

## California Regulations

All CPAs must have a valid certificate to practice accountancy and use the term CPA. Obtaining a valid certificate to practice accountancy in California requires complying with the Board's educational requirements and passing certified public accountant licensure examination. The requirements for obtaining a certificate for the practice of public accountancy are defined in Article 2 and the following sections.

### Article 1. General

Article 1 defines the definitions and general requirements to practice in California. These are documented in the following provisions.

#### § 1. Definition of "Accountancy Act."

"Accountancy Act" as used in these regulations means Division 3, Chapter 1, of the Business and Professions Code.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Section 5010, Business and Professions Code.

#### § 2. Confusing Titles.

The following are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of Section 5058 of the Business and Professions Code:

- (a) "Accountant," "auditor," "accounting," or "auditing," when used either singly or collectively or in conjunction with other titles.
- (b) Any other titles or designations which imply that the individual is engaged in the practice of public accountancy.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5055, 5056 and 5058, Business and Professions Code.

#### § 2.4. Definition of Attest Services and Attest Report.

Attest services as used in Section 5095 of the Business and Professions Code and attest report as used in Section 5096.5 of the Business and Professions Code include an audit, a review of financial statements, or an examination of prospective financial information. Attest services shall not include the issuance of compiled financial statements.

Note: Authority cited: Sections 5010, 5095 and 5096.9, Business and Professions Code. Reference: Sections 5095 and 5096.5, Business and Professions Code.

#### § 2.5. Definition of "Audits."

"Making audits -as a part of bookkeeping operations," as used in Section 5052 of the Business and Professions Code, refers to the evaluation of financial and operational data solely for review by management and not intended for distribution to outside parties, and does not include those activities set forth in Sections 5051(c) and (d) of the Business and Professions Code.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5051 and 5052, Business and Professions Code.

### § 2.8. Definition of Satisfactory Evidence.

For the purposes of this division, satisfactory evidence as to educational qualifications for examination and licensure shall take the form of certified transcripts of the applicant's college record, mailed directly to the Board from the educational institution. In unusual circumstances, the Board may accept such other evidence as it deems appropriate and reasonably conclusive. For foreign education, in addition to certified transcripts of the applicant's college record, satisfactory evidence includes an evaluation of educational credentials by a credentials evaluation service approved by the Board pursuant to Section 9.1.

Note: Authority cited: Sections 5010 and 5094, Business and Professions Code. Reference: Sections 5092, 5093, 5094, 5094.3 and 5094.6, Business and Professions Code.

### § 3. Notification of Change of Address.

The California Board of Accountancy (CBA) regulates the practice of public accountancy in the State of California. The CBA defines the rules to obtain a certificate, permit or license and may revoke, suspend, or refuse to renew any permit or certificate for violation of applicable statutes or regulations.

The CBA examines applicants, sets education requirements, and may deny licensure and the authority to practice under practice privilege (California Business and Professions Code (BPC) section 5096 et seq.). The CBA may, by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and competency in the profession. In addition, all CPAs must communicate to the CBA information in a timely manner. The following provisions define the rules related to notification of address changes in order to continue to receive Board communications.

#### (a) Address Notification -Individual Licensees

- (1) Each licensee shall notify the Board of any change in his or her address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of either the licensee's primary place of employment or his or her residence.
- (2) For purposes of this section, "licensee" includes any holder of an active, inactive, suspended, or expired certified public accountant license or public accountant license issued by the Board which is not canceled or revoked.
- (3) All notification required under this subsection shall be in writing and shall be signed by the licensee.

#### (b) Notification of Change of Address -Licensed Firm

- (1) Each licensed firm shall notify the Board of any change in its address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of the firm's principal office.

(2) For purposes of this section “licensed firm” includes any partnership or professional corporation licensed by the Board to practice public accountancy even if the license is suspended or expired, provided the license is not canceled or revoked.

(3) All notifications required under this subsection shall be in writing and shall be signed by a licensed partner or licensed shareholder of the firm.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 136 and 5009, Business and Professions Code.

#### § 4. Safe Harbor Language.

A person who is not licensed by the California Board of Accountancy, and who prepares a financial report in a form substantially the same as that set forth in subsection (a) or (b) below, shall not be deemed to be engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code.

(a) “I [we] have prepared the accompanying financial statements of [name of entity] as of [time period] for the [period] then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management [owners]. I [we] have not audited, reviewed, or compiled the accompanying financial statements. I [we] do not express an opinion or any other form of assurance on them. I [we] am [are] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements.”

(b) “We [I] have prepared the accompanying statement of assets, liabilities and equity for [name of company] as of [month-day-year], together with the related statements of revenue, expense, [and cash flow] for the year [or month] then ended on the income tax basis of accounting. The preparation of financial statements on the income tax basis of accounting is limited to presenting information that is the representation of management [the owners]. We [I] have not audited, reviewed, or compiled the accompanying statements. We [I] do not express an opinion or any other form of assurance on them. Management has [The owners have] elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the income tax basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the company's assets, liabilities, equity, revenues, expenses [and cash flow]. Accordingly, these financial statements are not designed for those who are not informed about such matters. We [I] are [am] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements.”

Note: Authority cited: Sections 5010, Business and Professions Code. Reference: Sections 5051 and 5052, Business and Professions Code.

#### § 5. Observance of Rules.

A licensee of the State Board of Accountancy engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code or engaged in an occupation in which the licensee renders services of the type performed by certified public accountants or public accountants or renders other professional services shall observe and is subject to rules and regulations of the State Board of

Accountancy in the conduct of such activity. For purposes of Section 5, the term “activity” includes but is not limited to bookkeeping, financial planning, investment planning, tax services and management services.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5051, Business and Professions Code.

#### **§ 5.1. Permit Processing Times. [Repealed]**

Note: Authority cited: Section 5010, Business and Professions Code. Section 15376, Government Code. Reference: Section 15376, Government Code.

#### **§ 5.2. Definition of “Accountancy Act.” [Renumbered]**

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5000- 5157, Business and Professions Code.

#### **§ 5.3. Observance of Rules. [Renumbered]**

Note: Authority cited: Section 5010, Business and Professions Code.

#### **§ 5.5. Substantial Equivalency.**

(a) The Board has determined that the following states require education, examination, and experience qualifications for licensure, when issuing a certified public accountant license to practice public accountancy, substantially equivalent to this state's qualifications: Alabama, Alaska, Arizona, Arkansas, Commonwealth of the Northern Mariana Islands, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

(b) Individuals who have not continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last 10 years, or who do not hold a license issued by a state that is listed in subdivision (a), shall meet the following requirements in order for their education, examination, and experience qualifications to be considered substantially equivalent to this state's qualifications:

(1) Obtain an individual qualification evaluation of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA) CredentialNet. Prior to practicing in California under a practice privilege, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination.

(2) The individual shall retain the NASBA file number, present it to the Board upon request, and authorize the Board to review the NASBA file upon request.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5032, 5093 and 5096, Business and Professions Code.

## Article 2. Examinations

### § 11. Education Required to Apply for Certified Public Accountant License.

(a) An applicant for certified public accountant licensure after December 31, 2013, shall meet all of the following requirements:

- (1) Completion of 24 semester units, or the equivalent in quarter units, of accounting subjects as described in Section 9.2(b),
- (2) Completion of 24 semester units, or the equivalent in quarter units, of business-related subjects as described in Section 9.2(c),
- (3) Completion of 20 semester units, or the equivalent in quarter units, of accounting study as described in Section 11.1; and
- (4) Completion of 10 semester units, or the equivalent in quarter units, of ethics study as described in Business and Professions Code Section 5094.3.

(b) An applicant shall present satisfactory evidence that he or she has completed the units required in subsection (a).

Note: Authority cited: Sections 5010, 5093 and 5094.6, Business and Professions Code. Reference: Sections 5093, 5094, 5094.3 and 5094.6, Business and Professions Code.

### § 12. General Experience Required Under Business and Professions Code Sections 5092 and 5093.

(d) An applicant who is applying with experience obtained five (5) or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education, which shall meet the following requirements:

- (1) The 80 hours must be completed in the two years preceding approval of the application by the Board.
- (2) All 80 hours must meet the requirements as described in Section 87(a)(2)-(4) and Section 88.
- (3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas, as described in Section 87(a)(2) and (3), for which the applicant may claim credit.

Note: Authority cited: Sections 5010, 5092 and 5093, Business and Professions Code. Reference: Sections 5092 and 5093, Business and Professions Code.

## Article 2.5. License Status

All CPAs must have an active certificate to practice accountancy and use the term CPA. The following provisions defined the different certificate status levels, the procedures to change the status of a certificate, and rules to return a certificate to active status.

### **§ 15. Retired Status.**

(a) Beginning July 1, 2104, upon application to the Board and compliance with this Article and Section 5070.1 of the Business and Professions Code, a licensee may have his or her license placed in a retired status. This Article shall not prohibit a holder of a license in a retired status from receiving a share of the net profits from a public accounting firm or other compensation from a public accounting firm, provided that the licensee does not otherwise engage in the practice of public accountancy.

(b) Failure to maintain compliance with this article and Sections 5058.3 or 5070.1 of the Business and Professions Code is unprofessional conduct and grounds for revocation or discipline of the retired license.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Sections 5058.3, 5070.1, 5100 and 5109, Business and Professions Code.

#### **§ 15.1. Application for Retired Status.**

(a) To be eligible for a license in a retired status, a licensee of the Board shall submit a completed application to the Board on Form 11R-48 (12/19) which is hereby incorporated by reference.

(b) A licensee applying to have his or her license placed in a retired status shall have held a license as a certified public accountant or public accountant in the United States or its territories for a minimum of twenty total years; and during those twenty years, from the Board for a minimum of five years in an active status. Failure to meet the requirements of this Article and Section 5070.1 of the Business and Professions Code is grounds for denial of the application.

(c) In order to place a license in a retired status, an applicant shall pay the application fee required by Section 70(i)(1).

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1, Business and Professions Code.

#### **§ 15.2. Renewal of a License in a Retired Status.**

(a) A licensee shall renew a license in a retired status during the same time period in which a license in an active status is renewed as described in Section 5070.5 of the Business and Professions Code.

(b) At the time of renewal, the holder of a license in a retired status is exempt from paying the renewal fee described in Section 70(e).

(c) At the time of renewal, the holder of a license in a retired status is exempt from the Board's continuing education requirements described in Section 87.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1 and 5070.5, Business and Professions Code.

#### **§ 15.3. Restoration of a License from a Retired Status to Active Status.**

(a) At the time of renewal, the holder of a license in a retired status may restore his or her license to an active status by paying the fee described in Section 70(i)(2) and complying with the continuing education requirements as described in Section 87. A minimum of 20 hours of continuing education shall be completed in the one-year period immediately preceding the time of renewal, 12 hours of which must be in subject areas described in Section 88(a)(1).

(b) The holder of a license in a retired status may restore the license to an active status prior to the next renewal by paying the fee described in Section 70(i)(2) and by meeting the continuing education requirements as described in Section 87.1.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1, Business and Professions Code.

#### **§ 15.4. Limitation on Retired Status.**

A licensee may be granted a license in a retired status under this Article on no more than two separate occasions.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1, Business and Professions Code.

#### **§ 16. Military Inactive Status.**

Beginning January 1, 2014, a licensee engaged in active duty as a member of the California National Guard or the United States Armed Forces may apply to have his or her license placed in, and renewed in, a military inactive status by completing the Application for Military Inactive Status (Form 11R-49 (12/19)), which is hereby incorporated by reference. Along with the Application for Military Inactive Status (Form 11 R-49 (12/19)), a licensee shall submit sufficient evidence that he or she is engaged in active duty as a member of the California National Guard or the United States Armed Forces.

Note: Authority cited: Sections 5010 and 5070.2, Business and Professions Code. Reference: Sections 5070.2 and 5070.5, Business and Professions Code.

#### **§ 16.2. Status Conversion of a License in a Military Inactive Status.**

(a) The holder of a license in a military inactive status may convert the license to an active status by notifying the Board in writing, providing evidence of discharge date, paying the fee described in subsection (c), complying with the peer review reporting requirements of Section 45(a) by his or her next renewal date, and complying with the continuing education requirements as described in Section 87. A minimum of 20 hours of continuing education shall be completed in the oneyear period immediately preceding the date of conversion to active status, 12 hours of which must be in subject areas described in Section 88(a)(1).

(b) The holder of a license in a military inactive status may convert the license to an inactive status by notifying the Board in writing, providing evidence of discharge date, and paying the fee described in subsection (c).

(c) The fee to be paid at status conversion shall be as follows:

(1) For a status conversion requested more than 12 months prior to the renewal date as described in Section 5070.5 of the Business and Professions Code, the fee for conversion shall be the same as the fee described in Section 70(e).

(2) For a status conversion requested 12 months or less prior to the renewal date as described in Section 5070.5 of the Business and Professions Code, the fee for conversion shall be waived.

(d) If the licensee is still engaged in active duty at the time of conversion, sufficient evidence of active duty as a member of the California National Guard or the United States Armed Forces shall be provided in lieu of the evidence of discharge date required in subsection (a) and (b).

Note: Authority cited: Sections 5010 and 5070.2, Business and Professions Code. Reference: Section 5070.2, Business and Professions Code.

## Article 5. Registration

All CPAs must have a valid certificate to practice accountancy and use the term CPA. If a CPA's certificate has been cancelled, the CPA must follow the CBA's procedure to have it reissued. These requirements are defined in the following section.

### § 37. Reissuance.

(a) A certified public accountant (CPA) whose certificate has been cancelled by the operation of Business and Professions Code Section 5070.7 may apply for and obtain a new certificate if the applicant is otherwise qualified under the provisions of Section 5070.7 and the applicant meets the requirements of subsection (b) or (c) of this section. The reissued certificate will permit the CPA to perform the same services as did the cancelled certificate except that a CPA whose cancelled certificate authorized signing reports on attest engagements may choose to be reissued a certificate that does not provide this authorization.

(b) An applicant who is applying for a reissued certificate shall complete 80 hours of continuing education that meets the following requirements:

(1) For an applicant whose reissued certificate will authorize signing reports on attest engagements, the 80 hours must be completed as follows:

(A) The 80 hours must be completed in the two years preceding approval of the application by the Board.

(B) All 80 hours must meet the requirements as described in Section 88.

(C) Within the 80 hours, the following minimums must be met:

(i) 16 hours in financial accounting standards.

(ii) 16 hours in auditing standards.

(iii) 8 hours in compilation and review.

(iv) 8 hours in other comprehensive basis of accounting.

(v) 8 hours in the prevention, detection, and/or reporting of fraud affecting financial statements.

(vi) 24 hours in courses that meet the requirements of Section 87(a)(2) or Section 87(a)(3).



(2) For an applicant whose reissued certificate will not authorize signing reports on attest engagements, 80 hours must be completed as follows:

(A) The 80 hours must be completed in the two years preceding approval of the application by the Board.

(B) All 80 hours must meet the requirements as described in Section 87(a)(2)-(4) and Section 88.

(3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas for which the applicant may claim credit.

(c) In lieu of meeting the requirements of subsection (b) of this section, the applicant may choose to retake and successfully complete the entire Uniform CPA examination.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5070.7, Business and Professions Code.

## Article 6. Peer Review

Compiling financial statements and performing audit services depend on public confidence related to the independence and integrity of all CPAs. One of the primary methods for verifying independence and integrity is to participate in peer reviews. A peer review is a periodic external review of a firm's quality control system in accounting and auditing.

The financial statements for public companies must be compiled by internal accounting groups or by a contracted accounting organization. An auditing organization must also verify financial statements. An auditing entity must be competent and have the following characteristics: integrity, objectivity, and independence. Independence is required when planning the engagement, conducting the engagement, and reporting on the engagement.

Article 6 defines the rules related to peer review.

### § 38. Purpose of this Article.

This Article implements Sections 5076 and 5076.1 of the Accountancy Act related to Peer Review.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code. Reference: Sections 5076 and 5076.1, Business and Professions Code.

### § 39. Definitions.

The following definitions shall apply to Article 6 - Peer Review:

(a) Accounting and Auditing Practice: Any services that are performed using the following professional standards: Statements on Auditing Standards (SASs), Statements on Standards for Accounting and Review Services (SSARS), Statements on Standards on Attestation Engagements (SSAEs), Government Auditing Standards, and audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB).

(b) Peer Review Report: A report issued to the peer reviewed firm which documents the findings and conclusions reached by a qualified peer reviewer and issued in accordance with Section 48(b) of this Article.

(c) Pass Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(A) or 48(b)(2)(A) of this Article.

(d) Pass With Deficiencies Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(B) or 48(b)(2)(B) of this Article.

(e) Substandard Peer Review Report: A report issued to the peer reviewed firm under either Section 48(b)(1)(C) or 48(b)(2)(C) of this Article.

(f) Peer Reviewer: A certified public accountant holding a valid and active license to practice public accounting in good standing issued by this state or some other state who (1) maintains a currency of knowledge in professional standards governing accounting and auditing engagements, (2) meets the qualifications of Section 48(c) of this Article, and (3) is unaffiliated with the firm being reviewed.

(g) Peer Review Team: One or more individuals who collectively conduct a peer review, at least one of whom is a qualified peer reviewer.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### § 40. Enrollment and Participation.

(a) A firm performing services as defined in Section 39(a) shall have a peer review report accepted by a Board-recognized peer review program once every three years in order to renew its license.

(b) A firm performing services as defined in Section 39(a) for the first time shall have a peer review report accepted by a Board-recognized peer review program within 18 months of the date it completes those services.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### *Enforcement Actions*

**Practitioner:** Greg M. Seigel

**Effective Date:** December 29, 2021

**Disciplinary Actions/License Restrictions:** Revocation stayed with three years' probation, via proposed decision with reduction in penalty. Greg M. Seigel shall reimburse the CBA \$6,525.75 for its investigation and prosecution costs. Seigel shall complete four hours of continuing education in ethics. The hours shall be completed within 180 days of the effective date of the CBA's decision and order and are in addition to the continuing education requirements for relicensing. Seigel shall complete a CBA-approved Regulatory Review course. The hours shall be completed within 180 days of the effective date of the CBA's decision and order and are in addition to the continuing education requirements for relicensing. Seigel shall pay to the CBA an administrative penalty in the amount of \$2,000. Other standard terms of probation.

**Causes for Discipline:** Following a proposed decision with reduction in penalty, the Administrative Law Judge upheld the following causes for discipline in Accusation Case No. AC-2021-23: (1) Failure to

Comply with Peer Review; (2) Failure to Complete Continuing Education Courses. Seigel is subject to disciplinary action in that Seigel failed to enroll in and obtain a mandatory peer review as required. Seigel is subject to disciplinary action in that Seigel failed to complete the required 24 hours of accounting and auditing and four hours of fraud continuing education.

**For Violations Of:** Business and Professions Code, Division 3, Chapter 1, §§ 5076, and 5100(g). California Code of Regulations, title 16, § 40, 41, and 87(d) and (f).

#### § 41. Firm Responsibilities.

A firm shall enroll with a Board-recognized peer review program provider, and shall cooperate with the Board-recognized peer review program provider with which the firm is enrolled to arrange, schedule, and complete a peer review, in addition to taking and completing any remedial or corrective actions prescribed by the Board-recognized peer review program provider.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### § 42. Exclusions.

There is no exclusion from the peer review requirement based solely on the number of engagements performed. However, there are two exclusions from the peer review requirement. These are defined as:

(a) The following shall be excluded from the peer review requirement:

(1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.

(2) Firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### § 43. Extensions.

Failure to complete a mandatory peer review may result in the CBA initiating disciplinary action against your license. As a result, each firm must enroll in the peer review program. Should an extension of time be needed to have a peer review report accepted by a Board-recognized peer review program, the firm shall submit the extension request to the Board-recognized peer review program provider with which the firm is enrolled. If the extension granted extends past the firm's reporting date, the firm shall notify the CBA of the extension and provide proof of the extension. The firm shall then report the results of the peer review to the CBA within 45 days of the peer review report being accepted by the Board-recognized peer review program. The requirements for requesting an extension are defined in the following provisions.

(a) Should an extension of time be needed to have a peer review report accepted by a Board recognized peer review program such request shall be submitted to the Board-recognized peer review program with which the firm is enrolled for consideration and approval or denial.

(b) If the extension granted extends past the firm's reporting date, the firm shall notify the Board of the extension and provide proof of the extension. The firm shall report the results of the peer review to the

Board on form PR-1 (Rev. 11/17), as referenced in Section 45, within 45 days of the peer review report being accepted by a Board-recognized peer review program.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 44. Notification of Expulsion.**

A firm that is expelled by a Board-recognized peer review program shall notify the Board in writing within 30 days and provide the name of the Board-recognized peer review program and reason(s) given to the firm by the peer review program for the expulsion.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 45. Reporting to the Board.**

All firms, including sole proprietors, must report their specific peer review information to the CBA by completing and submitting the Peer Review Reporting Form with their license renewal application, even if they are not required to undergo a peer review. The requirements for reporting are defined in the following provisions.

(a) At the time of renewal, a firm, as defined in Section 5035.1 of the Accountancy Act, shall report to the Board specific peer review information as required on Form PR-1 (Rev. 9/19), which is hereby incorporated by reference.

(b) A licensee's or firm's willful making of any false, fraudulent, or misleading statement, as part of, or in support of, the firm's peer review reporting shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act. Failure to submit a completed Form PR-1 (Rev. 9/19) shall be grounds for non-renewal or disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Sections 5035.1, 5076 and 5100, Business and Professions Code.

#### **§ 46. Document Submission Requirements.**

(a) A firm receiving a peer review report issued under Section 48(b)(1)(C) or (b)(2)(C) shall submit a copy of the peer review report to the Board including any materials documenting the prescription of remedial or corrective actions imposed by a Board-recognized peer review program provider within 45 days of the peer review report being accepted by a Board-recognized peer review program provider. A firm shall also submit to the Board, within the same 45-day reporting period, any materials, if available, documenting completion of any or all of the prescribed remedial or corrective actions.

(b) Upon request by the Board, a firm shall submit to the Board all requested documents related to the peer review including:

(1) If the firm received a peer review report issued under Section 48(b)(1)(A) or (b)(2)(A) it shall submit the copy of the peer review report including materials documenting the acceptance of the report.

(2) If the firm received a peer review report issued under Section 48(b)(1)(B) or (b)(2)(B) it shall submit the copy of peer review report including any materials documenting the prescription of

remedial or corrective actions imposed by a Board-recognized peer review program provider. In addition, a firm shall also submit any materials, if available, documenting completion of any or all of the prescribed remedial or corrective actions.

(c) Any documents required for submission as part of this section may be submitted electronically.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 47. Peer Review Oversight Committee.**

(a) The Peer Review Oversight Committee shall be comprised of not more than seven licensees. The licensees shall maintain a valid and active license to practice public accounting in California issued by the Board.

(b) No member of the committee shall be a current member or employee of the Board.

(c) The committee shall hold meetings as necessary in order to conduct business and shall report to the Board regarding the effectiveness of mandatory peer review. This shall include an annual report to the Board regarding the results of its oversight, and shall include the scope of work, findings, and conclusions regarding its oversight.

(d) The committee is authorized to request from a Board-recognized peer review program provider those materials necessary to perform its review.

(e) Should a Board-recognized peer review program provider fail to respond to any request, the committee shall refer the matter to the Board.

(f) The committee shall review and recommend to the Board for approval peer review program provider applications for recognition by the Board.

Note: Authority cited: Sections 5010 and 5076.1, Business and Professions Code. Reference: Section 5076.1, Business and Professions Code.

#### **§ 48. Minimum Requirements for a Peer Review Program.**

For a peer review program provider to receive Board recognition and be authorized to administer peer reviews in California, the peer review program provider shall submit evidence to the satisfaction of the Board that the peer review program is comprised of a set of standards for performing, reporting on, and administering peer reviews. A peer review program shall include the following components:

##### **(a) Peer Review Types**

A peer review program shall have a minimum of two types of peer reviews that include the following:

(1) For firms performing engagements under the Statements on Auditing Standards (SAs), Government Auditing Standards, examinations of prospective financial statements under the Statements on Standards on Attestation Engagements (SSAEs), or audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB), the firm shall undergo a peer review designed to test the firm's system of quality control. The scope of the peer review shall be such that it provides a

peer reviewer with a reasonable assurance that a firm's system of quality control was designed in accordance with professional standards and was complied with by a firm's personnel.

(2) For firms only performing engagements under the Statements on Standards for Accounting and Review Services (SSARS) or under Statements on Standards on Attestation Engagements (SSAEs) not encompassed in review performed under subsection (a)(1), the firm shall undergo a peer review designed to test a cross-section of a firm's engagements to assess whether the engagements were performed in conformity with the applicable professional standards.

(b) Peer Review Report Issuance

(1) For firms undergoing peer reviews pursuant to subsection (a)(1), one of the following three types of peer review reports shall be issued:

(A) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control was suitably designed and complied with by the firm's personnel, which provides the firm with reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.

(B) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control was suitably designed and complied with by the firm's personnel with the exception of a certain deficiency or deficiencies that are described in the report. The deficiencies are such that the firm's design of or compliance with its system could create a situation in which the firm would have less than reasonable assurance of performing and/or reporting on engagements in conformity with applicable professional standards.

(C) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control is not suitably designed or complied with by the firm's personnel, and thus, does not provide the firm with reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.

(2) For firms undergoing peer reviews pursuant to subsection (a)(2), one of the following three types of peer review reports shall be issued:

(A) A peer review report indicating that a peer reviewer or peer review team concluded that there was no evidence which would cause the peer reviewer to believe that the engagements performed by the firm were not performed in conformity with applicable professional standards.

(B) A peer review report indicating that a peer reviewer or peer review team concluded that, with the exception of a certain deficiency or deficiencies, nothing would cause the peer reviewer to believe that the engagements performed by the firm and submitted for review were not performed in conformity with applicable professional standards. The deficiencies identified were such that the peer reviewer concluded they were material to the understanding of the report or financial statements or represented omission of critical procedures required by applicable professional standards.

(C) A peer review report indicating that a peer reviewer or peer review team concluded that the engagements reviewed were not performed and/or reported on in conformity with applicable professional standards. In issuing such report, the peer reviewer shall assess both the significance of the deficiencies identified and the pervasiveness of the deficiencies.

(c) Peer Reviewer Qualifications

A peer review program shall include minimum qualifications for an individual to qualify as a peer reviewer. The qualifications shall, at a minimum, include the following:

- (1) Have a valid and active license in good standing to practice public accounting issued by this state or other state.
- (2) Be actively involved and practicing at a supervisory level in a firm's accounting and auditing practice.
- (3) Maintain a currency of knowledge of the professional standards related to accounting and auditing, including those expressly related to the type or kind of practice to be reviewed.
- (4) Provide the Board-recognized peer review program provider with his/her qualifications to be a reviewer, including recent industry experience.
- (5) Be associated with a firm that has received a peer review report issued in accordance with subsection (b)(1)(A) or (b)(2)(A) of this section or has received a peer review rating of pass or unmodified as part of the American Institute of Certified Public Accountants Peer Review Program as part of the firm's last peer review.

(d) Planning and Performing Peer Reviews

A peer review program shall include minimum guidelines and/or standards for planning and performing peer reviews commensurate with the type of peer review being performed to include, but not limited to, the following:

- (1) For peer reviews performed in accordance with subsection (a)(1) of this section, a peer review program's guidelines and/or standards shall include the following:
  - (A) Ensuring that prior to performing a peer review, a peer reviewer or a peer review team takes adequate steps in planning a peer review to include the following: (i) obtain the results of a firm's prior peer review (if applicable), (ii) obtain sufficient understanding of the nature and extent of a firm's accounting and auditing practice, (iii) obtain a sufficient understanding of a firm's system of quality control and the manner in which the system is monitored by a firm, and (iv) select a representative cross-section of a firm's engagements.
  - (B) In performing a peer review, the peer reviewer or peer review team shall test the reviewed engagements while assessing the adequacy of and compliance with a firm's system of quality control. The peer review is intended to provide the peer reviewer or peer review team with reasonable basis for expressing an opinion as to whether a firm's system of quality control is suitably designed and complied with by a firm's personnel



such that the firm has reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.

(2) For peer reviews performed in accordance with subsection (a)(2) of this section, a peer review program's guidelines and/or standards shall include the following:

(A) Ensuring that prior to performing a peer review, a peer reviewer or peer review team select a representative cross-section of a firm's accounting and auditing engagements to include at a minimum one engagement for each partner, shareholder, owner, principal, or licensee authorized to issue reports.

(B) In performing a peer review, the peer reviewer or peer review team shall review the selected engagements to determine if the engagements were performed in conformity with the applicable professional standards.

(3) Nothing in a peer review program provider's guidelines and/or standards shall prohibit a peer reviewer or peer review team from disclosing pertinent peer review-related information regarding a firm to a subsequent peer reviewer.

(e) Peer Review Program Plan of Administration and Accepting Peer Review Reports

(1) The administration plan shall clearly outline the manner in which the peer review program provider intends on administering peer reviews and shall, at a minimum, include the following:

(A) Identify a peer review committee, and if necessary subcommittees, and employ knowledgeable staff for the operation of the review program as needed.

(B) Establish and perform procedures for ensuring that reviews are performed and reported on in accordance with the program's established standards for performing and reporting on peer reviews.

(C) Establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in peer reviews conducted by the Board-recognized peer review program provider.

(D) Establish and document procedures for an adjudication process designed to resolve any disagreement(s) which may arise out of the performance of a peer review, and resolve matters which may lead to the dismissal of a firm from the provider's peer review program.

(E) Establish guidelines for prescribing remedial or corrective actions designed to assure correction of the deficiencies identified in a firm's peer review report.

(F) Establish guidelines for monitoring the prescribed remedial and corrective actions to determine compliance by the reviewed firm.

(G) Establish and document procedures for ensuring adequate peer reviewers to perform peer reviews. This shall include ensuring a breadth of knowledge related to industry experience.



(H) Establish and document procedures to ensure the qualifications of peer reviewers and to evaluate a peer reviewer's performance on peer reviews.

(I) Establish a training program or training programs designed to maintain or increase a peer reviewer's currency of knowledge related to performing and reporting on peer reviews.

(J) Establish and document procedures to ensure that a firm requiring a peer review selects a peer reviewer with similar practice experience and industry knowledge, and peer reviewer is performing a peer review for a firm with which the reviewer has similar practice experience and industry knowledge.

(K) Require the maintenance of records of peer reviews conducted under the program. Such records shall include, at a minimum, written records of all firms enrolled in the peer review program and documents required for submission under Section 46, with these documents to be retained until the completion of a firm's subsequent peer review.

(L) Provide to the Board's Peer Review Oversight Committee access to all materials and documents required for the administration of peer reviews.

(2) As required by subsection (e)(1)(A) of this section, the peer review program provider shall establish a peer review committee to assist in the review and acceptance of peer review reports. The peer review program provider's committee shall:

(A) Meet regularly to consider and accept peer review reports.

(B) Assist the peer review program provider in resolving instances in which there is a lack of cooperation and agreement between a peer reviewer and/or reviewed firm in accordance with the peer review program's adjudication process.

(C) Make a final determination on a peer review report pursuant to subdivision (b).

(f) The peer review committee established by the peer review program provider shall comply with the following in relation to the composition of the committee:

(1) All committee members shall meet the peer reviewer qualification requirements established in Section 48(c).

(2) In determining the size of the committee, consideration shall be given to the requirement for broad industry experience, and the likelihood that some members will need to recuse themselves from some reviews as a result of the member's close association to the firm or having performed the review.

(3) No committee member may concurrently serve as a member of the Board.

(4) A committee member may not participate in any discussion or have any vote with respect to a reviewed firm when the member lacks independence as defined by California Code of Regulations Section 65 or has a conflict of interest. Examples of conflicts of interest include, but are not limited to:

(A) The member's firm has performed the most recent peer review of the reviewed firm's accounting and auditing practice.

(B) The member served on the review team which performed the current or the immediately preceding review of the firm.

(C) The member believes he/she cannot be impartial or objective.

(5) Each member of the committee shall comply with all confidentiality requirements. The peer review program provider shall annually require its committee members to sign a statement acknowledging their appointments and the responsibilities and obligations of their appointments.

Note: Authority Cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 48.2. Applying to Become a Board-Recognized Peer Review Program.**

Prior to receiving Board recognition to perform peer reviews in California, a peer review program provider shall submit the following application: Application to Become a Board Recognized Peer Review Program (1/10), which is hereby incorporated by reference. With the application, the firm shall submit materials evidencing the program meets the requirements outlined in Section 48.

Note: Authority Cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 48.3. Board-Recognized Peer Review Program Provider Reporting Responsibilities.**

(a) Upon request of the Board or Peer Review Oversight Committee, a Board-recognized peer review program provider shall make available, at a minimum, the following:

(1) Standards, procedures, guidelines, training materials, and similar documents prepared for the use of reviewers and reviewed firms.

(2) Information concerning the extent to which the Board-recognized peer review program provider has reviewed the quality of reviewers' working papers in connection with the acceptance of reviews.

(3) Statistical data maintained by the Board-recognized peer review program provider related to its role in the administration of peer reviews.

(4) Information concerning the extent to which the Board-recognized peer review program provider has reviewed the qualifications of its reviewers.

(5) Sufficient documents to conduct sample reviews of peer reviews accepted by the Board recognized peer review program provider. These may include, but are not limited to, the report; reviewer working papers prepared or reviewed by the Board-recognized peer review program's peer review committee in association with the acceptance of the review; and materials concerning the acceptance of the review, including, but not limited to, the imposition of required remedial or corrective actions; the monitoring procedures applied; and the results.

(b) A Board-recognized peer review program provider shall provide the Board, in writing or electronically, the name of any California-licensed firm expelled from the peer review program and provide the reason(s) for expulsion. The Board-recognized peer review program provider shall submit this information to the Board within 30 days of notifying the firm of its expulsion.

(1) Nothing in this subsection shall require a Board-recognized peer review program provider, when administering peer reviews in another state, to violate the laws of that state.

(c) A Board-recognized peer review program provider shall provide the Board, in writing or electronically, a copy of all substandard peer review reports issued to California-licensed firms within 60 days from the time the report is accepted by the Board-recognized peer review program provider.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code. Reference: Sections 5076 and 5076.1, Business and Professions Code.

#### **§ 48.4. Reconsideration of a Denied Applicant.**

(a) An applicant pursuant to Section 48.2 whose peer review program has been denied by the Board may request an informal hearing of such action to the Board. The request for an informal hearing shall be filed within six months of the denial or the mailing of written notification, whichever is later. The appeal shall contain the following information:

(1) The name and business address of the provider making the appeal.

(2) The action being appealed and the date of any written notification by the Board.

(3) A summary of the basis for the request for an informal hearing, including any information which the provider believes was not given adequate consideration by the Board.

(b) The Board will consider only requests based on information previously submitted. If the provider submits for reconsideration additional evidence or information not previously submitted to the Board, such additional information should be submitted directly to the Peer Review Oversight Committee with the request that its previous recommendation be reconsidered. A request based on evidence or information not previously submitted to the Board will be referred by the Board to the Peer Review Oversight Committee for further consideration.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code. Reference: Sections 5076 and 5076.1, Business and Professions Code.

#### **§ 48.5. Withdrawal of Board Recognition.**

(a) The Board may rescind and withdraw its recognition of a peer review program if it is determined that the peer review program is not in compliance with the requirements of this Article, the provider failed to respond to an informational request by the Board or the Peer Review Oversight Committee, or the provider made any material misrepresentation of fact related to any information required to be submitted to the Board or the Peer Review Oversight Committee.

(b) The order of withdrawal of Board recognition shall be issued by the Board or its executive officer, without prior notice or hearing, and is effective immediately when mailed to the peer review program provider's address of record.

(c) The order of withdrawal of Board recognition shall contain the following:

- (1) The reason for the withdrawal, including the specific statutes and regulations with which the program showed non-compliance.
- (2) A statement that the peer review program provider has the right, within 30 days, to request an informal hearing to appeal the withdrawal of Board recognition.
- (3) A statement that any informal hearing shall be scheduled before the Board or its designee, at which time a peer review program provider shall be afforded the opportunity to be heard.

(d) To maintain recognition, the burden of proof shall be placed on the peer review program provider to demonstrate both qualifications and fitness to perform peer reviews in California by producing proof at a hearing before the Board.

(e) If the peer review program provider fails to notify the Board's executive officer in writing and in a timely manner that it desires to contest the written withdrawal of Board recognition, the decision to withdraw approval shall become final.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 48.6. Records of Proceedings.**

For any informal hearings conducted by the Board pursuant to Sections 48.4 and 48.5 of this Article, the Board shall maintain a record of its proceedings, such as the minutes of the meeting or an audio recording of the meeting.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

### **Article 9. Rules of Professional Conduct**

CPAs are classified as professionals that must follow the rules of professional conduct for CPAs. Our society has attached special meaning to the term professional. Dictionary.com defines a professional as:

1. of, relating to, suitable for, or engaged in as a profession
2. engaging in an activity for gain or as a means of livelihood
3. extremely competent in a job, etc.
4. (of a piece of work or anything performed) produced with competence or skill

**\*\* This definition was provided by Dictionary.com**

The perspective of professionals in our society is that they are expected to conduct themselves at a higher level than those not classified as professionals. When a professional wide receiver playing football drops a pass, fans are extremely disappointed because a professional wide receiver is expected

to catch every pass. If the same wide receiver cheats on his taxes, most fans probably think that is not unusual.

CPAs, financial fiduciaries, and auditors are financial professionals. If a financial professional cheats on their taxes or has been indicted for a crime, most citizens feel a greater degree of disappointment. The reason is that associated with or implied in the term 'professional' is a responsibility for exhibiting conduct that extends beyond merely satisfying society's laws and regulations. To most citizens in our society, it means having responsibilities that go beyond the minimum requirements of our laws. The following terms are often used for, or associated with the term professional:

experienced, skillful, licensed, efficient, qualified, competent, specialist, pro, expert, artist, ace, crackerjack, slick, adept, sharp, there, star, pundit, brain, or wizard.

Professionals are expected to conduct themselves at a higher level than most other members of society. The term professional means a responsibility for conduct that extends beyond satisfying individual responsibilities and beyond the requirements of our society's laws and regulations. The reason for the expectation of a high level of professional conduct by any profession is the need for public confidence in the quality of service by the profession.

All professionals must have "ethics" or a set of principles or values. Ethics serve as basic principles that govern our conduct and serve as a guiding philosophy. In addition, all professionals must act "ethically." This means all actions must follow established professional codes and standards of conduct.

Professionals in all industries must follow established professional codes of conduct and simply an accepted code of conduct. A code of conduct is a means of identifying and expressing an individual's or group's commitment to a minimum set of standards related to conduct. It will also define rules and provide guidance on how to follow those rules or codes best. Finally, these codes provide guidance for making decisions on an ongoing basis and displaying a commitment to respectable and ethical behavior, even if it means sacrificing any personal gain or advantage that may be available.

A CPA, as a professional, recognizes a responsibility to the public, to the client, and to fellow practitioners. The conduct of a CPA must include honorable behavior, even if that means personal sacrifice. The CPA profession requires public confidence in the quality of service by those practicing this profession regardless of the individual providing the services. For all CPAs, the client and external financial statement users must have confidence in the quality of financial statements and the audits of these financial statements. If financial statement users do not have confidence in these documents, the ability of all CPAs to serve clients and the public effectively is diminished. However, public confidence in the quality of professional services is enhanced when the profession encourages high standards of performance and conduct for all practitioners.

CPA firms have a different relationship with users of financial statements than most other professionals have with their customers. CPA firms are usually engaged by the management of private companies and by an audit committee for public companies and are paid by the company issuing the financial statements. The primary beneficiaries of the audit are external financial statement users. The users of financial statements must regard all CPA firms as competent and unbiased. If financial statement users believe that CPA firms do not perform an unbiased and valuable service, the value of those services and reports is reduced. It stands to reason that if the value of these services is reduced then the demand for

these services will also be reduced. Therefore, there is always a significant incentive for all CPAs and CPA firms to conduct themselves at the highest professional level.

Ethical standards are based on ethical principles. An ethical principle is a base philosophical stance that directly or indirectly leads to an ethical standard. Principles are ideal standards of ethical conduct. An ethical principle serves as the foundation that is used to create an ethical standard. Codes of Ethics are grounded in ethical principles related to:

- Professional responsibilities;
- The public interest;
- Objectivity and independence;
- Due Care; and
- Scope and nature of services.

CPAs are required to comply with the following ethical principles:

1. CPAs should exercise sensitive professional and moral judgments in all their activities when performing their responsibilities as professionals.
2. CPAs must accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate a commitment to the CPA profession.
3. CPAs should perform all professional responsibilities with the highest sense of integrity to maintain public confidence.
4. All CPAs should maintain objectivity and be free of conflicts of interest when discharging their professional responsibilities. This requires all members in public practice to be independent in fact and appearance when providing auditing and other attestation services.
5. All CPAs should observe the profession's technical and ethical standards, strive to improve their professional competence continually and to discharge their professional responsibility to the best of their ability.
6. All CPAs in public practice should observe the principles of the Code of Professional Conduct in determining the scope and nature of services provided.

The following sections define responsibilities for all CPAs to comply with Board inquiries and adhere to standards for professional responsibilities.

#### **§ 50. Client Notification.**

An important aspect of maintaining public trust is acting trustworthy. All CPAs are required to provide reasonable notice to practice public accountancy in California. This is defined in the following provisions.

Every licensee engaged in the practice of public accountancy shall provide notice reasonably calculated to be received by the licensee's clients of the fact that the licensee is licensed by the California Board of Accountancy. For purposes of this section, "licensee" means a Certified Public Accountant, Public Accountant, accountancy partnership, or accountancy corporation licensed by the California Board of Accountancy. Notice shall be provided by any of the following methods:

- (a) Displaying the certificate of licensure issued by the Board in the office or the public area of the premises where the licensee provides the licensed service.

(b) Providing a statement to each client to be signed and dated by the client and retained in that person's records that states the client understands the person is licensed by the California Board of Accountancy.

(c) Including a statement that the licensee is licensed by the California Board of Accountancy either on letterhead or on a contract for services where the notice is placed immediately above the signature line for the client in at least 12 point type.

(d) Posting a notice in a public area of the premises where the licensee provides the licensed services, in at least 48-point type, that states the named licensee is licensed by the California Board of Accountancy.

(e) Any other method of written notice, including a written notice that is electronically transmitted or a written notice posted at an Internet Website.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 138, Business and Professions Code.

#### **§ 50.1. Attest Client Notification Regarding Composition of Firm Ownership.**

Any licensee employed by a firm in which no licensee owners are authorized to sign reports on attest engagements pursuant to Business and Professions Code Section 5095 must, prior to engaging in attest services, provide written notification to any attest client or prospective attest client of the ownership composition of the firm. Notice shall be provided by any of the following methods:

(a) Providing a statement to the attest client or prospective attest client to be signed and dated by the client and retained in the client's records, which states the client or prospective client understands that no firm owners are authorized to sign reports on attest engagements.

(b) Posting a written notice on the firm's Internet Web site, disclosing all owner's names and whether each is authorized to sign reports on attest engagements pursuant to Business and Professions Code Section 5095.

Note: Authority cited: Sections 5010, 5018 and 5095, Business and Professions Code. Reference: Sections 138, 5018 and 5095, Business and Professions Code.

#### **§ 51. Firms with Nonlicensee Owners.**

At initial registration and at renewal, all firms shall certify that any nonlicensee owner with his or her principal place of business in this state has been informed regarding the rules of professional conduct applicable to accountancy firms. This certification shall be signed by a licensed partner or licensed shareholder of the firm.

Note: Authority cited: Sections 5010, 5018 and 5079, Business and Professions Code. Reference: Section 5079, Business and Professions Code.

#### **§ 51.1. Notification of Non-Licensee Ownership.**

(a) Any firm with a nonlicensee owner or owners that has one or more offices located in California shall notify each client served by an office located in California of the actual or potential involvement of a

nonlicensee owner or owners in any service to be provided to the client by the firm. Notice shall be provided by any of the following methods:

- (1) Providing a statement to each client served by a California office to be signed and dated by the client and retained in the firm's records that states that the client understands that services will or may be provided by a nonlicensee owner of the firm.
- (2) Including a statement that the firm has a nonlicensee owner or owners who may provide client services in any contract for services, proposal letter, or engagement letter with the client served by a California office.

(b) A copy of the statement, contract, engagement letter, or proposal letter containing this notice shall be maintained by the public accounting firm in the client's files for a minimum of five years from the date of the notice.

Note: Authority cited: Sections 5010, 5018 and 5079, Business and Professions Code. Reference: Section 5079, Business and Professions Code.

#### **§ 52. Response to Board Inquiry.**

(a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested.

(b) A licensee shall respond to any subpoena issued by the Board or its executive officer or the assistant executive officer in the absence of the executive officer within 30 days and in accordance with the provisions of the Accountancy Act and other applicable laws or regulations.

(c) A licensee shall appear in person upon written notice or subpoena issued by the Board or its executive officer or the assistant executive officer in the absence of the executive officer.

(d) A licensee shall provide true and accurate information and responses to questions, subpoenas, interrogatories or other requests for information or documents and not take any action to obstruct any Board inquiry, investigation, hearing or proceeding.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018, 5100, 5103 and 5108, Business and Professions Code.

#### ***Enforcement Actions***

**Practitioner:** Earl N. Feldman

**Effective Date:** December 29, 2021

**Disciplinary Actions/License Restrictions:** Surrender of CPA license, via stipulated surrender. Earl N. Feldman shall pay the CBA costs of the investigation and enforcement in the amount of \$8,330.40 prior to the issuance of a new or reinstated license.

**Causes for Discipline:** First Amended Accusation No. AC-2021-36 contains the following allegations: (1) May 15, 2020 Criminal Conviction for Wire Fraud and Making a False Tax Return; (2) Revocation of Right to Practice by Government Body or Agency; (3) Fiscal Dishonesty or Breach of Fiduciary Responsibility; (4) Embezzlement, Theft and Misappropriation of Funds; (5) Failure to Report Conviction; (6) Failure to Respond to CBA Inquiries. Feldman is subject to disciplinary action in that Feldman was convicted of a crime that is substantially related to the qualifications, functions, and duties of a certified public accountant. Feldman is subject to disciplinary action in that on January 10, 2017, Feldman was disbarred from the practice of law in California. Feldman is subject to disciplinary action in that beginning in or



around January 2012 and continuing through on or around April 15, 2015, Feldman engaged in acts of fiscal dishonesty and breach of fiduciary responsibility. Feldman is subject to disciplinary action in that beginning in or around January 2012 and continuing through on or around April 15, 2015, Feldman engaged in embezzlement, theft and/ or misappropriation of funds. Feldman is subject to disciplinary action in that Feldman failed to report his criminal conviction in writing to the CBA within 30 days. Feldman is subject to disciplinary action in that Feldman failed to respond to a CBA inquiry dated January 14, 2021, within 30 days. To date, Feldman has not provided the requested information to the CBA.

**For Violations Of:** Business and Professions Code, Division 1.5, Chapter 3, § 490; Division 3, Chapter 1, §§ 5063, and 5100(a),(g), (h), (i) and (k). California Code of Regulations, title 16, §§ 52(a) and 99.

### § 52.1. Failure to Appear. [Repealed]

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018 and 5020, Business and Professions Code.

### § 53. Discrimination Prohibited.

No licensee or registrant shall engage in any conduct or practice which shall deny any person an opportunity or benefit of employment within the accounting profession based on race, color, religious creed, national origin, ancestry, physical handicap, sex, marital status, sexual orientation or age.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

### § 54. Confidential Information Defined, Exception.

An important aspect of maintaining public trust is acting trustworthy. One important area is to keep private and confidential client information confidential unless the client agrees to allow their information to be shared. This is defined in the following provisions.

“Confidential information” includes all information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client, except that it does not include information obtained from a prospective client who does not subsequently become a client, where all of the following conditions are met:

- (a) The licensee provides reasonable notice to the prospective client or the prospective client's representative that the information will not be treated as confidential information in the event the provider does not become a client and that providing such information will not preclude the licensee from being employed by a party adverse to the potential client in any current or future legal action or proceeding. For purposes of this section “reasonable notice” shall mean the following: (1) With respect to oral communications, including telephonic communications, reasonable notice consists of oral notice to the speaker given immediately by the licensee upon hearing that client information is being presented or will be presented. (2) With respect to written communications, including electronic and facsimile communications, reasonable notice consists of an oral or written notice to the sender within one business day.
- (b) The licensee, on request, returns the original and all copies of documents provided by the prospective client or his or her representative within 30 days.

(c) The licensee does not utilize in any manner the information obtained, except that nothing shall prohibit the licensee from utilizing the same information obtained from an independent source such as through litigation discovery.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

#### § 54.1. Disclosure of Confidential Information Prohibited.

(a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except for the following:

- (1) disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court;
- (2) disclosures made by a licensee regarding a client or prospective client to the extent that the licensee reasonably believes that it is necessary to maintain or defend himself/herself in a legal proceeding initiated by that client or prospective client;
- (3) disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency;
- (4) disclosures made by a licensee or a licensee's duly authorized representative to another licensee in connection with a proposed sale or merger of the licensee's professional practice;
- (5) disclosures made by a licensee to (A) another licensee to the extent necessary for purposes of professional consultation and to (B) professional standards review, ethics or quality control peer review organizations;
- (6) disclosures made when specifically required by law;
- (7) disclosures made at the direct request of the client to a person or entity that is designated by the client at the time of the request.

(b) In the event that confidential client information may be disclosed to persons or entities outside the United States in connection with the services provided, the licensee shall so inform the client in writing and obtain the client's written permission for the disclosure.

Note: Authority cited: Sections 5010, 5018 and 5063.3, Business and Professions Code. Reference: Sections 5018 and 5063.3, Business and Professions Code.

#### *Enforcement Actions*

**Practitioner:** Idrees Accountancy Corp./Sheikh M. Idrees

**Effective Date:** February 28, 2022

**Disciplinary Actions/License Restrictions:** Revocation stayed with three years' probation, via stipulated settlement. Idrees Accountancy Corp. (Corporation), and Sheikh M. Idrees shall, jointly and severally reimburse the CBA \$19,648.22 for its investigation and prosecution costs. Idrees shall complete four hours of continuing education in ethics. The hours shall be completed within 180 days of the effective date of the CBA's decision and order and are in addition to the continuing education requirements for

relicensing. Idrees shall complete a CBA-approved Regulatory Review course. The hours shall be completed within 180 days of the effective date of the CBA's decision and order and are in addition to the continuing education requirements for relicensing.

**Causes for Discipline:** Accusation No. AC-2020-53 contains the following allegations: (1) Repeated Acts of Negligence; (2) Gross Negligence; (3) Unlawful Disclosure of Confidential Information; (4) Failure to Comply with Professional Standards; (5) Practice Under an Unregistered Firm Name. The Corporation and Idrees are subject to disciplinary action in that the Corporation and Idrees committed repeated acts of negligence while preparing tax accounting and income tax preparation from 2008 through 2014. The Corporation and Idrees are subject to disciplinary action in that the Corporation and Idrees committed gross negligence. The Corporation and Idrees are subject to disciplinary action in that in or about and between 2017 and 2018, the Corporation and Idrees unlawfully disclosed confidential information. The Corporation and Idrees are subject to disciplinary action in that the Corporation and Idrees failed to comply with professional standards. The Corporation and Idrees are subject to disciplinary action in that in or about and between February 18, 2004, and July 12, 2018, the Corporation and Idrees practiced in California under the unregistered firm name "Idrees Accountancy Corp."

**For Violations Of:** Business and Professions Code, Division 3, Chapter 1, §§ 5060(b), 5063.3, and 5100(c), and (g). California Code of Regulations, title 16, §§ 54.1 and 58.

#### § 54.2. Recipients of Confidential Information.

Members of the Board, its appointed representatives professional practice reviewers and other persons designated in section 54.1(a)(4)-(a)(6) shall not disclose information concerning licensees or their clients which comes to their attention in carrying out their professional responsibilities; provided, however, such information may be disclosed:

- (a) as part of disciplinary proceedings with the Board,
- (b) as part of legal actions in which the Board is a party,
- (c) in response to an official inquiry from a federal or state governmental regulatory agency,
- (d) in compliance with a subpoena or summons enforceable by order of a court, or
- (e) when otherwise specifically required by law.

Note: Authority cited: Sections 5010, 5018 and 5063.3, Business and Professions Code. Reference: Sections 5018 and 5063.3, Business and Professions Code.

#### § 55. Permission to Use Name. [Repealed]

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010, 5018 and 5059, Business and Professions Code.

#### § 56. Commissions -Basic Disclosure Requirement.

The following provisions address the circumstances where commissions and fees not allowed to be paid or accepted when recommending a product or service. Paying and accepting fees and commissions will tarnish the practitioner's independence.

- (a) A licensee shall not accept any fee or commission permitted by Business and Professions Code Section 5061 unless he or she complies with the provisions of this section and Section 56.1

(b) A licensee who may receive a fee or commission pursuant to Business and Professions Code Section 5061 shall furnish to the client, at or prior to the time the recommendation of the product or service is made, a written disclosure statement in 12 point type or larger that contains the following information:

(1) The fact that the fee or commission is to be paid for professional services and that a fee or commission cannot be accepted solely for the referral of the client to the products or services of a third party.

(2) A description of the product(s) or service(s) which the licensee is recommending to the client, the identity of the third party that is expected to provide the product or service, the business relationship of the licensee to the third party, a description of any fee or commission which may be received by the licensee, including, but not limited to, any supplemental fee or commission or other compensation allocable to the client being provided with the product or service of the third party. Where the product(s) or service(s) cannot be specifically identified at the time of the initial disclosure, this information shall be included in a supplemental disclosure within 30 days of receipt of the fee or commission.

(3) The dollar amount or value of the fee or commission payment(s) or the basis on which the payment(s) shall be computed.

(c) The written disclosure shall be on letterhead of the licensed firm or shall be signed by the licensee. The disclosure statement shall be signed and dated by the client and contain an acknowledgment by the client that the client has read and understands the information contained in the disclosure. Supplemental disclosures as described in subsection (b)(2) of Section 56 need not be signed by the client or by the licensee. The licensee shall retain the disclosure statements for a period of five years and shall provide copies to the client.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Section 5061, Business and Professions Code.

#### **§ 56.1. Commissions -Professional Services Provided to the Client.**

The professional services which must be provided to the client in conjunction with the products or services of a third party under Business and Professions Code Section 5061(b) shall include consultation with the client regarding the third party's product or service in relation to the client's circumstances.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Section 5061, Business and Professions Code.

#### **§ 56.2. Commissions -Disclosure Requirement and Other Rules of Professional Conduct.**

Nothing in Section 56 permits a licensee either (1) to accept any fee or commission which would violate the requirement that a licensee be independent in the performance of services in accordance with professional standards (Section 65) or (2) to concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence, objectivity, or creates a conflict of interest in rendering professional services (Section 57). However, the act of a licensee taking a fee or commission as permitted by Business and Professions Code Section 5061 and in conformity with Section 56 does not, by itself, constitute an impairment of a licensee's objectivity or create a conflict of interest in rendering professional services.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Sections 5018 and 5061, Business and Professions Code.

#### **§ 56.3. Commissions -Definitions.**

For purposes of Sections 56, 56.1, and 56.2 of the Board's regulations the following definitions apply:

- (a) "Licensee" means a Certified Public Accountant, Public Accountant, or firm licensed by the Board of Accountancy, including a firm with nonlicensee owners, that is engaged in the practice of public accountancy as defined by Business and Professions Code Section 5051.
- (b) The term "a third party" means all persons other than the licensee, the licensee's client, and any licensee firm of which the licensee is an employee, partner, or owner.
- (c) "The basis on which the payment(s) shall be computed" shall be a formula which can be used to calculate the dollar amount or value of the fee or commission once the dollar amount or value of the transaction is known.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Section 5061, Business and Professions Code.

#### **§ 56.4. "Officer" and "Director."**

The terms "director" and "officer" as defined under Section 5061(c) does not include a director or officer of a nonprofit corporation, or a corporation that together with any affiliates, has 100 or less employees or average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three tax years. The term "average annual gross receipts" means all pecuniary gross receipts (less returns, allowances and interaffiliate transactions), the assignment of such receipts notwithstanding, of a business concern from whatever source derived, as entered or to have been entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion or other commonly recognized and accepted accounting method).

Note: Authority cited: Sections 5010, 5018 and 5061, Business and Professions Code. Reference: Section 5061, Business and Professions Code.

#### **§ 57. Incompatible Occupations/Conflict of Interest.**

A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence, objectivity, or creates a conflict of interest in rendering professional services.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.