

Chapter Accy 1

RULES OF CONDUCT

Subchapter I — Applicability

- Accy 1.001 Applicability.
Accy 1.002 Application of rules of conduct to certified public accountants and public accountants who operate a separate business.

Subchapter II — Independence, Integrity and Objectivity

- Accy 1.101 Independence standards.
Accy 1.102 Integrity and objectivity.
Accy 1.103 Disclosure of interest.

Subchapter III — Competence and Technical Standards

- Accy 1.201 General standards.
Accy 1.202 Auditing standards.
Accy 1.203 Accounting principles.
Accy 1.204 Other technical standards.

- Accy 1.205 Accounting standards.

Subchapter IV — Responsibilities to Clients

- Accy 1.301 Confidential client information.
Accy 1.302 Contingent fees, commissions and referral fees.

Subchapter V — Other Responsibilities and Practices

- Accy 1.401 Acts discreditable.
Accy 1.402 Advertising or other forms of solicitation.
Accy 1.404 Incompatible occupations.
Accy 1.405 Form of practice and name.
Accy 1.406 Practice while suspended.
Accy 1.407 Communications.
Accy 1.408 Ownership requirements.

Note: Chapter Accy 1 as it existed on June 30, 1974 was repealed and a new Chapter Accy 1 was created, Register, June, 1974, No. 222, effective July 1, 1974.

Subchapter I — Applicability

Accy 1.001 Applicability. (1) A person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, may be held responsible for compliance with the rules of conduct by all persons associated with him or her in the practice of public accounting who are either under his or her supervision or are partners or shareholders in the practice.

(2) A person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall not permit others to carry out on his or her behalf, either with or without compensation, acts which, if carried out by him or her, would place him or her in violation of the rules of conduct.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; correction made under s. 13.93 (2m) (b) 1., Stats., Register, March, 1993, No. 447.

Accy 1.002 Application of rules of conduct to certified public accountants and public accountants who operate a separate business. (1) A person or firm licensed to practice as a certified public accountant or public accountant, as defined in the statutes, who operates a separate business which offers to clients one or more types of services rendered by certified public accountants or public accountants is considered to be in the practice of public accounting in the conduct of that business. In this case, all persons with ownership equity in the business are required to observe the rules of conduct in the operation of the separate business.

(2) Certified public accountants and public accountants who are not otherwise in public practice must observe the rules of conduct in the operation of their business if they hold themselves out to the public as certified public accountants or public accountants and at the same time offer clients one or more types of services rendered by certified public accountants or public accountants.

History: Cr. Register, June, 1982, No. 318, eff. 7-1-82.

Subchapter II — Independence, Integrity and Objectivity

Accy 1.101 Independence standards. The following independence standards of the accounting profession are adopted by reference and shall be used by certified public accountants in Wisconsin:

The Code of Professional Conduct ET Section 101, including Sections ET 101.01 through ET 101.16 available on the Internet at <http://www.aicpa.org/about/code/et101.htm#101-1> and published by the American Institute of Certified Public Account-

ants in print form as *AICPA Professional Standards Volume 2 as of June 1, 2002*. The printed volume is available at:

American Institute of Certified Public Accountants
1455 Pennsylvania Ave., NW
Washington, DC 20004-1081

Note: Copies of the Statements described above are on file in the offices of the Accounting Examining Board, the Secretary of State, and the Revisor of Statutes.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; cr. (2) (d), Register, February, 1976, No. 242, eff. 4-1-76; cr. (2) (e), Register, January, 1977, No. 253, eff. 3-1-77; r. and recr. (1) and cr. (2) (f), Register, July, 1979, No. 283, eff. 9-1-79; r. and recr. (2) (a), am. (2) (d) 2. intro. and d., cr. (2) (g), Register, July, 1980, No. 295, eff. 8-1-80; corrections made under s. 13.93 (2m) (b) 1. and 5., Stats., Register, March, 1993, No. 447; **CR 02-120: r. and recr. Register November 2003 N. 575, eff. 12-1-03.**

Accy 1.102 Integrity and objectivity. No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall knowingly misrepresent facts, and when engaged in the practice of public accounting, including the rendering of tax and management advisory services, shall not subordinate his or her judgment to others. In tax practice, a member may resolve doubt in favor of the client as long as there is reasonable support for that position.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, March 1993, No. 447.

Accy 1.103 Disclosure of interest. As to disclosure of interest in corporation reported on, s. 442.10, Stats., is controlling.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74.

Subchapter III — Competence and Technical Standards

Accy 1.201 General standards. (1) All persons licensed to practice as a certified public accountant or public accountant, as defined in the statutes, shall comply with the following general standards as interpreted by bodies designated by the American institute of certified public accountants council, and must justify any departures therefrom.

(a) *Professional competence.* A certified public accountant or public accountant shall undertake only those engagements which the certified public accountant or public accountant or the firm can reasonably expect to complete with professional competence.

(b) *Due professional care.* A certified public accountant or public accountant shall exercise due professional care in the performance of an engagement.

(c) *Planning and supervision.* A certified public accountant or public accountant shall adequately plan and supervise an engagement.

(d) *Sufficient relevant data.* A certified public accountant or public accountant shall obtain sufficient relative data to afford a

reasonable basis for conclusions or recommendations in relation to an engagement.

(e) *Forecasts.* A certified public accountant or public accountant shall not permit the certified public accountant's or public accountant's name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the certified public accountant or public accountant vouches for the achievability of the forecast.

1. Interpretations of par. (e), not intended to be all-inclusive, are as follows:

a. Paragraph (e) does not prohibit a certified public accountant or public accountant from preparing, or assisting a client in the preparation of, forecasts of the results of future transactions. When a certified public accountant's or public accountant's name is associated with such forecasts, there shall be the presumption that such data may be used by parties other than the client. Therefore, full disclosure must be made of the sources of the information used and the major assumptions made in the preparation of the statements and analyses, and character of the work performed by the member, and the degree of the responsibility he or she is taking.

(2) Interpretations of s. Accy 1.201, not intended to be all-inclusive, are as follows:

(a) A certified public accountant or public accountant who accepts a professional engagement implies that he or she has the necessary competence to complete the engagement according to professional standards, applying the certified public accountant's or public accountant's knowledge and skill with reasonable care and diligence, but the certified public accountant or public accountant does not assume a responsibility for infallibility of knowledge or judgment.

(b) Competence in the practice of public accounting involves both the technical qualifications of the certified public accountant or public accountant and his or her staff and the ability to supervise and evaluate the quality of the work performed. Competence relates both to knowledge of the profession's standards, techniques and the technical subject matter involved, and to the capability to exercise sound judgment in applying such knowledge to each engagement.

(c) The certified public accountant or public accountant may have the knowledge required to complete an engagement professionally before undertaking it. In many cases, however, additional research or consultation with others may be necessary during the course of the engagement. This does not ordinarily represent a lack of competence, but rather is a normal part of the professional conduct of an engagement.

(d) However, if a certified public accountant or public accountant is unable to gain sufficient competence through these means, he or she should suggest, in fairness to the client and the public, the engagement of someone competent to perform the needed service, either independently or as an associate.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and recr. (1) and am. (2) (a), Register, July, 1979, No. 283, eff. 9-1-79; (1) (e) renum. from Accy 1.204 (2) and am., Register, July, 1980, No. 295, eff. 8-1-80; corrections made under s. 13.93 (2m) (b) 1., Stats., Register, March, 1993, No. 447.

Accy 1.202 Auditing standards. (1) A person licensed to practice as a certified public accountant or public accountant, as defined in the statutes, shall not permit the certified public accountant's or public accountant's name to be associated with financial statements in such a manner as to imply that the certified public accountant or public accountant is acting as an independent public accountant unless the certified public accountant or public accountant has complied with the applicable generally accepted auditing standards promulgated by the American institute of certified public accountants. Statements on auditing standards used by the American institute of certified public accountants auditing standards executive committee are, for purposes of this rule, con-

sidered to be interpretations of the generally accepted auditing standards, and departures from such statements must be justified by those who do not follow them.

(2) Interpretations of s. Accy 1.202, not intended to be all-inclusive, are as follows:

(a) Section Accy 1.202 does not preclude a certified public accountant or public accountant from associating with the unaudited financial statements of clients. The rule states in part that "No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall permit his her] name to be associated with financial statements in such a manner as to imply that he she] is acting as an independent public accountant unless he she] has complied with the *applicable* generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants."

1. In applying this provision to situations in which a certified public accountant's or public accountant's name is associated with unaudited financial statements, it is necessary to recognize that the standards were specifically written to apply to audited financial statements. The fourth reporting standard, however, was made sufficiently broad to be applicable to unaudited financial statements as well.

2. The fourth Reporting Standard states in part: ". . . In all cases where an auditor's name is associated with financial statements, the report should contain a clear-cut indication of the auditor's examination, *if any*, and the degree of responsibility he is taking."

3. Those sections of *Statements on Auditing Standards* and related guides which deal with unaudited financial statements provide guidance to certified public accountants and public accountants associated with such statements.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, February, 1976, No. 242, eff. 4-1-76; r. and recr. (1) Register, July, 1979, No. 283, eff. 9-1-79.

Accy 1.203 Accounting principles. (1) No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from an accounting principle promulgated by the body designated by the council of the American institute of certified public accountants to establish such principles which has a material effect on the statements taken as a whole, unless he or she can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In such cases the report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(2) Interpretations of s. Accy 1.203, not intended to be all-inclusive, are as follows:

(a) Departures from established accounting principles. s. Accy 1.203 was adopted to require compliance with accounting principles promulgated by the body designated by council of the American institute of certified public accountants to establish such principles. There is a strong presumption that adherence to officially established accounting principles would in nearly all instances result in financial statements that are not misleading.

(b) However, in the establishment of accounting principles it is difficult to anticipate all of the circumstances to which such principles might be applied. This rule therefore recognizes that upon occasion there may be unusual circumstances where the literal application of pronouncements on accounting principles would have the effect of rendering financial statements misleading. In such cases, the proper accounting treatment is that which will render the financial statements not misleading.

(c) The question of what constitutes unusual circumstances as referred to in s. Accy 1.203 is a matter of professional judgment

involving the ability to support the position that adherence to a promulgated principle would be regarded generally by reasonable persons as producing a misleading result.

(d) Examples of events which may justify departures from a principle are new legislation or the evolution of a new form of business transaction. An unusual degree of materiality or the existence of conflicting industry practices are examples of circumstances which would not ordinarily be regarded as unusual in the context of s. Accy 1.203.

(e) Council of the American institute of certified public accountants is authorized under s. Accy 1.203 to designate a body to establish accounting principles and has designated the financial accounting standards board as such body. The accounting examining board also has resolved that financial accounting standards board statements of financial accounting standards, together with those accounting research bulletins and accounting principles board opinions which are not superseded by action of the FASB, constitute accounting principles as contemplated in s. Accy 1.203.

(f) In determining the existence of a departure from an accounting principle established by a statement of financial accounting standards, accounting research bulletin or accounting principles board opinion encompassed by s. Accy 1.203, the accounting examining board will construe such statement, bulletin or opinion in the light of any interpretations thereof issued by the financial accounting standards board.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, March, 1993, No. 447.

Accy 1.204 Other technical standards. A person licensed to practice as a certified public accountant or public accountant, as defined by the statutes, shall comply with other technical standards promulgated by bodies designated by the American institute of certified public accountants council to establish such standards, and departures therefrom must be justified by those who do not follow them.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and recr. (1), Register, July, 1979, No. 283, eff. 9-1-79; renum. (2) to be Accy 1.201 (1) (e), Register, July, 1980, No. 295, eff. 8-1-80.

Accy 1.205 Accounting standards. The following standards of the accounting profession shall be used by certified public accountants in Wisconsin:

(1) The statements on auditing standards issued as of June 1, 2001 by the auditing standards board of the American institute of certified public accountants and published as AICPA professional standards, volume 1 by the American institute of certified public accountants, inc., New York, New York is incorporated by reference into this section.

(2) The statements on standards for accounting and review services issued as of June 1, 2001 by the accounting and review services committee of the American institute of certified public accountants and published as AICPA professional standards, volume 2 by the American institute of certified public accountants, inc., New York, New York is incorporated by reference into this section.

(3) The statement on standards for attestation engagements issued as of June 1, 2001, by the auditing standards board, the accounting and review services committee, and the consulting services executive committee of the American institute of certified public accountants and published as AICPA professional standards, volume 2 by the American institute of certified public accountants, inc., New York, New York is incorporated by reference into this section.

Note: Copies of the Statements described above may be purchased from the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036-8775.

Note: Copies of the Statements described above are on file in the offices of the Accounting Examining Board, the Secretary of State, and the Revisor of Statutes.

History: CR 01-133; cr. Register October 2002 No. 562, eff. 11-1-02.

Subchapter IV — Responsibilities to Clients

Accy 1.301 Confidential client information. (1) No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall disclose any confidential information obtained in the course of a professional engagement except with the consent of the client or through the due process of law.

(2) This rule shall not be construed:

(a) To relieve such a person of the obligation under ss. Accy 1.202 and 1.203.

(b) To affect in any way compliance with a validly issued subpoena or summons enforceable by order of a court,

(c) To prohibit review of such a person's professional practices as a part of voluntary quality review under authorization of the American institute of certified public accountants or the Wisconsin society of certified public accountants or

(d) To preclude a certified public accountant or public accountant from responding to an inquiry made by the ethics division of trial board of American institute of certified public accountants, by duly constituted investigative or disciplinary body of a state CPA society, or under any state statutes.

(3) Members of the ethics division and trial board of the American institute of certified public accountants and professional practice reviewers under American institute of certified public accountants authorization, or their state society counterparts, shall not disclose any confidential client information which comes to their attention from such persons in disciplinary proceedings or otherwise in carrying out their official responsibilities. However, this prohibition shall not restrict the exchange of information with an aforementioned duly constituted investigative or disciplinary body.

(4) Interpretations of s. Accy 1.301, not intended to be all-inclusive, are as follows:

(a) *Confidential information and technical standards.* The prohibition against disclosure of confidential information obtained in the course of a professional engagement does not apply to disclosure of such information when required to properly discharge the certified public accountant's or public accountant's responsibility according to the profession's standards. The prohibition would not apply, for example, to disclosure, as required by section 561 of Statement on Auditing Standards No. 1, of subsequent discovery of facts existing at the date of the auditor's report which would have affected the auditor's report had the auditor been aware of such facts.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (4), Register, December, 1974, No. 228, eff. 1-1-75; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, March, 1993, No. 447.

Accy 1.302 Contingent fees, commissions and referral fees. (1) **DEFINITIONS.** AS used in this section:

(a) "Attest service" means any audit, any review of a financial statement, or any compilation of a financial statement when the certified public accountant or public accountant expects, or reasonably might expect, that a third party will use the compilation and the certified public accountant or public accountant does not disclose a lack of independence, or any examination of prospective financial information.

(b) "Audit" means an examination of financial statements of a person by a certified public accountant or public accountant, conducted in accordance with generally accepted auditing standards, to determine whether, in the opinion of the certified public accountant or public accountant, the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

(c) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person.

(d) "Compilation of a financial statement" means a presentation of information in the form of a financial statement that is the representation of any other person without the undertaking of the certified public accountant or public accountant to express any assurance on the statement.

(e) "Contingent fee" means a fee established for the performance of any service according to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

(f) "Examination of prospective financial information" means an evaluation by a certified public accountant or public accountant of a forecast or projection, the support underlying the assumptions in the forecast or projection, whether the presentation of the forecast or projection is in conformity with professional presentation guidelines, or, whether the assumptions in the forecast or projection provide a reasonable basis for the forecast or projection.

(g) "Forecast" means a prospective financial statement that presents, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects to exist and the course of action it expects to take.

(h) "Person" means any natural person, corporation, partnership, unincorporated association, or other entity.

(i) "Projection" means a prospective financial statement that presents, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions.

(j) "Referral fee" means compensation for recommending or referring any service of a certified public accountant or public accountant to any person.

(k) "Review" means to perform an inquiry and analytical procedures that permit a certified public accountant or public accountant to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

(2) CONTINGENT FEES. Except as provided in sub. (3), a certified public accountant or public accountant may charge a contingent fee provided the accountant and the client make a contingent fee agreement in writing, signed by the client, which states the method by which the fee is to be determined and describes all costs and expenses to be charged to the client. Upon conclusion of the contingent fee matter, the accountant shall provide the client with a written statement showing the fee and all the costs and expenses charged to the client.

(3) CERTAIN CONTINGENT FEES PROHIBITED. No certified public accountant or public accountant may receive a contingent fee from any person for whom the accountant performs attest services during the period of the attest services engagement or the period covered by any historical financial statements involved in the attest services.

(4) COMMISSIONS. Except as provided in sub. (5), a certified public accountant or public accountant may receive a commission provided that at the time the referral or recommendation is made, the accountant informs the client in writing of the amount and reason for the commission.

(5) CERTAIN COMMISSIONS PROHIBITED. No certified public accountant or public accountant may receive a commission from any person for whom the accountant performs attest services, or may receive a commission for any products or services sold to any

person for whom the accountant performs attest services, during the period of the attest services or the period covered by any historical financial statement involved in the attest services.

(6) REFERRAL FEES. No certified public accountant or public accountant may receive a referral fee unless all of the following apply:

(a) The accountant who accepts the referral fee discloses to the client, in writing, at the time the referral is made, the amount of and reason for the referral fee.

(b) The accountant who pays the referral fee discloses to the client, in writing, within 30 days after the referral is made, the amount of and reason for the referral fee.

(7) EXCEPTIONS. This section shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; r. and recr. Register, February, 1990, No. 410, eff. 3-1-90.

Subchapter V — Other Responsibilities and Practices

Accy 1.401 Acts discreditable. (1) No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, shall commit an act discreditable to the profession.

(2) Interpretations of s. Accy 1.401, not intended to be all-inclusive, are as follows:

(a) *Client's records and accountant's workpapers.* Retention of client records after a demand is made for them is an act discreditable to the profession in violation of s. Accy 1.401. It would be a violation of the code to retain a client's records to enforce payment. A certified public accountant's or public accountant's working papers are his or her property and need not be surrendered to the client. However, in some instances working papers will contain data which should properly be reflected in the client's books and records but which for convenience have not been duplicated therein, with the result that the client's records are incomplete. In such instances, the portion of the working papers containing such data constitutes part of the client's records, and copies should be made available to the client upon request. If a certified public accountant or public accountant is engaged to perform certain work for a client and the engagement is terminated prior to the completion of such work, the certified public accountant or public accountant is required to return or furnish copies of only those records originally given to the certified public accountant or public accountant by the client. Examples of working papers that are considered to be the client's records would include:

1. Worksheets in lieu of books of original entry (e.g., listings and distributions of cash receipts or cash disbursements on columnar working paper).

2. Worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers, or similar depreciation records.

3. All adjusting and closing journal entries and supporting details. (If the supporting details are not fully set forth in the explanation of the journal entry, but are contained in analyses of accounts in the accountant's working papers, then copies of such analyses must be furnished to the client.)

4. Consolidating or combining journal entries and worksheets and supporting detail used in arriving at final figures incorporated in an end product such as financial statements or tax returns.

(am) *Working papers.* Any working papers developed by the certified public accountant or public accountant incident to the performance of an engagement which do not result in changes to the client's records or are not in themselves part of the records ordinarily maintained by such clients are considered to be solely

“accountant’s working papers” and are not the property of the client, for example:

1. The certified public accountant or public accountant may make extensive analyses of inventory or other accounts as part of the selective audit procedures. Even if such analyses have been prepared by client personnel at the request of the certified public accountant or public accountant, they nevertheless are considered to be part of the accountant’s working papers. Only to the extent such analyses result in changes to the client’s records would the certified public accountant or public accountant be required to furnish the details from the working papers in support of the journal entries recording such changes, unless the journal entries themselves contain all necessary details.

(an) *Duty discharged.* Once the certified public accountant or public accountant has returned the client’s records or furnished the copies of such records and/or necessary supporting data, the obligation has been discharged in this regard and it is not necessary to comply with any subsequent requests to again furnish such records.

(ao) *Copies to the client.* If the certified public accountant or public accountant has retained copies of a client’s records already in possession of the client, the certified public accountant or public accountant is not required to return such copies to the client.

(b) *Conviction of a crime.* Conviction of a crime the circumstances of which substantially relate to the practice of accounting is an act discreditable to the profession in violation of s. Accy 1.401. As enumerated below, the board shall act as follows:

1. On conviction of a felony, the circumstances of which substantially relate to the practice of accounting the board will initiate charges in every instance.

2. On conviction for willful failure to file an income tax return or other document which, the certified public accountant or public accountant as an individual is required by law to file, for filing a false or fraudulent income tax return or other document on his or her or a client’s behalf, or for willful aiding in the preparation and/or presentation of a false or fraudulent income tax return of a client, or the willful making of a false representation in connection with the determination, collection or refund of any tax, whether it be in his or her own behalf or in behalf of a client, the board will initiate charges in every instance.

3. On conviction of a misdemeanor the circumstances of which substantially relate to the practice of accounting the board will review the circumstances and the nature of the act resulting in conviction. Each such situation will be considered by the board as an informal complaint. The minutes of the board will reflect the fact of review and the resulting disposition of the informal complaint. Such convictions that are professionally related and related to good moral character can be the basis for bringing formal charges and subsequent board action.

4. On conviction for failure to act with integrity and trustworthiness with information or property of others, the board will initiate charges in every instance.

(bm) A certified public accountant or public accountant shall notify the board in writing within 60 days after being convicted of a crime.

(c) *Receiving fees for services not performed.* The deliberate receipt and retention of a fee from a client for services not performed when the client has been given reason to believe that there should be performance, or the withholding of services and receiving a retainer or fee when the services agreed upon have knowingly been withheld, are acts discreditable to the profession. (The amount or rate of charge for services is a contractual matter between the certified public accountant or public accountant and the client, and except as related to the provision, the board does not have authority to set or regulate fees or for taking jurisdiction in such matters. The term “services not performed” means situations in which the actual work for which payment is received is not done.)

(d) *Discrimination in employment practices.* Discrimination based on race, color, religion, sex, age or national origin in hiring, promotion or salary practices is presumed to constitute an act discreditable to the profession in violation of this section.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, February, 1976, No. 242, eff. 4-1-76; am. (2) (b), Register, July, 1979, No. 283, eff. 9-1-79; renum. from Accy 1.501 and am. (2) (intro.) (a) and (b), cr. (2) (d) and (e), Register, July, 1980, No. 295, eff. 8-1-80; am. (2) (b) intro. and cr. (2) (b) 4., Register, April, 1981, No. 304, eff. 5-1-81; am. (2) (d), renum. (2) (e) to be Accy 1.402 (2) (e), Register, June, 1982, No. 318, eff. 7-1-82; cr. (2) (bm), Register, April, 1985, No. 352, 5-1-85.

Accy 1.402 Advertising or other forms of solicitation. No certified public accountant or public accountant may advertise or solicit a client in a manner that is false, fraudulent, misleading or deceptive.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and recr. (2) (a), (g), (j) and (n), Register, February, 1976, No. 242, eff. 4-1-76; r. and recr. Register, July, 1978, No. 271, eff. 9-1-78; renum. from Accy 1.502 and am. (2) (intro.), Register, July, 1980, No. 295, eff. 8-1-80; am. (1) and (2) (c), (2) (e) renum. from Accy 1.401 (2) (e), Register, June, 1982, No. 318, eff. 7-1-82; r. and recr. Register, April, 1986, No. 364, eff. 5-1-86.

Accy 1.404 Incompatible occupations. (1) A person who is engaged in practice as a certified public accountant, or public accountant, as defined in the statutes, shall not concurrently engage in any business or occupation which would create a conflict of interest rendering professional services.

(2) Interpretations of sub. (1) not intended to be all-inclusive, are as follows:

(a) Engaging concurrently with the practice of public accounting in any business or occupation inconsistent with the certified public accountant’s or public accountant’s responsibilities under the Wisconsin rules of conduct would constitute involvement in an incompatible occupation prohibited by sub. (1).

(b) The above proscription would apply to any business or occupation which:

1. Detracts from the public image of the profession, as for example, on legal grounds, or involves conduct which would constitute an act discreditable to the profession, or,

2. Impairs the certified public accountant’s or public accountant’s objectivity in rendering professional services to clients, or,

3. Inherently involves responsibilities which are likely to conflict with the certified public accountant’s or public accountant’s responsibility to others arising out of the client-certified public accountant or public accountant relationship.

(c) A conflict of interest exists when a certified public accountant or public accountant or firm of such persons who are licensed to practice in Wisconsin becomes associated with or employed by a nonlicensed individual or firm offering accounting, tax, or consulting services, such as those customarily provided by certified public accountants or public accountants, in a manner and with representation or implication that third parties could interpret or conclude that certified public accountant or public accountant services are performed or offered by both the nonlicensed individual or firms and the certified public accountant or public accountant. A conflict of interest also exists if the services of the licensed certified public accountant or public accountant or firm of such persons can be influenced or decisions altered by the noncertified associate or employer.

(d) A conflict of interest exists when a certified public accountant or public accountant who is not licensed permits his or her status as a certified public accountant or public accountant to be used or publicized in a manner or situation that third parties could assume or conclude that certified public accountant services are being performed or offered by or through nonlicensed individuals or firms.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, February, 1976, No. 242, eff. 4-1-76; r. and recr. Register, July, 1978, No. 271, eff. 9-1-78; cr. (2), Register, July, 1979, No. 283, eff. 9-1-79; renum. from Accy 1.504, Register, July, 1980, No. 295, eff. 8-1-80; am. (2) (intro.) and (a), Register, April, 1981, No. 304, eff. 5-1-81; cr. (2) (c) and (d), Register, June, 1982, No. 318, eff. 7-1-82; am. (2) (b) 1., Register, April, 1985, No. 352, eff. 5-1-85.

Accy 1.405 Form of practice and name. (1) Individuals or firms may practice as a certified public accountant in any organization form permitted by state law.

(a) No person licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, may practice under a firm name which is misleading as to the type of organization. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation, provided that such persons were licensed or eligible to be licensed in accordance with requirements for all partners or shareholders of the successor partnership or corporation. Also a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporation name for up to 2 years after becoming a sole practitioner or shareholder.

(c) A firm may not designate itself as "Certified Public Accountants" unless all of its partners or shareholders are certified public accountants.

(2) No person or firm engaged in practice as a certified public accountant or public accountant, as defined in ss. 442.02 and 442.07, Stats., may use a business name or designation that is misleading as to the number of individuals with an equity in the firm. A sole proprietor may not use a name implying multiple ownership such as "& Co." or "& Company" or "& Associates," or "Firm" or "Associates" or "Company," and a firm with multiple ownership may not use the name so that multiple ownership is not disclosed. A firm with multiple ownership may not imply in the firm's name that there are owners of the firm in addition to those specifically mentioned in the firm's name when no additional owners exist.

(3) Interpretations of s. Accy 1.405, not intended to be all-inclusive, are as follows:

(a) *Investment in commercial accounting corporation.* A certified public accountant or public accountant in the practice of public accounting may have a financial interest in a commercial corporation which performs for the public services of a type performed by certified public accountants or public accountants and whose characteristics do not conform to resolutions of council of the American institute of certified public accountants, provided such interest is not material to the corporations' net worth, and the certified public accountant's or public accountant's interest in and relation to the corporation is solely that of an investor.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; cr. (2), Register, December, 1974, No. 228, eff. 1-1-75; r. and recr. (1) (a), renum. (2) to be (3) and cr. (2), Register, February, 1976, No. 242, eff. 4-1-76; renum. from Accy 1.505 and am. (3) (intro.), Register, July, 1980, No. 295, eff. 8-1-80; am. (2) (intro.) and (a), Register, April, 1981, No. 304, eff. 5-1-81; am. (3) (a), Register, June, 1982, No. 318, eff. 7-1-82; am. (2), Register, July, 1983, No. 331, eff. 8-1-83; am. (1) (intro.) and (a), Register, January, 1985, No. 349, eff. 2-1-85; r. (1) (b), Register, February, 1990, No. 410, eff. 3-1-90; am. (1) (a), Register, February, 1992, No. 434, eff. 3-1-92; r. and recr. (1) (intro.), Register, May, 1994, No. 461, eff. 6-4-94.

Accy 1.406 Practice while suspended. No person who is licensed to practice as a certified public accountant, or public accountant, as defined in the statutes, who has been suspended, shall practice as a certified public accountant or public accountant during the period of such suspension.

History: Cr. Register, June, 1974, No. 222, eff. 7-1-74; renum. from Accy 1.506, Register, July, 1980, No. 295, eff. 8-1-80.

Accy 1.407 Communications. A certified public accountant shall, when requested, respond to communications from the board within 30 days of the mailing of such communications by registered or certified mail.

History: Cr. Register, July, 1978, No. 271, eff. 9-1-78; renum. from Accy 1.507, Register, July, 1980, No. 295, eff. 8-1-80.

Accy 1.408 Ownership requirements. (1) In this section "ownership interest" means any equity or voting interest in a firm.

(2) An applicant for a license as a certified public accounting firm shall demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country.

(3) A firm applying for licensure meets the ownership requirement under sub. (2) in the following circumstances:

(a) If the applicant is a sole proprietorship and the owner holds a certificate and license to practice as a certified public accountant issued under the laws of this state.

(b) If the applicant is organized as a service corporation and more than 50% of the voting rights are held by individuals who are certified public accountants.

(c) If the applicant is organized as a business corporation and more than 50% of the voting rights are held by individuals who are certified public accountants.

(d) If the applicant is organized as a partnership or limited liability partnership and more than 50% of the voting rights are held by individuals who are certified public accountants.

(e) If the applicant is organized as a limited liability company and more than 50% of the voting rights are held by individuals who are certified public accountants.

(4) An applicant firm with ownership characteristics other than those identified in sub. (3) may submit information about the ownership interests of all members of the firm to the board. The board may determine that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant. In making this determination the board shall consider whether ownership interest of all members of the firm results in control and management of the firm by individuals who hold certificates or licenses to practice as a certified public accountant.

History: CR 02-052: cr. Register December 2002 No. 564, eff. 1-1-03.