of those acts are listed below:

A. Fraud or deceit in obtaining a certificate as a CPA or in obtaining registration under the Act or in obtaining a license to practice public accounting.

B. Dishonesty, fraud, or gross negligence in the practice of public accountancy.

C. Violation of any of the provisions of Subchapter J or paragraph 901.458 of the Act (relating to Loss of Independence) applicable to a person certified or registered by the board.

D. Final conviction of a felony or imposition of deferred adjudication or community supervision in connection with a criminal prosecution of a felony under the laws of any state or the United States.

E. Final conviction of any crime or imposition of deferred adjudication or community supervision, an element of which is dishonesty or fraud under the laws of any state or the United States, a criminal prosecution for a crime of moral turpitude, a criminal prosecution involving alcohol abuse or controlled substance, or a criminal prosecution for a crime involving physical harm or the threat of physical harm.
F. Cancellation, revocation, suspension or refusal to renew authority to practice as a CPA or a public accountant by any other state for any cause other than failure to pay the appropriate registration fee in such other state.

G. Suspension or revocation of or any consent decree concerning the right to practice before any state or federal agency or licensing body for a cause which in the opinion of the board warrants its action.

H. Knowingly participating in the preparation of a false or misleading financial statement or tax return.

I. Fiscal dishonesty or breach of fiduciary responsibility of any type.

J. Failure to comply with a final order of any state or federal court.

K. Repeated failure to respond to a client’s inquiry within a reasonable time without good cause.

L. Intentionally misrepresenting facts or making a misleading or deceitful statement to a client, the board, board staff or any person acting on behalf of the board.

M. Giving intentional false sworn testimony or perjury in court or in connection with discovery in a court proceeding or in any communication to the board or any other federal or state regulatory or licensing body.

N. Threats of bodily harm or retribution to a client.

O. Public allegations of a lack of mental capacity of a client which cannot be supported in fact.

P. Voluntarily disclosing information communicated to the person by an employer, past or present, or through the person’s employment in connection with accounting services rendered to the employer, except:

   a. by permission of the employer;
   b. pursuant to the Government Code, Chapter 554 (commonly referred to as the “Whistle Blowers Act”);
   c. pursuant to a court order signed by a judge, or a summons;
   d. in an investigation or proceeding by the board;
   e. in an ethical investigation conducted by a professional organization of CPAs;
   f. in the course of a peer review under paragraph 901.159 of the Act (relating to Peer Review); or
   g. any information that is required to be disclosed by the professional standards for reporting on the examination or financial statement.

Q. Breaching the terms of an agreed consent order by the board or violating any Board Order.

REPORTABLE EVENTS (501.91)
1. A licensee or certificate holder shall report in writing to the board the occurrence of any of the following events within 30 days of the date the licensee or certificate holder has knowledge of these events:

A. The conviction or imposition of deferred adjudication of the licensee or certificate holder of any of the following:
   a. A felony.
   b. A crime of moral turpitude.
   c. Any crime of which fraud or dishonesty is an element or that involves alcohol abuse or controlled substances.
   d. Any crime related to the qualifications, functions, or duties of a public accountant or CPA, or to acts or activities in the course and scope of the practice of public accountancy or as a fiduciary.

B. The cancellation, revocation, or suspension of a certificate, other authority to practice, or refusal to renew a certificate or other authority to practice as a CPA or a public accountant, by any state, foreign country, or other jurisdiction.

C. The cancellation, revocation, or suspension of the right to practice as a CPA or a public accountant before any governmental body or agency or other licensing agency.

D. An unappealable adverse finding in any state or federal court or an agreed settlement in a civil action against the licensee or certificate holder concerning professional accounting services or professional accounting work or a finding of a breach of fiduciary duty, fraud or misappropriation.

E. The loss of a professional license from another state or federal regulatory agency such as an insurance license or a securities license, resulting from an unappealable adverse finding.

FRIVOLOUS COMPLAINTS (501.92)

1. A person who, in writing to the board, accuses another person of violating the rules of the board shall assist the board in any investigation and/or prosecution resulting from the written accusation.

2. Failure to comply with the requirements of this rule, such as not appearing to testify at a hearing or to produce requested documents necessary to the investigation or prosecution, without good cause is a violation of this rule.

3. A person who makes a complaint against another person that is groundless and brought in bad faith, for the purpose of harassment, or for any other improper purpose shall be in violation of this rule.
RESPONSES (501.93)

1. A person shall substantively respond in writing, within 30 days, to any communication from the board (in this section, the term board includes board staff) requesting a response. The board may specify a shorter time for response in the communication when circumstances so require.

2. The time to respond shall commence on the date the communication was mailed, delivered to a courier or delivery service, faxed or e-mailed to the last address, facsimile number, or e-mail address furnished to the board by the applicant or person.

3. Failure to respond substantively to written communications, or failure to furnish requested documentation and/or working papers, constitutes conduct indicating lack of fitness to serve the public as a professional accountant.

4. Each applicant and each person required to be registered with the board under the Act shall notify the board, either in writing or through the board’s website, of any and all changes in either such person’s mailing address or telephone number and the effective date thereof within 30 days before or after such effective date.

MANDATORY CONTINUING PROFESSIONAL EDUCATION (501.94)

1. Each certificate or registration holder shall comply with the mandatory continuing professional education (CPE) reporting and the mandatory CPE attendance requirements of Chapter 523 of this title (relating to Continuing Professional Education).

2. Certificate or registration holders are required to complete 120 hours (50 minutes = 1 hour) of continuing professional education every three years, with a minimum of 20 hours in any one year and every two years a 4-hour State Board approved Ethics course.

3. Once an individual’s license has been suspended a third time by the Board for failing to complete the 120 hours of CPE, the individual's certificate shall be subject to revocation and may not be reinstated for at least 12 months from the date of the revocation.

4. CPE credit hours may be claimed for non-technical courses limited to not more than 20 credit hours in the reporting period.
REFERENCES


