# Accountancy Board of Ohio Enforcement and Disciplinary Policy Manual June 2012

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#### GENERAL BOARD INFORMATION

#### **Board Structure**

#### **Authorizing Legislation**

Chapter 4701 of the Ohio Revised Code ("Accountancy Law") establishes the Accountancy Board of Ohio ("Board")

#### Composition of the Board

The Board consists of nine members including eight certified public accountants who are licensed by the Board and one public member who is not a licensee.

## **Authority for Board Rules, Staff, Committees**

The accountancy law authorizes the Board to create and enforce rules and regulations that govern the practice of public accounting in Ohio. Section 4701.03 authorizes the Board to appoint an executive director who shall exercise the powers and perform the duties delegated by the Board and vested in the person by the Act. The executive director has been delegated responsibility for all operational functions of the Board.

Section 4701.03 also authorizes the Board to employ staff to assist in the performance of the Board's duties. The Board has delegated responsibility to employ and terminate staff to the executive director.

Rule 4701-1-10 pertains to the various standing committees of the Board, and authorizes the Board to create new committees as needed.

#### **Disciplinary Advisory Committee**

Paragraph (A)(4) of Rule 4701-1-10 refers to the disciplinary advisory committee. This paragraph reads as follows:

The disciplinary advisory committee shall be responsible for advising the board on matters relating to ethics, investigations, and discipline. The board chair shall appoint the committee members and designate the committee chair. The committee shall consist of at least three members. The board chair may also appoint other committee members.

#### **Organizational Structure**

- The executive director takes direction from and reports to the Board.
- The disciplinary advisory committee takes direction from and reports to the Board.

- The executive director may delegate enforcement responsibilities to the assistant director.
- The executive director and assistant director receive consultation and recommendations from the disciplinary advisory committee through its chair.
- Staff (executive director, assistant director, and investigative staff) provides resources and support to the disciplinary advisory committee to assist the committee in carrying out its duties.

## **Board Mission and Goals**

#### **Mission Statement**

The mission of the Accountancy Board of Ohio is to assure that the services received by Ohio's citizens and businesses from CPAs and PAs, licensed by the Board, will be performed in accordance with all appropriate laws and standards, to design effective regulatory policies and procedures, and to strictly and fairly enforce Ohio's statutes and rules.

#### Vision Statement

It is the vision of the Accountancy Board of Ohio to provide quality service to the public through the effective use of technology and the implementation of best business practices.

#### **Major Board Goals**

The Accountancy Board of Ohio carries out its mission by:

- Ensuring that only those persons meeting the necessary education, examination, and experience requirements receive CPA certificates.
- Ensuring that licensees who apply for the Ohio permit meet the proper licensing requirements.
- Enforcing the statutes and regulations governing the professional standards and conduct of licensees.
- Policing against unlicensed practice.

#### Mission Statement for the Board's Enforcement Program

It is the mission of the Enforcement Program of the Board to protect consumers by disciplining licensees who fail to comply with the professional standards, as warranted, and by notifying the public of the Board's disciplinary measures.

# **Major Goals of the Enforcement Program**

- To investigate complaints against licensees that are within the jurisdiction of the Board;
- To coordinate investigations of matters with other agencies that involve significant loss or harm to consumers;
- To investigate complaints against unlicensed practitioners for violations within the Board's jurisdiction;
- To provide services in support of Board activities;
- To increase adherence to licensing requirements and professional standards by public accounting firms;
- To increase adherence to licensing requirements and professional standards by certified public accountants and public accountants;
- To resolve Board enforcement matters in a timely manner;
- To maintain the confidentiality of information obtained during investigations;
- To monitor licensees disciplined by the Board; and
- To publicize disciplinary actions of the Board.

#### INVESTIGATIVE POLICIES AND PROCEDURES

#### **General Investigative Procedures Overview**

#### **Philosophy**

It is a legislative mandate and a key part of the mission of the Board to investigate complaints against licensees that involve potential violations of the accountancy law. This includes cases in which the Board is or becomes the complainant.

#### **Policy Statement**

The Board objectively evaluates and investigates all complaints brought against CPAs and PAs licensed in Ohio.

#### **Purpose**

The purpose of investigating complaints against Ohio licensees is to promote the integrity of public accounting services in order that consumers and users of CPA and PA services can rely on the quality and consistency of licensees' work products.

#### **Conflicts of Interest**

Disciplinary advisory committee members and investigative staff are prohibited from working on any case where a direct personal or financial relationship exists between the Board agent and either the complainant or the respondent.

#### **Investigative Lines and Responsibilities**

#### **Accountancy Board of Ohio**

The Board provides policy direction and is kept informed about the enforcement program activities at each Board meeting by the executive director or appropriate designee.

#### **Disciplinary Advisory Committee**

The disciplinary advisory committee provides oversight and direction to the Board staff concerning case investigations.

#### **Executive Director**

The executive director has responsibility for operational functions of the Board and oversees enforcement program activities of the assistant director.

#### **Assistant Director**

The assistant director performs the following investigative duties:

- Assumes direct responsibility for investigative activities including supervision of case development and investigative staff.
- Investigates cases that involve violations of the technical professional standards.
- Provides interim analyses of investigative cases that reach an impasse and makes recommendations concerning continuance or closure.
- Reports on status of investigations and provides summaries of Chapter 119 hearings at each Board meeting.

#### **Legal Counsel**

The assistant attorney general assigned to the Board provides legal assistance to the Board for investigations, settlement conferences, formal hearings, and court appeals.

# **Investigators**

The staff investigators conduct complaint investigations, including field calls if necessary, prepare written reports of findings and recommendations, and review telephone book, Internet, and similar listings for instances of possible unlicensed practice.

#### **Investigator Assistant**

The Board currently does not employ an investigator assistant.

#### **Investigative Reports**

#### Philosophy

The Board is responsible for documenting that a thorough and objective investigation has been conducted.

## **Policy Statement**

A formal written report shall be prepared upon completion of an investigation that does not culminate in a formal Chapter 119 hearing. The report shall contain the investigator's notes concerning the case and any observations regarding possible disposition of the case. The report may contain one or more interim analyses of the case by the assistant director. The investigator who conducted the investigation shall prepare the report. The assistant director will review the report and make a formal recommendation to the executive director concerning case action.

#### **Purpose**

An investigative report is needed to document the investigator's findings and the assistant director's recommendations for subsequent action on the case.

#### **General Guidelines**

The staff investigator shall prepare the investigative report on a timely basis.

- All investigative reports shall be kept on file in the Board office.
- Investigative reports are confidential documents and, within the limits of the law, shall not be released to licensees, complainants, respondents, or the public.

#### **Alternative Dispute Resolution-Informal Settlement Conference**

#### **Philosophy**

Enforcement matters shall be resolved quickly, efficiently, and cost effectively in a manner that is objective and impartial.

#### **Policy Statement**

Alternative dispute resolution in the form of a settlement conference is an additional tool in the enforcement process. The Board strongly endorses the use of mediation, when appropriate, in the enforcement process.

#### Purpose

The settlement conference is a voluntary process whereby the Board and a licensee can attempt to resolve a dispute.

#### **General Guidelines**

- The request for a settlement conference should generally come from the licensee; however, mediation is not a right of the licensee. This conference will be scheduled at the discretion of the executive director, and the executive director shall determine the appropriate point in the enforcement process to schedule the conference.
- All involved parties shall attend the settlement conference. An appropriate
  designee shall represent the Board; this designee may be a member of the
  Disciplinary Advisory Committee, the executive director, assistant director, or
  any/all three. A licensee other than a natural person (e.g., corporate entity) shall
  designate and send a representative who is familiar with the facts and who has the
  authority to act on the licensee's behalf.
- The settlement conference is closed to the public; however, any party to the conference may have the assistance of an attorney or other representative at the

- cost of that party. Other persons may attend only with the consent of the respondent, the executive director, and the complainant.
- The settlement conference is a voluntary process and may be terminated at any time by any party.
- If the settlement conference terminates or ends without a resolution of the matter, the investigation shall proceed as if the conference had not taken place.
- The proceedings of the settlement conference shall be confidential, unless the respondent agrees to a Board consent order in lieu of a formal hearing.

#### **Unlicensed Individuals Investigative Procedures Overview**

#### **Philosophy**

The Board has the responsibility to investigate and take action whenever unlicensed individuals represent themselves to the public as licensees of the Accountancy Board of Ohio.

#### **Policy Statement**

The Board will objectively evaluate complaints brought against unlicensed persons and investigate those cases over which the Board has jurisdiction.

#### **Purpose**

The purpose of investigating complaints against unlicensed persons is to protect consumers against persons not licensed by the Board who hold themselves out to be certified public accountants or public accountants.

#### **CPA Examination Investigative Procedures Overview**

#### **Philosophy**

The Board has the responsibility to investigate and take action whenever a CPA examination candidate violates licensing examination rules and/or engages in conduct during the CPA or IQEX examination that adversely affects the administration of the examination.

#### **Policy Statement**

The Board will objectively evaluate incidents involving potential violations of the CPA examination rules.

#### **Purpose**

The purpose of investigating incidents involving potential violations of the CPA examination rules is to provide assurance that only qualified candidates are licensed.

## **Guidelines-Overview of Handling Examination-Related Investigations**

- CPA Examination Services, using information from the examination administrative staff, will refer identified, potential examination rules violations for investigation.
- The assistant director will receive the referrals and review the referral to determine possible investigative action.
- The assistant director, in conjunction with the executive director, will conduct the investigation and file a written report.
- Examination applicants are invited to initiate settlement discussions at any stage of the enforcement process.

#### **Public Hearings**

#### **Philosophy**

Prior to any Board disciplinary action, allegations against a licensee for violations of the accountancy law or the Board rules should receive careful and objective review.

#### **Policy Statement**

Hearings conducted pursuant to Chapter 119 of the Ohio Revised Code will be held before the Board or a designated hearing officer. Conduct of the hearing shall be in accordance with the procedures outlined in that chapter. The Assistant Attorney General will act as the Board's counsel in these hearings. Notices shall be mailed by certified mail, return receipt requested. When any notice sent by registered mail, as required by sections 119.01 to 119.13 of the Revised Code, is returned because the party fails to claim the notice, the agency shall send the notice by ordinary mail to the party at the party's last known address and shall obtain a certificate of mailing. Refusal of the mail is considered to be delivery and service is considered complete. Service by ordinary mail is complete when the certificate of mailing is obtained unless the notice is returned showing failure of delivery. If the regular mail delivery fails, then the notice must be delivered via personal service by a Board investigator. If the personal service attempt fails, the notice must be published for three consecutive weeks in a manner prescribed by law.

#### **Purpose**

The purpose of the formal hearing is to assure objective and comprehensive review of alleged violations and to provide the licensee an opportunity to present further information prior to potential disciplinary action.

#### Field Calls

#### Philosophy

It is important to conduct a field visitation to confirm a licensee's compliance with the accountancy law relative to either the licensee's firm registration or the monitoring of a Board disciplinary order.

#### **Policy Statement**

The Board will conduct a field call to a licensee's place of business to determine whether or not accountancy law violations have occurred and/or if the licensee is in compliance with a Board disciplinary order.

#### **Purpose**

To allow the Board in its investigation to evaluate a licensee's compliance with the accountancy law and/or evaluate compliance with a Board disciplinary order.

#### **Disclosure of Information**

#### **Philosophy**

Information received while investigating a complaint is confidential.

#### **Policy Statement**

The Board will protect the confidentiality of information within its custody pursuant to Ohio Revised Code sections 149.43 and 4701.29.

#### **Guidelines**

- A copy of the complaint will be provided to the licensee.
- If a Board member receives a subpoena related to any Board matter, the member shall contact the Board office immediately to receive advice and counsel from the Attorney General's office.
- No information from open or closed investigative files shall be released in any form to anyone except as authorized by this policy.
- Except for formal hearings held in accordance with section 119.09 of the Revised Code or appeals of closed cases, agendas, Board meeting notices, or other public documents of the Board and its committees shall identify enforcement matters either by statistical summaries or case numbers.

#### PROCESS FOR HANDLING INVESTIGATIONS

There are seven basic types of cases handled by the Board. The procedures for each type of case follow the description of the case.

## Case category #1: Complaints Initiated by the Public

#### **Step 1: Intake and case file contents**

All incoming complaints from the public are sent to the assistant director. The assistant director reviews the case for Board jurisdiction and assigns the case to an investigator. The assistant director or a designee assigns a complaint number to the case, creates a record in the enforcement database, and forwards the case on to the assigned investigator. If the assistant director determines that the Board does not have jurisdiction over the complaint, the case proceeds to Step 8. Otherwise, the case proceeds to Step 2.

The Board maintains a case file on each complaint. The contents of the case file include the original allegation(s) and supporting material, information received during the course of the investigation, and any interim reports prepared by either the investigator or assistant director. The investigator's notes and synopses of telephone conversations with the parties are also included, along with electronic mail transmissions and facsimile transmissions relating to the complaint. Section 4701.29 of the Ohio Revised Code prohibits the release of a complaint file to anyone without the written permission of the CPA being investigated, as the contents of the file are records of investigative proceedings exempt from the Ohio Public Records Act. The complaint file is available to the CPA being investigated or the CPA's designated representative, usually an attorney. The complainant is informed of each change in the status of the investigation.

#### Step 2: Initial communication from the Board

If cause for action concerning a complaint is found, the assistant director assigns the case to an investigator. The investigator or investigator assistant, as appropriate, will create a case file, and custody of the case file will then rest with the assigned investigator. The assistant director will draft appropriate letters signed by the executive director to be sent by the assigned investigator to the parties, and the respondent will receive a copy of the complaint and any relevant supporting materials sent by the complainant. The executive director will review and sign the letters. The respondent will be given 15 business days, in accordance with rule 4701-11-07 (Board communications), to reply to the allegations in the complaint.

\*

Following is an example of an initial letter sent to a complainant:

We received your complaint dated (xx/xx/xx) against (Respondent) on (Date). Your letter alleges facts that could constitute grounds for the Board to take action under Ohio Revised Code Chapter 4701 or Ohio Administrative Code agency 4701.

We have opened a case file, and the case number is 20xx-xxx. The investigator assigned to this case is (Investigator's name). His (Her) telephone number is (Investigator's telephone), and his (her) e-mail address is: (Investigator's e-mail address)

We will keep you informed of the status of this case as events warrant.

\*

Following is an example of an initial letter sent to a respondent:

We received a complaint from (Complainant) on (Date). The complaint contains the following allegations:

• (List of allegations in the complaint)

These allegations could constitute grounds for the Board to take action under Ohio Revised Code Chapter 4701 or Ohio Administrative Code agency 4701.

A copy of the complaint is enclosed. We have opened a case file, and the case number is 20xx-xxx. The investigator assigned to this case is (Investigator's name). His (Her) telephone number is (Investigator's telephone), and his (her) e-mail address is: (Investigator's e-mail address)

Pursuant to rule 4701-11-07 of the Administrative Code, we hereby request a response from you concerning the allegations made in this complaint within fifteen business days of the date of this letter. We must receive your response no later than (Date of letter plus 15 business days). We will keep you informed of the status of this case as events warrant.

\*

#### **Step 3: Initial response period**

During the initial response period of 15 business days, if the respondent addresses the issues raised in the complaint in a timely manner, then the investigator reviews the case to determine if the response is sufficient to recommend that the complaint be closed, or whether a rebuttal from the complainant is needed. If the investigator determines that the complaint should be closed, the complaint is handled in accordance with step 8. If the investigator determines that an extension of the 15-day response period is warranted, the case proceeds to Step 4. If the investigator determines that a rebuttal is needed, the case proceeds to Step 5.

#### **Step 4: Extended response period**

If the respondent does not address all the issues raised in the complaint in the response, or one or more issues remain unresolved, the investigator, for just cause, may extend the response deadline for a respondent with the concurrence of the assistant director. The extension period shall not exceed 30 days without the concurrence of the assistant director, or 60 days without the concurrence of the executive director.

If the respondent does not respond by the initial deadline or, if applicable, the extension period, the case proceeds to Step 4-2.

#### **Step 4-2: Non-response notice**

The investigator will send, by certified mail, return receipt requested, a non-response notice to a respondent who fails to address the issues in a complaint by the initial response deadline of 15 business days. The respondent will have an additional 15 business days to respond. If the respondent answers within the time period, the case will proceed to Step 5 or it may be closed in accordance with Step 8. Otherwise, the case is transferred directly to Step 11 for a hearing on a violation of Rule 4701-11-07 concerning Board communications.

#### **Step 5: Rebuttal phase**

After the expiration of the initial response period, and if the respondent has answered the complaint in a timely manner, the complainant will be given an opportunity to respond to the respondent, and a new response period will begin. The complainant will receive a copy of the respondent's initial response to the Board and be given an opportunity to comment upon the response within 15 business days. If the complainant fails to respond within 15 business days, or responds to the effect that the issues raised in the complaint have been settled, the investigator may recommend that the case be closed in accordance with Step 8. The case may be held open without transferring to the next step if, in the opinion of the investigator, both sides appear to be working toward a good-faith resolution to the complaint. If the complaint reaches a stage of impasse without any further showing by either party that an agreement will be reached, the investigator will notify the assistant director of this fact. The assistant director may then prepare a case analysis for counsel and recommend transfer of the case to Step 7 for legal review.

#### **Step 5-2: Dormant cases**

If a case that is not in litigation has been dormant for 30 days, defined as no activity by either the complainant or respondent of which the Board is aware, the investigator will write a report concerning the investigation and forward it to the assistant director. The assistant director will review the investigation report and the case file and provide additional commentary, if applicable. The executive director, assistant director, and assistant attorney general (if applicable) will review the investigation report, commentary (if applicable), and case file, and discuss possible Board actions. If sufficient cause is found during the review of the case file, a decision may be made concerning a dormant case to send it back to investigations for another 30 days, with another report due at the end of the new 30-day period. If no cause can be found for keeping the case open, a recommendation will be issued to close the case in accordance with Step 8.

#### **Step 6: Settlement conference**

If the case is still unresolved after Step 5, and the case is amenable to settlement, the Board may request the parties to schedule a settlement conference. The complainant and his/her attorney, if applicable, and the CPA and his/her attorney, if applicable, attend the conference. The purpose of the conference is to permit open discussion of the allegations. At the conference, Board representatives (including the executive director, assistant director, or both, and the assigned investigator) hear from the complainant and his/her legal representative, if applicable. Following the presentation of the complainant, Board representatives hear from the respondent and his or her legal representative, if applicable. Board representatives may ask questions of both sides in order to ascertain the credibility of the participants in the conference and the validity of the complaint. No cross-examination is allowed by either side in this process in order to facilitate the informal nature of the conference. Attorneys are not allowed to turn the conference into a discovery process for litigation or administrative hearing purposes. Based on the presentations, the Board representatives offer a settlement agreement to the respondent, which may include disciplinary action against the respondent. Acceptance of the settlement agreement by the respondent closes the case and eliminates the need for a formal hearing. The terms of the settlement agreement are drafted into a consent order that is signed by the respondent, and the consent order becomes final when the Board approves it at its next scheduled meeting. The complainant and respondent have 30 days to schedule a settlement conference. If a settlement conference is unsuccessful or refused by the parties, the case proceeds to step 7.

#### **Step 7: Legal review**

If the case is still unresolved after Step 5, if neither side invokes Step 6, and if the evidence from the investigation shows that a probable violation has occurred, including a violation of the Board communications rule, the assistant director will notify the executive director of the investigator's findings. The executive director will schedule a case review conference with the assistant attorney general and assistant director present. If the executive director and assistant attorney general concur that action should be taken, the case will be scheduled for a formal R.C. 119.09 hearing in accordance with step 10. If the assistant attorney general concludes that insufficient evidence exists for a hearing, the case will be closed in accordance with step 8.

#### **Step 8: Closing a case**

The investigator outlines the reasons for closing the case and submits the recommendation to the assistant director for review. The assistant director states the reasons for this conclusion and forwards a recommendation for closing the case within five business days to the executive director. The executive director will review the recommendation and decide to either close the case or refer it back to investigation. If the case is closed, the assistant director will draft appropriate letters for the executive director's signature and the parties will be notified of this action. If the executive director

remands the case for further study, the executive director will state the reasons for the remand and action will be taken on the recommendation to keep the case open.

\*

Following is an example of a letter from the executive director to a complainant closing a case:

Re: Case number: 20xx-xxx

Respondent: (Name of respondent)

The Accountancy Board of Ohio has completed its investigation in the above-referenced matter. (List reason(s) why case was closed). Therefore, it is inappropriate for further action on the complaint to be taken by this agency, and the file has been closed.

You may, however, request that the Board review my determination to close this case. Such a request must be in writing and must be received within 15 business days of the date of this letter. If such a request is filed, the Board shall conduct this review at its next regularly scheduled meeting, but not sooner than 15 business days after the request is filed. At the meeting, the Board will conduct a review of the case file. If, after review, the Board determines that reasonable and substantial evidence of a violation does exist, it will remand this matter for a formal hearing. If it does not, the file will remain closed.

If you have any questions, please call (Assistant Director's name) at (Assistant Director's telephone), or you may e-mail him at the following address: (Assistant Director's e-mail address)

\*

Following is an example of a letter from the executive director to a respondent closing a case:

Re: Case number: 20xx-xxx

Complainant: (Name of complainant)

The Accountancy Board of Ohio has completed its investigation in the above-referenced matter. This investigation did not disclose reasonable and substantial evidence of a violation of Chapter 4701 of the Ohio Revised Code. Therefore, it is inappropriate for further action on the complaint to be taken by this agency, and the file has been closed.

The complainant may, however, request that the Board review my determination to close this case. Such a request must be in writing and must be received within 15 business days of the date of this letter. If such a request is filed, the Board shall conduct this review at its next regularly scheduled meeting, but not sooner than 15 business days after the request is filed. At the meeting, the Board will conduct a review of the case file. If, after review, the Board determines that reasonable and substantial evidence of a violation does exist, it will remand this matter for a formal hearing. If it does not, the file will remain closed.

If you have any questions, please call (Assistant Director's name) at (Assistant Director's telephone), or you may e-mail him at the following address: (Assistant Director's e-mail address)

\*

#### Step 9: Appeal

The complainant has 15 business days from the date of the close letter to appeal the executive director's decision to close the case. The assigned investigator will retain the case file until the expiration of the appeal period. If the appeal period expires with no appeal, the investigator will transfer the case file to archives. If the complainant appeals the decision to close the case, the investigator will transfer the case file to the assistant director and the appeal will be scheduled before the Board at its next regularly scheduled meeting. The Board, after review of the case file in executive session, may either uphold the executive director's decision to close the case or remand the case to a formal hearing.

#### Step 10: Formal hearing notice

The assistant director, in consultation with the executive director, will draft a formal letter outlining the charges for the executive director's signature. Both the complainant and respondent are informed by certified mail, return receipt requested, of the date, time, and place of the hearing.

\*

Following is a sample hearing letter arising from an investigation:

(Introductory paragraph describing specific facts and issues in the case.)

Division 4701.16(A)(x) of the Revised Code states that, after notice and hearing, the Board may take disciplinary action against a certified public accountant (public accounting firm) for (Describe relevant statute and rules).

Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, my telephone number is (Executive Director's telephone), and my email address is: (Executive Director's e-mail address)

\*

#### Step 11: Review of hearing case files by legal counsel

Prior to the Board meeting, the executive director and assistant director meet with the assistant attorney general to review the case files associated with the upcoming hearings and discuss legal strategy.

# Step 12: Formal disciplinary hearing (at least 10 business days after final hearing status is determined)

After the expiration of the 30-day notice period, the Board will hold a hearing concerning the violations alleged in the complaint. The Board may take appropriate action at the hearing, including the revocation of a licensee's CPA certificate.

#### Step 13: (1-5 business days after Board hearing) Board adjudication order

Board orders specifying the results of the action taken at the disciplinary hearing will be mailed by certified mail, return receipt requested, within five business days after the Board meeting, including notice of discipline, a cease and desist order, if applicable, and a deadline for compliance with the cease and desist order 30 days from the date of the order; otherwise, charges may be filed by the Board with the local prosecutor citing the respondent's violation of section 4701.14 (unlawful practice). The respondent has 15 days from the mailing date of the adjudication order to appeal the Board's decision to the Franklin County Court of Common Pleas.

# Step 14 (Optional): Field call to determine compliance with Board adjudication order

If the Board order includes a cease and desist order, Board investigators will make a field call to the respondent after the expiration of the 30-day period specified in the cease and desist order to determine compliance with the order.

#### Step 15 (Optional): Legal action

Any respondent not in compliance with the Board's order who is found by the investigator's field call to be still practicing public accounting is referred to the appropriate local prosecutor or police department and appropriate charges are filed. The complaint cites the respondent for a violation of section 4701.14 (unlawful practice).

# <u>Case Category #2: Complaints Initiated by the Board-Unlicensed</u> Practice and Unlawful Advertising

#### Step 1: Intake

The assistant director forwards all news clippings to the investigator assistant within two business days of receipt. Each investigator is responsible for periodic review of the telephone books relevant to that investigator's assigned geographical area.

#### **Step 2: Initial review**

The investigator assistant makes the initial review of newspaper clippings, and the investigators make the initial review of telephone book listings. The reviews will normally commence within two business days of receipt of either the telephone book or the newspaper clipping. If the investigator or investigator assistant finds an instance of unlawful practice in a telephone book or newspaper clipping, a case file is opened and the information is forwarded to the assistant director. The executive director and assistant director consult on the correspondence to be sent by the investigator or investigator assistant to the licensee or unlicensed person, because there is already evidence that a violation of the accountancy law may have occurred.

# Step 3: Initial communication from the Board

The assistant director will draft an appropriate letter to be sent by the investigator to the respondent. The letter will be reviewed and signed by the executive director. Normally, the letter shall contain a copy of the advertisement or newspaper article and a request that the licensee remove the inappropriate telephone book listing or clarify the newspaper article. The respondent will be given 15 business days to reply to the allegations in the complaint per rule 4701-11-07 (Board communications).

\*

Following are sample letters to persons found to be in violation of the unlawful practice provisions of the accountancy law:

#### Newspaper clipping: CPA whose Ohio permit expired

We are in receipt of a newspaper article in the (Date) issue of the (Name of newspaper), identifying you as a certified public accountant. A copy of the clipping is enclosed. According to the records of the Accountancy Board of Ohio, your Ohio permit to practice public accounting expired on (Date), and you are not currently licensed as a Certified Public Accountant in Ohio.

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," or hold yourself out to the public as such by using the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio.

Therefore, you must provide to the Board a written explanation that includes the steps you will take to correct this situation and comply with the accountancy law. We must receive your response by (date of letter + 15 business days). If we do not receive a response by that date, we will take appropriate steps to enforce the statute, which may include disciplinary action against your CPA certificate.

If you have any questions, please contact (Investigator Assistant's name) at (Investigator Assistant's telephone). Her (His) e-mail address is: (Investigator Assistant's e-mail address)

## Newspaper clipping: CPA holding Ohio registration

We are in receipt of a newspaper article in the (Date) issue of the (Name of newspaper), identifying you as a certified public accountant. A copy of the clipping is enclosed. According to the records of the Accountancy Board of Ohio, you hold an Ohio registration, and you are not permitted to use the designation "certified public accountant" or "CPA" without the word "Inactive"

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," or hold yourself out to the public as such by using the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio.

Therefore, you must provide to the Board a written explanation that includes the steps you will take to correct this situation and comply with the accountancy law. We must receive your response by (date of letter + 15 business days). If we do not receive a response by that date, we will take appropriate steps to enforce the statute, which may include disciplinary action against your CPA certificate.

If you have any questions, please contact (Investigator Assistant's name) at (Investigator Assistant's telephone). Her (His) e-mail address is: (Investigator Assistant's e-mail address)

#### Newspaper clipping: Unlicensed person

We are in receipt of a newspaper article in the (Date) issue of the (Name of newspaper), identifying you as a certified public accountant. A copy of the clipping is enclosed. According to the records of the Accountancy Board of Ohio, you are not now, nor have you ever been a Certified Public Accountant in Ohio.

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," or hold yourself out to the public as such by using the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio. If you are a certified public accountant in another state, your CPA certificate must be in good standing in that state and the article should have listed the name of the state in which you are licensed.

Therefore, you must provide to the Board a written explanation that includes the steps you will take to correct this situation and comply with the accountancy law. We must receive your response by (date of letter + 15 business days). If we do not receive a response by that date, we will take steps to enforce the statute, which may include filing charges against you with the appropriate local prosecutor for the unlawful practice of public accounting.

If you have any questions, please contact (Investigator Assistant's name) at (Investigator Assistant's telephone). Her (His) e-mail address is: (Investigator Assistant's e-mail address)

## Telephone book listing: CPA whose Ohio permit expired

We have reviewed your business listing in the (name of city) yellow pages. The listing for "(exact wording of listing)" appears under the heading "Accountants-Certified Public." According to the records of the Accountancy Board of Ohio, your Ohio permit to practice public accounting expired on (Date), and you are not currently licensed as a Certified Public Accountant in Ohio.

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," or hold yourself out to the public as such by using the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio.

Therefore, you must provide a written explanation to the Board indicating the steps you will take in order to comply with the accountancy law, which includes being properly registered with the Board as a public accounting firm. We must receive a response by (date of letter + 15 business days). If we do not receive a response by that date, we will take appropriate steps to enforce the statute, which may include disciplinary action against your CPA certificate.

If you have any questions, please contact (Investigator's name) at (Investigator's telephone). His (Her) e-mail address is: (Investigator's e-mail address)

## Telephone book listing: CPA holding Ohio registration

We have reviewed your business listing in the (name of city) yellow pages. The listing for "(exact wording of listing)" appears under the heading "Accountants-Certified Public." According to the records of the Accountancy Board of Ohio, you hold an Ohio registration, and you are not permitted to use the designation "certified public accountant" or "CPA" without the word "Inactive."

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," or hold yourself out to the public as such by using the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio.

Therefore, you must provide a written explanation to the Board indicating the steps you will take in order to comply with the accountancy law, which includes being properly registered with the Board as a public accounting firm. We must receive a response by (date of letter + 15 business days). If we do not receive a response by that date, we will take appropriate steps to enforce the statute, which may include disciplinary action against your CPA certificate.

If you have any questions, please contact (Investigator's name) at (Investigator's telephone). His (Her) e-mail address is: (Investigator's e-mail address)

#### Telephone book listing: Unlicensed person

We have reviewed your business listing in the (name of city) yellow pages. The listing for "(exact wording of listing)" appears under the heading "Accountants-Certified Public." According to the records of the Accountancy Board of Ohio, you are not now, nor have you ever been a Certified Public Accountant in Ohio.

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," or hold yourself out to the public as such by using the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio.

Therefore, you must provide a written explanation to the Board indicating the steps you will take in order to comply with the accountancy law, which includes being properly registered with the Board as a public accounting firm. We must receive a response by (date of letter + 15 business days). If we do not receive a response by that date, we will take appropriate steps to enforce the statute. These steps may include filing charges against you with the appropriate local prosecutor for the unlawful practice of public accounting.

If you have any questions, please contact (Investigator's name) at (Investigator's telephone). His (Her) e-mail address is: (Investigator's e-mail address)

These are the most common letters. Similar letters are used if the Board discovers a sign, business card, résumé, or similar device with the CPA designation that is in violation of the unlawful practice section of the accountancy law.

\*

#### **Step 4: Initial response period**

During the initial response period of 15 business days, if the respondent addresses the issues raised in the complaint in a timely manner, then the assigned investigator or investigator assistant reviews the case to determine if the complaint should be closed. If the assigned investigator or investigator assistant determines that the complaint should be closed, the case proceeds to Step 7. If the respondent does not address the issues raised in the complaint by the deadline or issues remain unresolved, the case proceeds to Step 5.

#### Step 5: Field call

After the expiration of the response period, if the complaint has not been resolved, the assigned investigator will make a field call to the respondent's place of business. If the complaint reaches this stage, the assistant director assigns a case number to the case naming the Accountancy Board as the complainant and creates a record in the enforcement database. Photographs will be taken to document any violation of the accountancy law. Upon return to the office, the investigator will document the case file with the appropriate evidence. If the evidence from the field call shows that a probable violation has occurred, the case proceeds to Step 6. If the evidence from the field call shows that a probable violation has not occurred, the investigator will recommend to the

assistant director possible further action including closing the case in accordance with Step 7.

#### Step 6: Cease and desist letter

If the results of the field call indicate a probable violation of the accountancy law, a letter will be sent to the individual concerning the results of the field call and possible prosecutor action. The individual will have 15 business days to correct the situation by taking down signs, etc.

\*

Following is a sample cease and desist letter for unlicensed individuals:

According to the records of the Accountancy Board of Ohio, (describe situation that resulted in the complaint). A Board investigator visited your place of business on (Date) and noted that your firm name, in conjunction with the designation of certified public accountant or "CPA" was listed on (Locations of signs). We have photographic evidence of the investigator's visit.

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," hold yourself out to the public as such, or to use the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio.

The Board therefore orders you and your firm to cease and desist further use of the designation "certified public accountant, or to hold yourself out to be permitted to practice public accounting in Ohio, as you are not properly licensed. The use of any sign, letterhead, business card, directory listing, or other promotional material that in any way portrays you as an Ohio CPA is prohibited. We need written conformation of your intent to comply with this order, including a statement that you will change relevant signs, business cards, etc. to remove the reference to "certified public accountant" or "CPA" within 30 days. If we do not receive a response by (Date of letter plus 30 days), we will begin disciplinary proceedings against your firm in accordance with Chapter 119 of the Revised Code.

If you have any questions, please call (Investigator's name) at (Investigator's telephone), or you may e-mail him (her) at the following address: (Investigator's e-mail address)

\*

Following is a sample cease and desist letter for unlicensed individuals who were formerly licensed by the Board:

The Board has found that you are using the designation "certified public accountant" or "CPA," and that our records indicate you have failed to renew your Ohio permit and pay the appropriate renewal fee to the Board. The renewal deadline was (Date). A Board investigator visited your place of business on (Date) and noted that your firm name, in conjunction with the designation of certified public accountant or "CPA" was listed on (Locations of signs). We have photographic evidence of the investigator's visit.

**Optional paragraph:** Section 4701.04 of the Ohio Revised Code requires any firm holding out as a CPA firm to register with the Board. Our records indicate that you do not hold a current firm

registration. You must register your firm, and your individual license must be in good standing before your firm can be registered.

Ohio Revised Code section 4701.14 makes it a criminal violation to assume or use the title or designation of "certified public accountant," "CPA," hold yourself out to the public as such, or to use the title or designation on a business card, stationery, or in the conduct of a business unless properly licensed to do so by the Accountancy Board of Ohio.

The Board therefore orders you and your firm to cease and desist further use of the designation "certified public accountant, or to hold yourself out to be permitted to practice public accounting in Ohio, as you are not properly licensed. The use of any sign, letterhead, business card, directory listing, or other promotional material that in any way portrays you as an Ohio CPA is prohibited. We need written conformation of your intent to comply with this order, including a statement that you will change relevant signs, business cards, etc. to remove the reference to "certified public accountant" or "CPA" within 30 days. If we do not receive a response by (Date of letter plus 30 days), we will begin disciplinary proceedings against your firm in accordance with Chapter 119 of the Revised Code.

If you have any questions, please call (Investigator's name) at (Investigator's telephone), or you may e-mail him (her) at the following address: (Investigator's e-mail address)

\*

#### **Step 7: Closing a case**

After determining that a complaint should be closed, the assigned investigator or investigator assistant outlines the reasons for closing the case and submits the recommendation to the assistant director for review. The assistant director reviews the report of the assigned investigator or investigator assistant and forwards a recommendation for closing the case within two business days to the executive director. The executive director will review the recommendation and decide to either close the case or refer it back to investigation. If the case is closed, the assistant director will draft appropriate letters for the executive director's signature and the respondent will be notified of this action. If the executive director remands the case for further study, then action will be taken on the recommendation and the case will remain open.

**Note:** The close case letter in this case is identical to the close case letter to the respondent for a complaint in Category #1. Since the Accountancy Board of Ohio is the complainant in all such cases, there is no need for a separate close case letter to the complainant.

#### **Step 8-1: Filing charges with prosecutor (for unlicensed individuals)**

After the expiration of the 30-day period specified in the cease and desist notice, if the respondent does not comply with the terms of the cease and desist letter and inform the Board of this fact, the case file will be reviewed by the assistant director and executive director in consultation with the assistant attorney general, if applicable. If warranted, a brief will be prepared for filing with the appropriate local prosecutor or police department. Before the charges are filed, the investigator will visit the respondent's place

of business to determine if a violation still exists and take appropriate photographs. If the firm has complied with the Board's requirements, then no charges will be filed. Otherwise, the investigator will contact the appropriate local prosecutor or police department and file charges against the respondent for a violation of Ohio Revised Code section 4701.14 regarding unlawful practice.

#### **Step 8-2: Formal hearing notice (for formerly licensed CPAs)**

The assistant director, in consultation with the executive director, will draft a formal letter outlining the charges for the executive director's signature. The respondent is notified by certified mail, return receipt requested, of an opportunity to request a hearing.

\*

Following is a sample hearing letter arising from an investigation:

Division 4701.16(A)(9) of the Revised Code states that, after notice and hearing, the Board may take disciplinary action against a certified public accountant for failure to obtain an Ohio permit as required by the accountancy law. (Describe efforts to resolve case, including results of field call.) Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, my telephone number is (Executive Director's telephone), and my email address is: (Executive Director's e-mail address)

\*

# Step 8-2-1: Formal disciplinary hearing (at least 10 business days after final hearing status is determined)

After the expiration of the 30-day notice period, the Board will hold a hearing concerning the violations alleged in the complaint. The Board may take appropriate action at this hearing, including the revocation of a licensee's CPA certificate.

# Step 8-2-2: (1-5 business days after Board hearing) Board adjudication order

A Board order specifying the results of the action taken at the disciplinary hearing will be mailed to the respondent by certified mail, return receipt requested, within five business days after the hearing date, including a notice of discipline, a cease and desist order, if applicable, and a deadline for compliance with the cease and desist order 30 days from the date of the order; otherwise, charges may be filed by the Board with the appropriate local prosecutor or police department citing the respondent's violation of section 4701.14 (unlawful practice).

# Step 7-2-3 (Optional): Field call to determine compliance with Board adjudication order

If the Board order includes a cease and desist order, a Board investigator will make a field call to the respondent's place of business after the expiration of the 30-day period specified in the cease and desist order to determine compliance with the order.

## Step 7-2-4 (Optional): Legal action

Any respondent not in compliance with the Board's order who is found by the investigator's field call to be still practicing public accounting is referred to the appropriate local prosecutor or police department and charges are filed. The complaint cites the respondent with a violation of section 4701.14 (unlawful practice).

# <u>Case Category #3: Complaints Initiated by the Board: Attest Firm</u> Failure to Comply with Firm Registration Requirements

#### Step 1 (August 1-10): Renewal notices-Notice #1

Renewal forms are mailed to all attest firms specifying the renewal deadline of October 31. Attest firms are subject to peer review, and these firms must submit evidence of a completed peer review accepted by the OSCPA Peer Review Acceptance Committee in addition to the firm registration fee, list of firm owners/employees/non CPA owners, and statutory compliance notices.

#### Step 2 (October 31): Renewal deadline

The deadline for firm registration is October 31 for attest firms. After that date, firms will be assessed a late fee as follows:

- Firms with 1-4 CPAs: \$150 until January 31; \$300 thereafter
- Firms with 5-9 CPAs: \$360 until January 31; \$720 thereafter
- Firms with 10+ CPAs: \$900 until January 31; \$1,800 thereafter

## Step 3 (November 1-January 31): Statutory noncompliance period

The OSCPA Peer Review Acceptance Committee continues to meet during this time and holds regular meetings in November, December, and January. No disciplinary action will be taken during this 90-day period against public accounting firms that meet the following criteria:

- The public accounting firm has already posted its peer review materials on the AICPA facilitated state board access website.
- The public accounting firm has completed its peer review and is awaiting technical review and/or approval by the OSCPA Peer Review Acceptance Committee.

However, the late fee specified in Step 2 will be added to the regular firm registration fee. The deadline for submission of firm registration materials will be January 31 for these firms. The remaining firms will be handled in accordance with Step 4.

#### Step 4 (November 1-5): Initial review

Cases are initiated as a group by the Board as a result of the failure of attest firms to fulfill the firm registration requirements. These cases do not need individual review, nor are they entered into the complaint database immediately, since they involve compliance issues and there may be many such cases. After the expiration of the firm registration deadline, the executive director and assistant director review the correspondence to be sent all licensees in the affected group, because there is already evidence that a violation of the accountancy law has occurred. An analytical review of these cases to determine Board jurisdiction is not required due to the previous determination of a statutory violation.

#### Step 5 (November 5-20): Cease and desist letters-Notice #2

The assistant director will draft cease and desist letters to be sent by certified mail, return receipt requested, to the attest firms in the Step 4 group. The respondent firm will be given 15 business days to register with the Board and comply with the accountancy law; otherwise, the Board will commence disciplinary action.

\*

Following is a sample cease and desist letter for a public accounting firm that performs attest work:

Our records indicate that your public accounting firm has failed to renew its firm registration and pay the appropriate renewal fee. The registration deadline was October 31, 20xx. Your firm may continue to practice public accounting only if you submit proof of having completed an acceptable peer review prior to November 1, 20xx, not previously used to register your firm. You must submit this proof within fifteen business days of the date of this letter; however, the registration process is not totally complete until this office receives a copy of your peer review final acceptance letter and the appropriate fee (including late fees).

If you don't have proof of completing a peer review before November 1, 20xx, your firm is hereby ordered to immediately cease and desist further use of the designation "certified public accountant," and providing all public accounting services that you perform, as your firm is not properly licensed. The performance of any attest services, use of any sign, letterhead, business card, directory listing, or other promotional material that in any way portrays your firm as an Ohio CPA firm is prohibited. A Board investigator will be sent shortly to determine your firm's compliance with this order.

Your firm must totally resolve its registration status and be in good standing with the Accountancy Board of Ohio no later than February 1, 20xx, or the board may take disciplinary action against your firm registration and the CPA certificates of the firm's owners.

If you have any questions, please call the Board office at (614) 466-4315, or send an email to me at: (Executive Director's e-mail address)

\*

# Step 6 (1-22 days after mailing of cease and desist letter): Cease and desist response period

During the initial response period of 15 business days, if the firm complies with the requirements of the cease and desist letter in a timely manner, including the submission of required peer review materials and applicable firm registration fees, then the firm registration secretary reviews the file to determine if the public accounting firm should be registered. If the firm registration secretary determines that the public accounting firm should be registered, the firm is registered in accordance with step 6-2. If the firm does not address the issues raised in the cease and desist letter by the deadline or issues remain unresolved, the case proceeds to Step 7.

#### **Step 6-2: Compliance with firm registration requirements**

During the response period, the firm registration secretary submits a list all firms that were properly registered to the assistant director for review. The assistant director reviews the list and forwards it to the executive director. After the firm is registered, it ceases to be part of any disciplinary list.

## Step 7 (December 1-10): Field calls

After the expiration of the deadline specified in the cease and desist notice, the investigators will make field calls to the firms that have not responded to the cease and desist letter. The investigators will determine if the firm is holding out as a public accounting firm after the compliance deadline and collect the appropriate photographic evidence.

#### **Step 8 (February-March): Formal hearing notices-Notice #3**

After the field visits by the Board investigators, if any firm has not yet registered with the Board, a formal hearing notice will be sent by certified mail, return receipt requested, to any firm still not in compliance. The notice will state that, as a result of the noncompliance, the Board may take action against both the firm's registration and the individual licenses of the firm owners. The firm must contact the Board within 30 days of the date of the hearing notice and request a hearing on the matter.

\*

Following is a sample hearing notice for an attest firm with one owner, indicating possible action against both the firm's registration and the CPA certificate of the firm's owner:

Our records indicate that your firm's registration expired October 31, 20xx. On November xx, 20xx, the Board sent your firm a cease and desist letter by certified mail, ordering your firm to stop practicing public accounting until you were properly licensed and setting forth a deadline of (deadline on cease and desist letter) to renew your firm registration. This letter was delivered to your firm and signed on (certified mail receipt signing date). We have photographic evidence, based upon a subsequent visit by a Board investigator to your office, that your firm was still practicing public accounting in Ohio after the deadline specified in the cease and desist letter.

Division 4701.16(A)(11) of the Revised Code states that, after notice and hearing, the Accountancy Board of Ohio ("Board") may take disciplinary action against a public accounting firm for failure to comply with the firm registration requirements in section 4701.04 of the Revised Code. In addition, division 4701.16(A)(9) states that, after notice and hearing, the Board may take disciplinary action against the individual CPA certificate of a certified public accountant for the firm's failure to comply with the firm registration requirements.

This serves as notice that the Board intends to pursue disciplinary action against your firm's registration and your individual CPA certificate. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The

hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone number). My e-mail address is: (Executive Director's e-mail address)

\*

Following is a sample hearing notice for an attest firm with multiple owners, indicating possible action against the firm's registration (the notice is sent to the chief executive officer of the firm):

Our records indicate that your firm's registration expired October 31, 20xx. On November xx, 20xx, the Board sent your firm a cease and desist letter by certified mail, ordering your firm to stop practicing public accounting until you were properly licensed and setting forth a deadline of (deadline on cease and desist letter) to renew your firm registration. This letter was delivered to your firm and signed on (certified mail receipt signing date). We have photographic evidence, based upon a subsequent visit by a Board investigator to your office, that your firm was still practicing public accounting in Ohio after the deadline specified in the cease and desist letter.

Division 4701.16(A)(11) of the Revised Code states that, after notice and hearing, the Accountancy Board of Ohio ("Board") may take disciplinary action against a public accounting firm for failure to comply with the firm registration requirements in section 4701.04 of the Revised Code.

This serves as notice that the Board intends to pursue disciplinary action against your firm's registration. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone). My e-mail address is: (Executive Director's e-mail address)

\*

Following is a sample hearing notice for an attest firm with multiple owners, indicating possible action against the firm's owners (a separate notice is sent to each owner):

Our records indicate that your firm's registration expired October 31, 20xx. On November xx, 20xx, the Board sent your firm a cease and desist letter by certified mail, ordering your firm to stop practicing public accounting until you were properly licensed and setting forth a deadline of (deadline on cease and desist letter) to renew your firm registration. This letter was delivered to your firm and signed on (certified mail receipt signing date). We have photographic evidence, based upon a subsequent visit by a Board investigator to your office, that your firm was still practicing public accounting in Ohio after the deadline specified in the cease and desist letter.

Division 4701.16(A)(11) states that, after notice and hearing, the Board may take disciplinary action against the individual CPA certificate of a certified public accountant for his or her firm's failure to comply with the firm registration requirements.

This serves as notice that the Board intends to pursue disciplinary action against your individual CPA certificate. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone). My e-mail address is: (Executive Director's e-mail address)

\*

# Step 10: Formal disciplinary hearings (at least 10 days after final hearing status is determined)

After the expiration of the 30-day notice period, hearings will be held for firms that are still not in compliance with the accountancy law. The Board may take appropriate action at these hearings, including the revocation of a firm's registration and the revocation of the CPA certificates of the firm's owners.

# Step 11 (1-5 business days after Board hearing): Board adjudication order and cease and desist order-Notice #4

Board orders specifying the results of the action taken at the disciplinary hearings will be mailed by certified mail, return receipt requested, within five business days after the Board meeting, including notice of discipline, a cease and desist order, and a deadline for compliance with the cease and desist order 30 days from the date of the order, otherwise; charges will be filed by the Board with the local prosecutor citing the firm's violation of section 4701.14 (unlawful practice).

# Step 12 (March-generally the same date as Step 13): Second field calls to attest firms receiving Board adjudication orders

After the expiration of the 30-day period specified in the cease and desist order, Board investigators will make field calls to these firms to determine compliance with the cease and desist order, and to determine whether some firms that are not in compliance are actually out of business.

## Step 13 (March-generally same date as Step 12): Legal action

Firms not in compliance found by the investigator's field calls to be still practicing public accounting are referred to the appropriate local prosecutor and appropriate charges are filed. The complaint cites the firm for a violation of section 4701.14 (unlawful practice).

# Case Category #4: Complaints Initiated by the Board: Non-attest Firm Failure to Comply with Firm Registration Requirements

#### Step 1 (May 1-10): Renewal notices-Notice #1

Renewal forms are mailed to all non-attest firms specifying the renewal deadline of July 31. Non-attest firms are not subject to peer review. These firms perform services that are not restricted to CPAs, but advertise as CPA firms to the general public. These firms must submit the firm registration fee, the list of firm owners/employees/non CPA owners, and the required statutory compliance notices.

#### Step 2 (July 31): Renewal deadline

The deadline for firm registration is July 31 for non-attest firms. After that date, firms will be assessed a late fee as follows:

- Firms with 1-4 CPAs: \$150 until January 31; \$300 thereafter
- Firms with 5-9 CPAs: \$360 until January 31; \$720 thereafter
- Firms with 10+ CPAs: \$900 until January 31; \$1,800 thereafter

#### Step 3 (August 1-15): Initial review

Cases are initiated as a group by the Board as a result of the failure of non-attest firms to fulfill the firm registration requirements. These cases do not need individual review, nor are they entered into the complaint database immediately, since they involve compliance issues and there may be many such cases. After the expiration of the late fee deadline, the executive director and assistant director review the correspondence to be sent all licensees in the affected group, because there is already evidence that a violation of the accountancy law has occurred. An analytical review of these cases to determine Board jurisdiction is not required due to the previous determination of a statutory violation.

# Step 4 (August 15-September 15): Field calls to non-attest firms (Some field calls may be made prior to these dates)

Since cause for action against the public accounting firms not in compliance has been determined, the assistant director assigns each non-attest firm to an investigator based upon their geographic area. Since the basis for registration of non-attest firms is that they advertise as CPA firms, field calls must be made to each such firm that is still not in compliance at the expiration of the renewal deadline. The investigators will take appropriate photographs of the firms' addresses on record with the Board. Each firm for which the investigator finds no evidence of advertising as a CPA firm is placed "out of business." The remaining firms are moved to step 5.

## Step 5 (October 1-10): Cease and desist letters-Notice #2

The assistant director will draft cease and desist letters to be sent by certified mail, return receipt requested, to the non-attest firms advertising as CPA firms. The respondent firm

will be given 15 business days to register with the Board and comply with the accountancy law; otherwise, the Board may commence disciplinary action.

\*

Following is a sample cease and desist letter for a non-attest public accounting firm:

Our records indicate that your firm has failed to renew its firm registration and pay the appropriate renewal fee. The registration deadline was July 31, 20xx. Division 4701.04(A) of the Ohio Revised Code states: "No public accounting firm shall engage in the practice of public accounting in this state unless it registers with the accountancy board and pays a registration fee set by the board." On (date), a Board investigator visited your place of business and determined that your firm is practicing public accounting in Ohio. Since your firm is no longer registered, you are hereby ordered to cease and desist further use of the designation "certified public accountant, or to advertise your firm as being permitted to practice public accounting in Ohio, as your firm is not properly licensed. The use of any sign, letterhead, business card, directory listing, or other promotional material that in any way portrays your firm as an Ohio CPA firm is prohibited.

We need written conformation of your intent to comply with this order, including a statement that you will change relevant signs, business cards, etc. to remove the reference to "certified public accountant" or "CPA" by (date of letter plus 15 business days).

If you have not renewed your firm registration by (date of letter plus 15 business days), including payment of the appropriate late filing fee of \$xxx.00, we will begin disciplinary proceedings against your firm and the CPA certificates of the firm's owners in accordance with Chapter 119 of the Revised Code.

If you have any questions, please call me at (Executive Director's telephone). My e-mail address is: (Executive Director's e-mail address)

\*

# Step 6 (1-22 days after mailing of cease and desist letter): Cease and desist response period

During the response period, if the firm complies with the requirements of the cease and desist letter in a timely manner, then the assistant director in consultation with the executive director reviews the case to determine if the public accounting firm should be registered. If it is determined that the firm should be registered, the firm is registered in accordance with step 6-2. If the firm does not address the issues raised in the cease and desist letter by the deadline, the case proceeds to step 7.

#### **Step 6-2: Compliance with firm registration requirements**

During the response period, the firm registration secretary submits a list of all firms that were properly registered during that period to the assistant director for review. The assistant director reviews the list and forwards it to the executive director for approval. After the firm is registered, it ceases to be part of any disciplinary list.

#### Step 7 (November 5-15): Formal hearing notice -Notice #3

After the completion of the cease and desist compliance period in Step 6-2, the investigative staff prepares a list of non-attest firms that were determined to be advertising as CPA firms as a result of the field calls in Step 4. Formal hearing notices will be sent by certified mail, return receipt requested, to the firms that are still not in compliance. Non-attest firms, in order to comply with the law, do not actually need to cease any professional work. They may come into compliance by ceasing to advertise as CPA firms (taking down signs, etc.). The hearing notices will state that, as a result of the noncompliance, the Board may take action against both the firm's registration and the individual CPA certificates of the firm owners. The firm must contact the Board within 30 days of the date of the hearing notice and request a hearing on the matter.

\*

Following is a sample hearing notice for a non-attest firm with one owner, indicating possible action against both the firm's registration and the CPA certificate of the firm's owner:

Our records indicate that your firm's registration expired July 31, 20xx. On October xx, 20xx, the Board sent your firm a cease and desist letter by certified mail, ordering your firm to stop practicing public accounting until you were properly licensed and setting forth a deadline of (deadline on cease and desist letter) to renew your firm registration. This letter was delivered to your firm and signed on (certified mail receipt signing date). We have photographic evidence, based upon a subsequent visit by a Board investigator to your office, that your firm was still practicing public accounting in Ohio after the deadline specified in the cease and desist letter.

Division 4701.16(A)(11) of the Revised Code states that, after notice and hearing, the Accountancy Board of Ohio ("Board") may take disciplinary action against a public accounting firm for failure to comply with the firm registration requirements in section 4701.04 of the Revised Code. In addition, division 4701.16(A)(9) states that, after notice and hearing, the Board may take disciplinary action against the individual CPA certificate of a certified public accountant for the firm's failure to comply with the firm registration requirements.

This serves as notice that the Board intends to pursue disciplinary action against your firm's registration and your individual CPA certificate. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone number). My e-mail address is: (Executive Director's e-mail address)

\*

Following is a sample hearing notice for a non-attest firm with multiple owners, indicating possible action against the firm's registration (a letter is sent to the chief executive officer of the firm):

Our records indicate that your firm's registration expired July 31, 20xx. On October xx, 20xx, the Board sent your firm a cease and desist letter by certified mail, ordering your firm to stop practicing public accounting until you were properly licensed and setting forth a deadline of (deadline on cease and desist letter) to renew your firm registration. This letter was delivered to your firm and signed on (certified mail receipt signing date). We have photographic evidence, based upon a subsequent visit by a Board investigator to your office, that your firm was still practicing public accounting in Ohio after the deadline specified in the cease and desist letter.

Division 4701.16(A)(11) of the Revised Code states that, after notice and hearing, the Accountancy Board of Ohio ("Board") may take disciplinary action against a public accounting firm for failure to comply with the firm registration requirements in section 4701.04 of the Revised Code.

This serves as notice that the Board intends to pursue disciplinary action against your firm's registration. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone). My e-mail address is: (Executive Director's e-mail address)

\*

Following is a sample hearing notice for a non-attest firm with multiple owners, indicating possible action against the firm's owners (a separate letter is sent to each owner):

Our records indicate that your firm's registration expired July 31, 20xx. On October xx, 20xx, the Board sent your firm a cease and desist letter by certified mail, ordering your firm to stop practicing public accounting until you were properly licensed and setting forth a deadline of (deadline on cease and desist letter) to renew your firm registration. This letter was delivered to your firm and signed on (certified mail receipt signing date). We have photographic evidence, based upon a subsequent visit by a Board investigator to your office, that your firm was still practicing public accounting in Ohio after the deadline specified in the cease and desist letter.

Division 4701.16(A)(9) states that, after notice and hearing, the Board may take disciplinary action against the individual CPA certificate of a certified public accountant for his or her firm's failure to comply with the firm registration requirements.

This serves as notice that the Board intends to pursue disciplinary action against your individual CPA certificate. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions

in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone). My e-mail address is: (Executive Director's e-mail address)

\*

# Step 8: Formal disciplinary hearings (at least 10 business days after final hearing status is determined)

After the expiration of the 30-day period, hearings will be held for firms that are still not in compliance with the accountancy law. The Board may take appropriate action at these hearings, including the revocation of a firm's registration and the revocation of the CPA certificates of the firm's owners.

# Step 9 (1-5 business days after Board hearing): Board adjudication order and cease and desist order-Notice #3

Board orders specifying the results of the action taken at the disciplinary hearings will be mailed by certified mail, return receipt requested, within five business days after the Board meeting, including notice of discipline, a cease and desist order, and a deadline for compliance with the cease and desist order 30 days from the date of the order, otherwise; charges will be filed by the Board with the appropriate local prosecutor or police department citing the firm's violation of section 4701.14 (unlawful practice).

# Step 10 (March-generally the same date as Step 11): Field calls to non-attest firms not in compliance

After the expiration of the 30-day period specified in the cease and desist order, Board investigators will make field calls to these firms to determine compliance with the cease and desist order, and to determine whether some firms that are not in compliance are actually out of business.

## Step 11 (March-generally same date as Step 10): Legal action

Firms not in compliance found by the investigator's field calls to be still practicing public accounting are referred to the appropriate local prosecutor or police department and appropriate charges are filed. The complaint cites the firm for a violation of section 4701.14 (unlawful practice).

# Case Category #5: Complaints Initiated by Board-Attest Firm Failure to Comply with Qualified Peer Review Report ("Subject To") Requirements

# Step 1 (no earlier than January 31): Statutory noncompliance deadline

Cases are initiated as a group by the Board office as a result of the expiration of a deadline for compliance with further peer review requirements mandated by the OSCPA Peer Review Acceptance Committee. These cases do not need individual review, nor are they entered into the complaint database immediately, since they involve compliance issues and there may be many such cases. All cases that proceed to hearings are entered into the database. The deadline for each firm to complete qualified opinion requirements depends upon the remedial action and date of completion mandated by the OSCPA Peer Review Acceptance Committee. Most firms would have a deadline for completion of the requirements later than January 31, so these firms will not be mailed any notices until after the expiration of the compliance deadline specified in the firm's peer review report.

# Step 2 (no earlier than March 1-10): Reminder notice-Notice #1

After the expiration of the requirements deadline, the firm is sent a letter from the Board requesting that the firm submit its final peer review acceptance letter, signed by the chairman of the peer review acceptance committee. The firm has 30 days to send in the final letter. No disciplinary action will be taken against those firms during this period.

# **Step 2-2: Compliance with firm registration requirements**

During the initial reminder period of 30 days, the firm registration division submits a list all firms that complied with the "subject to" requirements and were properly registered to the assistant director for review. The assistant director reviews the list and forwards it to the executive director. After the firm is registered, it ceases to be part of any disciplinary list.

# Step 3 (30+ days after reminder notice): Warning letter-Notice #2

After the expiration of the 30-day reminder period, a warning letter is sent by certified mail, return receipt requested, to the remaining firms not in compliance, stating that if the requirements are not completed within an additional 30 days, disciplinary action will be taken against the firm.

\*

Following is an example of a warning letter:

On (date), the Board mailed your firm a letter requesting that you submit completion of the requirements necessary for a final peer review acceptance letter. We have not heard from you since that time. Our records indicate that your firm needed to fulfill the following requirements by (deadline specified in original peer review acceptance letter + 30 days):

#### • (List requirements)

Your firm registration was issued on a provisional basis, subject to your compliance with the above requirements. The accountancy law states that, after notice and hearing, the Board may take disciplinary action against both a public accounting firm and the CPA certificates of the firm's owners for the firm's failure to comply with the requirements listed above.

If we do not receive proof of your compliance with the requirements set forth by the peer review acceptance committee, as documented by a final acceptance letter signed by the chairman of that committee, by (30 days from the date of the letter), we will commence disciplinary action against both your firm and the individual CPA certificates of the firm's owners.

If you have any questions, please contact (Firm Registration secretary) at (Firm registration secretary's telephone). The e-mail address is: (Firm Registration secretary's e-mail address)

\*

# **Step 3-2: Compliance with firm registration requirements**

During the warning period of 30 days, the firm registration division submits a list all firms that complied with the additional peer review requirements and were properly registered to the assistant director for review. The assistant director reviews the list and forwards it to the executive director. After the firm is registered, it ceases to be part of any disciplinary list.

# Step 4 (30+ days after warning letter sent): Formal hearing notice-Notice #3

After the expiration of the compliance period specified in the warning letter, formal hearing notices will be sent by certified mail, return receipt requested, to the firms still not in compliance. The notices will state that, as a result of the noncompliance, the Board may take action against both the firm's registration and the individual licenses of the firm owners. The firm must contact the Board within 30 days of the date of the hearing notice and request a hearing on the matter.

\*

Following is a sample hearing notice for an attest firm with one owner, indicating possible action against both the firm's registration and the CPA certificates of the firm's owner:

Our records indicate that your firm's registration, which expires (Date), was issued subject to the completion of requirements mandated by the peer review acceptance committee as a condition for its acceptance of a qualified peer review report. Your firm was mailed a reminder notice on (Date), and a warning letter on (Date). We still have not received notification that your firm has complied with the requirements necessary to obtain a final acceptance letter from the peer review acceptance committee.

Division 4701.16(A)(11) of the Revised Code states that, after notice and hearing, the Accountancy Board of Ohio ("Board") may take disciplinary action against a public accounting firm for failure to comply with the firm registration requirements in section 4701.04 of the

Revised Code. In addition, division 4701.16(A)(9) states that, after notice and hearing, the Board may take disciplinary action against the individual CPA certificate of a certified public accountant for the firm's failure to comply with the firm registration requirements.

This serves as notice that the Board intends to pursue disciplinary action against your firm's registration and your individual CPA certificate. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone number). My e-mail address is: (Executive Director's e-mail address)

\*

Following is a sample hearing notice for an attest firm with multiple owners, indicating possible action against the firm's registration (a letter is sent to the chief executive officer of the firm):

Our records indicate that your firm's registration, which expires (Date), was issued subject to the completion of requirements mandated by the peer review acceptance committee as a condition for its acceptance of a qualified peer review report. Your firm was mailed a reminder notice on (Date), and a warning letter on (Date). We still have not received notification that your firm has complied with the requirements necessary to obtain a final acceptance letter from the peer review acceptance committee.

Division 4701.16(A)(11) of the Revised Code states that, after notice and hearing, the Accountancy Board of Ohio ("Board") may take disciplinary action against a public accounting firm for failure to comply with the firm registration requirements in section 4701.04 of the Revised Code. In addition, division 4701.16(A)(9) states that, after notice and hearing, the Board may take disciplinary action against the individual CPA certificate of a certified public accountant for the firm's failure to comply with the firm registration requirements.

This serves as notice that the Board intends to pursue disciplinary action against your firm's registration. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone). My e-mail address is: (Executive Director's e-mail address)

\*

Following is a sample hearing notice for an attest firm with multiple owners, indicating possible action against the firm's owners (a separate letter is sent to each owner):

Our records indicate that your firm's registration, which expires (Date), was issued subject to the completion of requirements mandated by the peer review acceptance committee as a condition for its acceptance of a qualified peer review report. Your firm was mailed a reminder notice on (Date), and a warning letter on (Date). We still have not received notification that your firm has complied with the requirements necessary to obtain a final acceptance letter from the peer review acceptance committee.

Division 4701.16(A)(11) of the Revised Code states that, after notice and hearing, the Accountancy Board of Ohio ("Board") may take disciplinary action against a public accounting firm for failure to comply with the firm registration requirements in section 4701.04 of the Revised Code. In addition, division 4701.16(A)(9) states that, after notice and hearing, the Board may take disciplinary action against the individual CPA certificate of a certified public accountant for the firm's failure to comply with the firm registration requirements.

This serves as notice that the Board intends to pursue disciplinary action against your CPA certificate. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. If you do not request a hearing within 30 days, the Board may hold a hearing in your absence. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, please call me at (Executive Director's telephone). My e-mail address is: (Executive Director's e-mail address)

\*

# Step 5: Formal disciplinary hearing (at least 10 business days after final hearing status is determined)

After the expiration of the 30-day period, hearings will be held for firms that are still not in compliance with the accountancy law. The Board may take appropriate action at these hearings, including the revocation of a firm's registration and the revocation of the CPA certificates of the firm's owners.

# Step 6 (1-5 business days after Board hearing): Board adjudication order and cease and desist order-Notice #4

Board adjudication orders specifying the results of the action taken at the disciplinary hearings will be mailed by certified mail, return receipt requested, within five business days after the Board meeting, including notice of discipline, a cease and desist order, and a deadline for compliance with the cease and desist order 30 days from the date of the order, otherwise; charges will be filed by the Board with the appropriate local prosecutor or police department citing the firm's violation of section 4701.14 (unlawful practice).

# Step 7 (30+ days after expiration of the cease and desist order-generally the same date as Step 8): Field calls to attest firms not in compliance

After the expiration of the 30-day period specified in the cease and desist order, Board investigators will make field calls to these firms to determine compliance with the cease and desist order, and to determine whether some firms that are not in compliance are actually out of business.

# Step 8 (30+ days after expiration of the cease and desist order-generally same date as Step 7): Legal action

Firms not in compliance found by the investigator's field calls to be still practicing public accounting are referred to the appropriate local prosecutor and appropriate charges are filed. The complaint cites the firm for a violation of section 4701.14 (unlawful practice).

# <u>Case Category #6: Complaints Initiated by Board-Individual CPA</u> <u>Failure to Comply with Licensing Requirements</u>

# Step 1 (May 1-10): Renewal reminder notice-Notice #1

Renewal reminder notices are mailed approximately five months prior to the beginning of the regular renewal period, with a recommendation that licensees update addresses with the Board. The notice states the date renewal commences and includes information about electronic license renewal via the Board website.

# Step 2 (October 1-10): Renewal notice-Notice #2

Renewal notices for individual CPAs and PAs are mailed in early October. The notice mentions late filing fees for renewals filed after December 31, as well as CPE verification required of all licensees who renew late.

# Step 3 (December 31): Statutory noncompliance deadline

The deadline for renewal of the Ohio permit and Ohio registration is December 31. Cases initiated as a group by the Board office as a result of failure to fulfill individual license renewal requirements are created due to the expiration of a deadline for compliance with the accountancy law. These cases do not need individual review, nor are they entered into the complaint database immediately, since they involve compliance issues and there may be many such cases.

# Step 4 (See schedules): Progressive late filing fees

The accountancy law provides for late fees of \$100 per month for licensees who are practicing public accounting and thus required to obtain an Ohio permit, up to a maximum of 12 months (\$1,200). The late filing fee for all other licensees is \$50 per month, up to a maximum of six months (\$300). Unless there is a complaint filed with the Board against a licensee, evidence of unlicensed practice, or other cause for further action, the late filing fee is considered by the Board to be sufficient penalty for noncompliance.

Late f	iling fee sched	ule for	licensees requ	ired to	hold the Ohio	permit
	January	\$100	May	\$500	September	\$900
	February	\$200	June	\$600	October	\$1,000
	March	\$300	July	\$700	November	\$1,100
	April	\$400	August	\$800	December	\$1,200
Late filing fee schedule for licensees not required to hold the Ohio permit						
Late fili	ng fee schedul	e for li	censees not req	luired t	to hold the Ohi	io permit
Late fili	<b>ng fee schedul</b> January	e for lie \$50	censees not rec May	uired 1 \$250	to hold the Ohi September	io permit \$300
Late fili	O			• .		-
Late fili	January	\$50	May	\$250	September	\$300

# Step 5 (January 1 one year after license renewal deadline): Administrative suspension

After the expiration of 12 months, each licensee who is one year late in renewing the license is placed in administrative suspension. This suspension is mandated by section 4701.10 of the Ohio Revised Code. The suspension remains in effect until all late filing fees are paid. Further disciplinary action is not taken against these individuals unless there are other violations, such as a violation of the firm registration provisions (4701.04) or unlawful practice (4701.14) as a result of a complaint, telephone book check, news clipping, etc. If this is the case, the Board may file a complaint against a licensee determined by a Board investigation to be using the CPA designation in violation of section 4701.14 of the accountancy law (unlawful practice). Such cases are then treated as Category #2 cases (unlicensed practice), and appropriate case files are opened in accordance with those policies.

# Case Category #7: Complaints Initiated by Board-Failure of Individual CPA to Comply with Continuing Education Verification Requirements

# Step 1-1 (October-December): License renewal and continuing education reporting

The initial continuing education reporting occurs during the Ohio permit renewal process, and consists of an affidavit to the effect that the licensee completed the 120 credits required for renewal of the permit. The continuing education reporting period begins on January 1 and ends on December 31 three years later. Licensees who hold the Ohio registration are not subject to the continuing education requirements.

# **Step 1-2 (January): Continuing education verification sample selection-Notice #1**

A sample of licensees who renewed the Ohio permit in a timely manner is required to submit documentation of 120 credits of continuing education credit, earned during the preceding three-year reporting period). Currently, licensees are selected via a 25 per cent random sample.

# Step 2 (January and later): Inclusion of late renewing licensees in continuing education verification-Notice #1

All licensees who renew the Ohio permit after December 31 are required to submit to the Board documentation of 120 hours of continuing education credit, earned during the preceding three-year reporting period (normally November 1 through October 31 three years later). This group, plus the sample collected in Step 1-2, comprises the total number of licensees subject to continuing education verification.

# Step 3 (March): Deadline for submitting continuing education documentation

The deadline for submitting continuing education documentation is normally near the end of March. The licensee's complete list of continuing education credit, plus the documentation for each course on the list, should be postmarked by that date or submitted to the Board via email on that date.

# Step 4 (if applicable): Late completion of the continuing education verification requirements

Each licensee who completes continuing education late is required to pay the late filing fee associated with the month in which the licensee completed the latest continuing education program fulfilling the renewal requirement.

This step also includes special cases in which an extension of time is granted to fulfill the continuing education verification requirements. All requests for an extension of time to complete the requirements must be approved by the executive director.

# Step 5 (Early May): Cease and desist letters-Notice #2

The assistant director will draft cease and desist letters to be sent by certified mail, return receipt requested, to licensees in public accounting practice who have not complied with the continuing education verification. The respondent firm will be given 30 days from the date of the cease and desist notice to comply with the accountancy law; otherwise, the Board may commence disciplinary action.

Licensees who are not in compliance with the continuing education requirements, and who are not employed in public accounting, must obtain the Ohio registration.

\*

Following is a sample cease and desist letter for continuing education verification:

Our records indicate that you were selected for and have not complied with the Board's continuing education verification process. Rule 4701-15-12 of the Ohio Administrative Code requires that the Board conduct a verification of continuing professional education. On (date), the Board sent notification that you were selected for this year's verification and you were informed that the deadline for compliance was (date). We still have not heard from you concerning this matter.

The Board hereby orders you to cease and desist further use of the designation "Certified Public Accountant" or to in any way hold yourself out to be permitted to practice as a "Certified Public Accountant" in the state of Ohio. The use of any sign, letterhead, business card, directory listing, or other promotional material that in any way portrays you as an Ohio CPA is prohibited.

If we do not receive your CPE report and documentation prior to (date of letter plus 15 business days), the Board will take disciplinary action against your CPA certificate in accordance with Chapter 119 of the Revised Code.

If you have any questions, please call (Assistant Director) at (Assistant Director's telephone). My e-mail address is: (Assistant Director's e-mail address)

\*

# Step 5 (10 business days after cease and desist notice deadline for response-see chart): Formal hearing notices-Notice #3

If the licensee has still not complied with the continuing education verification process, the Board will send by certified mail, return receipt requested, a hearing notice to the CPA, charging the CPA with a violation of section 4701.16(A)(1), fraud or deceit in obtaining an Ohio permit, and 4701.16(A)(4), violation of a Board rule of professional conduct. Rules 4701-11-07 (Board communications) and 4701-15-12 (CPE verification) are applicable.

Hearing notices may also be sent to licensees who, by their own admission, fail to comply with the continuing education verification requirements despite renewing the Ohio permit and specifying 120 nor more completed continuing education credits at the time of license renewal.

\*

Following is a sample hearing notice regarding a CPA's failure to comply with the continuing education verification process:

On (date), the Board mailed you a final notice that you were selected for this year's continuing education verification. We still have not heard from you, and we have evidence that you received our final compliance notice.

Division 4701.16(A)(4) of the Revised Code states that, after notice and hearing, the Board may take disciplinary action against a certified public accountant for a violation of a rule of professional conduct promulgated by the board under the authority granted by the accountancy law. Rule 4701-11-07 (Board communications) and 4701-15-12 (CPE verification) apply in your case. Division 4701.16(A)(1) of the Revised Code states that, after notice and hearing, the Board may take disciplinary action against a certified public accountant for fraud or deceit in obtaining an Ohio permit. Pursuant to section 119.07 of the Revised Code, you are entitled to request a hearing before the Board within 30 days of the date of this notice. The hearing will be conducted in accordance with section 119.09 of the Revised Code. You may appear in person at the hearing and be represented by an attorney, and you may present your position, arguments, or contentions in writing before the hearing. At the hearing, you may present evidence and examine witnesses appearing for or against you.

If you have any questions, my telephone number is (Executive Director's telephone), and my email address is: (Executive Director's e-mail address)

\*

# Step 6 (July): Disciplinary hearings (at least 10 business days after final hearing status is determined)

After the expiration of the 30-day period, hearings will be held for CPAs that are still not in compliance with the accountancy law. The Board may take appropriate action at these hearings, including the revocation of the respondent's CPA certificate.

# Step 6-1 (If appropriate conditions exist): Cancellation of Board hearing based upon compliance with the Board's continuing education verification process.

In order to minimize the number of hearings for noncompliance with the continuing education requirements, the Board has authorized the executive director to cancel disciplinary hearings for continuing education verification upon presentation of acceptable documentation and payment of applicable late fees.

# Step 7 (1-5 business days after Board hearing): Adjudication order-Notice #4

Board orders specifying the results of the action taken at the disciplinary hearings will be mailed by certified mail, return receipt requested, within five business days after the Board meeting, including notice of discipline. Further disciplinary action is not taken against these individuals unless there are other violations, such as a violation of the firm registration provisions (4701.04) or unlawful practice (4701.14) as a result of a

complaint, telephone book check, news clipping, etc. If this is the case, the Board may file a complaint against a licensee determined by a subsequent Board investigation to be using the CPA designation in violation of section 4701.14 of the accountancy law (unlawful practice). Such cases are then treated as Category #2 cases (unlicensed practice), and appropriate case files are opened in accordance with those policies.

# MODEL DISCIPLINARY SITUATIONS

# **Guidelines for Discipline**

### Philosophy

The Accountancy Board of Ohio may impose discipline to revoke, suspend, or refuse to renew a license or certificate for violation of rules and regulations or statutes of the accountancy law. The Board will consider the disciplinary guidelines and model disciplinary orders listed in this manual in reaching a decision on the disciplinary action under the Administrative Procedure Act.

# **Policy Statement**

It is the Board's objective to impose fair and consistent discipline against licensees who violate the accountancy law.

#### **Purpose**

The guidelines provide model disciplinary orders and recommend penalties and conditions of probation for specific statutes and regulations violated, as well as aggravating and mitigating circumstances that may necessitate deviation from the recommended discipline.

# General rules of operation

- The disciplinary guidelines are to be used by Board members, Board staff, and others involved in the disciplinary process.
- The Board shall refer to the disciplinary guidelines when considering stipulated settlements.
- The Board may exercise discretion in recommending penalties, including conditions of probation, as warranted by aggravating and mitigating circumstances.
- The disciplinary guidelines shall be reviewed by the Attorney General's office.

# COMPLIANCE-FAILURE TO RENEW LICENSE/UNLAWFUL PRACTICE

# 1. Failure to Renew Firm Registration-Attest firms

# **Applicable Law**

Statute(s): 4701.04, 4701.16(A)(11), 4701.16(A)(9)

Rule(s): Chapter 4701-13

(Applies to respondent who practices for a time without renewing license and subsequently renews or to respondent who continues to practice without a license.)

#### **Board Action**

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing. Revocation applies to firm registration and individual CPA certificates of firm owners.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

Renewal deadline without late fee (renewal fee \$30): October 31

November 1-January 31: Late fee (Late fees: \$150 for firms with 1-4 CPAs; \$360 for

firms with 5-9 CPAs; \$900 for firms with 10+ CPAs)

After January 31: Late fee (Late fees: \$300 for firms with 1-4 CPAs; \$720 for firms with

5-9 CPAs; \$1,800 for firms with 10+ CPAs)

# Follow-up

- Investigative field calls to firms whose firm registrations were revoked to determine if firm is practicing without a license.
- Investigative file completed that includes photos and past history leading to revocation.
- Charges filed with local prosecutors under 4701.14(C).

# 2. Failure to Renew Firm Registration-Non-attest firms

# **Applicable Law**

Statute(s): 4701.04, 4701.16(A)(11), 4701.16(A)(9)

Rule(s): Chapter 4701-13

(Applies to respondent who practices for a time without renewing license and subsequently renews or to respondent who continues to practice without a license.)

#### **Board Action**

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing. Revocation applies to firm registration and individual CPA certificates of firm owners.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

Renewal deadline without late fee (renewal fee \$30): October 31

August 1-January 31: Late fee (Late fees: \$150 for firms with 1-4 CPAs; \$360 for firms with 5-9 CPAs; \$900 for firms with 10+ CPAs)

After January 31: Late fee (Late fees: \$300 for firms with 1-4 CPAs; \$720 for firms with 5-9 CPAs; \$1,800 for firms with 10+ CPAs)

#### Follow-up

- Investigative field calls to firms whose firm registrations were revoked to determine if firm is practicing without a license.
- Investigative file completed that includes photos and past history leading to revocation.
- Charges filed with local prosecutors under 4701.14(C).

#### 3. Failure to Renew Individual CPA License within One Year

#### **Applicable Law**

Statute(s): 4701.10(F), 4701.16(A)(9)

Rule(s): NA

#### **Board Action**

Minimum Penalty – CPA Certificate placed in administrative suspension until all late filing fees are paid.

Maximum Penalty – Applicable only if additional violation is found.

# 4. Unlawful Practice-Former Public Accounting Firm

#### **Applicable Law**

Statute(s): 4701.14(C)

Rule(s): NA

(Applies to respondent whose CPA certificate and firm registration have been revoked and who continues to practice without a license.)

#### **Board Action**

File charges against respondent with appropriate local prosecutor or police department.

#### 5. Unlawful Practice-Suspended Certified Public Accountant

# **Applicable Law**

Statute(s): 4701.14(A)

Rule(s): NA

(Applies to respondent who has not renewed the Ohio permit or Ohio registration for at least one year, who is suspended pursuant to section 4701.10, and continues to practice without a license.)

#### **Board Action**

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing. Revocation applies to firm registration and individual CPA certificates of firm owners. Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# Follow-up

- Investigative field calls to individuals found to be in violation to determine if individual is practicing without a license.
- Investigative file completed that includes photos and past history leading to revocation.
- Charges filed with local prosecutors under 4701.14(C).

# 6. Unlawful Practice-Unlicensed Individual or Firm

### **Applicable Law**

Statute(s): 4701.14(A)

Rule(s): NA

(Applies to respondent who was never licensed by the Board, and who assumes or uses the title certified public accountant, CPA, public accountant, or PA.)

#### **Board Action**

File charges against respondent with appropriate local prosecutor or police department.

# 7. Unlawful Practice-Failure to Obtain a Firm Registration

# **Applicable Law**

Statute(s): 4701.04(A)

Rule(s): NA

(Applies to respondent who has never obtained a firm registration pursuant to section 4701.04, and who is practicing public accounting without a license.)

#### **Board Action**

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing. Revocation applies to firm registration and individual CPA certificates of firm owners.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# Follow-up

- Investigative field calls to individuals found to be in violation to determine if individual is practicing without a license.
- Investigative file completed that includes photos and past history leading to revocation.
- Charges filed with local prosecutors under 4701.14(C).

# 8. Unlawful Practice-Failure to Obtain an Ohio Permit

# **Applicable Law**

Statute(s): 4701.14(A)

Rule(s): NA

(Applies to respondent who is holding out to the public as a CPA, but who does not hold an Ohio permit.)

#### **Board Action**

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing. Revocation applies to firm registration and individual CPA certificates of firm owners.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

#### Follow-up

- Investigative field calls to individuals found to be in violation to determine if individual is practicing without a license.
- Investigative file completed that includes photos and past history leading to revocation.
- Charges filed with local prosecutors under 4701.14(C).

# COMPLIANCE-ADMINISTRATIVE VIOLATIONS

### 9. Failure to Meet Requirements for Ownership of a Public Accounting Firm

### **Applicable Law**

Statute(s): 4701.04 Rule(s): 4701-13

(Applies to the owner(s) in a public accounting firm who practice(s) for a time without

the proper license [Section 4701.04].)

#### **Board Action**

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing. Revocation applies to firm registration and individual CPA certificates of firm owners.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 10. Failure to Meet Non-licensee Ownership Requirements by a Public Accounting Firm

#### Applicable Law

Statute(s): 4701.04

Rule(s): 4701-11-10, 4701-15-13

(Applies to firm with one or more non-licensee owners who are in violation of the ethics, continuing education, or other requirements for such a person to be an owner of a public accounting firm.)

#### **Board Action**

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing. Revocation applies to firm registration and individual CPA certificates of firm owners.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

#### 11. Continuing Education Verification Violation

#### **Applicable Law**

Statute(s): 4701.16(A)(1) Rule(s): 4701-15-12

(Applies to respondent who has failed to submit complete documentation of continuing education claimed at the time of license renewal.)

#### **Board Action**

Minimum Penalty - Correction of violation; Assessment of late fee applicable to the date the licensee completes the continuing education requirement; Administrative Fine [7]-\$500 minimum if the licensee complies with the cease and desist order, \$2,000 if the licensee does not comply with the cease and desist order, plus Professional Standards and Responsibilities course [8]. The Board may assess an additional fine based upon the number of continuing education credits the respondent lacks-minimum fine \$10 for each credit the licensee is short of the required amount. Maximum Penalty - Revocation of CPA certificate, particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 12. Willful Violation of a Rule or Regulation Promulgated by the Board

### Applicable Law

Statute(s): 4701.16(A)(4)

Rule(s): Various

Minimum/Maximum Penalty - See specific statute or regulation violated for recommended penalty.

# 13. Certified Public Accountant Examination Irregularities

# **Applicable Law**

Statute(s): 4701.16(A)(4)

Rule(s): 4701-5-05

(Applies primarily to suspected cheating and related irregularities concerning the CPA

examination.)

#### **Board Action**

Minimum Penalty - Probationary conditions on initial license (if not yet licensed) or revocation, stayed with conditions (if already licensed); Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Denial of admission to examination or revocation of CPA certificate/license if issued.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

# 14. Failure to Notify Board of Change of Address

# **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-11-07

#### **Board Action**

Minimum Penalty – Professional Standards and Responsibilities course [8]. Maximum Penalty – Administrative Fine [7]: \$500 minimum.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

# 15. Failure to Respond to Board Communication

#### **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-11-07

Minimum Penalty - Administrative Fine [7]: Normally \$500 if licensee complies with cease and desist order, \$2,000 if licensee does not comply with cease and desist order, plus Professional Standards and Responsibilities Course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 16. Certification of Applicant's Experience by an Unlicensed CPA

# **Applicable Law**

Statute(s): 4701.16(A)(10)

Rule(s): 4701-7-01

#### **Board Action**

Minimum Penalty - Correction of Violation; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 17. Failure to Obtain Professional Liability Insurance

#### **Applicable Law**

Statute(s): 4701.04, 4701.16(A)(11)

Rule(s): 4701-13-01

(Applies to respondent who fails to maintain the required professional liability insurance necessary for registration as a public accounting firm.)

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Minimum Penalty - Correction of Violation; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 18. Failure to Comply with Board Disciplinary Order

# Applicable Law

Statute(s): 4701.16(A)(10)

Rule(s): NA

#### **Board Action**

Minimum Penalty - Compliance with Board Order; Administrative Fine-minimum \$500, plus Professional Standards and Responsibilities course [8] if not already completed. Maximum Penalty - Revocation stayed [5] until completion of all penalties. Penalty assumed to be minimum unless aggravating circumstances are applicable.

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

Failure to comply with a final order in a citation may result in another hearing, possibly resulting in revocation of CPA certificate/firm registration/license(s).

# 19. Failure of a Public Accounting Firm to Inform the Board of an Adverse or Second Modified Peer Review Report

#### **Applicable Law**

Statute(s): 4701.16(A)(11)

Rule(s): 4701-13-11

Minimum Penalty - Compliance with Board Order; Administrative Fine-minimum \$2,500, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation of firm registration.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# ETHICAL VIOLATIONS

### **20. Retention of Client Records**

# **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-11-06

(Applies to respondent who has failed to return client documents within 30 days of a

written request.)

#### **Board Action**

Minimum Penalty - Reprimand [6]; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], conditions imposed for cancellation of revocation order.

Additional penalty if warranted:

Continuing education courses [9].

#### 21. Commissions

# **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-11-04

(Applies to respondent who receives illegal commissions or fails to disclose legal

commissions to clients)

#### **Board Action**

Minimum Penalty - Correction of Violation; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# **22. Contingent Fees**

# **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-11-03

(Applies to respondent who receives illegal contingent fees or fails to disclose legal

contingent fees to clients)

#### **Board Action**

Minimum Penalty - Correction of Violation; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 23. Report Not Conforming to Professional Standards

# **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-9 series

#### **Board Action**

Minimum Penalty - Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 24. Substandard Peer Review Report

#### **Applicable Law**

Statute(s): 4701.16(A)(11), 4701.16(A)(4), 4701.04(H)

Rule(s): 4701-9 series

### **Board Action**

Minimum Penalty - Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 25. Unauthorized Disclosure of Confidential Information

# **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-11-02

#### **Board Action**

Minimum Penalty - Reprimand [6]; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation stayed [5].

Penalty assumed to be minimum unless aggravating circumstances are applicable.

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 26. Conflict of Interest

# **Applicable Law**

Statute(s): 4701.16(A)(4)

Rule(s): 4701-9-01

(Applies to civil judgments against CPAs in which a key component of the case was

conflict of interest.)

#### **Board Action**

Minimum Penalty - Reprimand [6]; Administrative fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 27. Failure to Comply with Professional Standards

#### **Applicable Law**

Statute(s): 4701.16(A)(4)

Rule(s): 4701-9

#### **Board Action**

Minimum Penalty - Administrative fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be the maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

### 28. Independence

# **Applicable Law**

Statute(s): 4701.16(A)(4) Rule(s): 4701-11-01

(Applies to licensee who violates the independence rules as set forth by the Securities and Exchange Commission, the Independence Standards Board, and the American Institute of Certified Public Accountants.)

#### **Board Action**

Minimum Penalty - Correction of Violation; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

#### 29. Unlawful Advertising

#### **Applicable Law**

Statute(s): 4701.16(A)(10) Rule(s): 4701-11-09

(Applies to licensee who violates the provisions of the consumer and deceptive trade practices acts and who advertises in an inherently misleading manner, or to civil judgments in which a key component of the case was unlawful advertising.)

#### **Penalties**

Minimum Penalty - Correction of Violation; Administrative Fine [7]-\$500 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1], particularly if licensee fails to attend hearing.

Penalty assumed to be minimum unless aggravating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# LEGAL VIOLATIONS

# 30. Conviction of any Crime Substantially Related to the Qualifications, Functions, and Duties of a CPA / PA (involving dishonesty or fraud)

# **Applicable Law**

Statute(s): 4701.16(A)(6)

Rule(s): NA

# Board action as a result of felony convictions or several misdemeanor convictions

Minimum Penalty - Revocation stayed [5]; Administrative fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable. Former licensee cannot reapply until after completion of all court-ordered conditions including post-release sanctions and/or restitution, if applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

#### Board action as a result of a single misdemeanor conviction

In the case of a single misdemeanor violation, tailor probation to circumstances, adjusting the required conditions accordingly and choosing appropriate warranted conditions from the above list.

# 31. Fraud or Deceit in Obtaining Certificate / Permit / Registration (Also applicable to falsification of continuing education reports)

#### **Applicable Law**

Statute(s): 4701.16(A)(1)

Rule(s): NA

#### **Board Action**

Minimum Penalty - Revocation stayed [5]. Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8].

Maximum Penalty - Revocation or application denied [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following condition may be imposed for cancellation of revocation order.

Continuing education courses [9].

# 32. Dishonesty, Fraud or Gross Negligence in the Practice of Public Accounting

#### Applicable Law

Statute(s): 4701.16(A)(2)

Rule(s): NA

#### **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 33. Cancellation, Revocation, or Suspension of CPA certificate by any other State or **Foreign Country**

#### Applicable Law

Statute(s): 4701.16(A)(7)

Rule(s): NA

#### **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 34. Conviction of a Felony

# **Applicable Law**

Statute(s): 4701.16(A)(5)

Rule(s): NA

#### **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 35. Suspension or Revocation of the Right to Practice before any Governmental Body or Agency

# **Applicable Law**

Statute(s): 4701.16(A)(8)

Rule(s): NA

(Applies generally to licensees suspended from the right to practice before the Securities and Exchange Commission or Internal Revenue Service, but may apply to other state or federal agencies.)

#### **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 36. Fiscal Dishonesty or Breach of Fiduciary Responsibility of any kind

# **Applicable Law**

Statute(s): 4701.16(A)(4), 4701.16(A)(10)

Rule(s): 4701-9-01, 4701-9-02

(Applies to civil judgments against CPAs in which a key component of the case was

fiscal dishonesty or breach of fiduciary duty.)

#### **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 37. Knowing Preparation, Publication, or Dissemination of False, Fraudulent, or Materially Misleading Financial Statements, Reports, or Information

# **Applicable Law**

Statute(s): 4701.16(A)(4), 4701.16(A)(10)

Rule(s): 4701-9-01, 4701-9-02

(Applies to civil judgments against CPAs in which a key component of the case was the CPA's knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.)

#### **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 38. Embezzlement, Theft, Misappropriation of Funds or Property, or Obtaining Money, Property or other Valuable Consideration by Fraudulent Means or False Pretenses

#### **Applicable Law**

Statute(s): 4701.16(A)(4), 4701.16(A)(10)

Rule(s): 4701-9-01, 4701-9-02

(Applies to civil judgments against CPAs in which a key component of the case was embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.)

# **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# 39. Conduct discreditable to the public accounting profession or to the holder of an Ohio permit, Ohio registration, or firm registration

# **Applicable Law**

Statute(s): 4701.16(A)(10)

(Applies to cases involving one or more violations not previously classified.)

# **Board Action**

Minimum Penalty - Revocation stayed [5]; Administrative Fine [7]-\$1,000 minimum, plus Professional Standards and Responsibilities course [8]. Maximum Penalty - Revocation [1].

Penalty assumed to be maximum unless mitigating circumstances are applicable.

Conditions if maximum penalty is not invoked:

If revocation stayed [5], the following conditions may be imposed for cancellation of revocation order.

Continuing education courses [9]. Accelerated peer review [10].

# MODEL DISCPLINARY ORDERS

# **Action against License**

# 0. Cease and Desist Order and Requirements for Compliance

Section 4701.99 makes it a criminal offense to use the designation "certified public accountant" or the title "CPA" in any manner if you are not authorized to do so. The Board therefore orders you to cease and desist from all use of the CPA designation in Ohio. We must receive written confirmation of your intent to comply with this order no later than (deadline).

# 0. Notice of Right to Appeal

You have the right to appeal this adjudication order. Your right to appeal is controlled by Section 119.02 of the Ohio Revised Code. This section states that if you wish to appeal, you must file the <u>original</u> of your notice of appeal with the Accountancy Board of Ohio <u>within fifteen (15) days</u> from the date of this order. The notice of appeal must actually be received by the Board, at the offices of the Accountancy Board of Ohio, 77 South High Street, Columbus, Ohio 43215-6128, within fifteen (15) days from the date of this order. The notice of appeal must set forth the order appealed from and the grounds for your appeal.

A copy of your notice of appeal must also be <u>timely</u> filed with the Court of Common Pleas of the appropriate county pursuant to the following provisions of Section 119.12 of the Ohio Revised Code:

Any party adversely affected by any order of an agency issued pursuant to an adjudication...denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license...may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident... If any party appealing from the order is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin County. Any party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the court of common pleas of Franklin County...

You must determine the appropriate court in which to file your notice of appeal in light of the action taken by the Board. You may wish to obtain legal advice in making this decision.

Simply filing a notice of appeal will not prevent this adjudication order from taking effect. If you wish to stay the effect of the adjudication order pending the outcome of the appeal, you must apply for and receive a stay order from the court of common pleas in

which you filed your notice of appeal pursuant to Section 119.12 of the Ohio Revised Code.

If you have any questions, please contact me at (Executive Director's telephone), or you may e-mail me at the following address: (Executive Director's e-mail address)

By order of the Accountancy Board of Ohio

I hereby certify that this document is a true and accurate copy of the findings and order of the Accountancy Board of Ohio entered on its record of proceedings.

Executive Director

#### 1. Revocation

Option A-Individual CPA Certificate: Section 4701.16(B) of the Ohio Revised Code states that the Board may take action against the CPA certificate of a person for (cite violation). The Board members present voted x-x to revoke your individual CPA certificate #xxxxx pursuant to division 4701.16(B)(1) of the Ohio Revised Code.

Option B-Individual CPA Certificate and Firm Registration: Section 4701.16(B) of the Ohio Revised Code states that the Board may take action against both a public accounting firm and the CPA certificates of the firm's owners for a firm's failure to comply with the firm registration requirements. The Board members present voted x-x to revoke your individual CPA certificate #xxxxx and your firm registration #FIRM.xxxxxxxxx pursuant to division 4701.16(B)(1) of the Ohio Revised Code.

Option C-Individual CPA Certificate and Firm Registration (not the same person): Section 4701.16(B) of the Ohio Revised Code states that the Board may take action against both a public accounting firm and the CPA certificates of the firm's owners for a firm's failure to comply with the firm registration requirements. The Board members present voted x-x to revoke your individual CPA certificate #xxxxx and the firm registration #xxxxx-xxx of (Name of firm) pursuant to division 4701.16(B)(1) of the Ohio Revised Code.

### 2. Stay of Revocation

However, the Board has decided to suspend (stay) the order of Revocation that it imposed upon you and your firm, and to allow you and your firm to retain the privilege of being a certified public accountant and public accounting firm, respectively, if you comply with the condition(s) specified in the next paragraph. If you comply with the condition(s) listed in the next paragraph, then the Executive Director will cancel the original order of

Revocation. If you fail to comply with the condition(s), then the Executive Director will reinstate the original order of Revocation.

### **5a.** Revocation Order Cancellation Condition(s); Deadline(s)

The Board voted to impose xxx condition(s) required for the cancellation of the Board's order of Revocation.

(List conditions and deadlines for completion)

## 6. Reprimand

Respondent (Respondent's Name) is hereby issued a **Reprimand** for (describe acts for which reprimand is being issued.)

### 7. Administrative Fine

You is assessed an administrative fine of \$\_\_\_\_. You must make the check payable to "Treasurer-State of Ohio." You must send the fine to the Board office no later than (deadline).

## 8. Professional Standards and Responsibilities Course

Respondent shall complete a Board-approved professional standards and responsibilities course (within a given period of time or prior to the resumption of practice). (The course will be completed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to complete said course within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent successfully completes said course, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to complete the required course prior to the deadline specified in this adjudication order shall constitute a violation of the adjudication order and subject the respondent to additional discipline.

## 9. Continuing education courses

Option A: Respondent shall complete and provide proper documentation of (specified) continuing professional education within (a designated time). These courses shall be in addition to the continuing education requirements normally applicable.

Failure to satisfactorily complete the required course(s) prior to the deadline specified in this adjudication order shall constitute a violation of the adjudication order and subject the respondent to additional discipline.

## 10. Accelerated Peer Review

Respondent shall arrange for an accelerated on-site peer review to be completed no later than (a certain number of) months after the date of this adjudication order. Within 30 days after completion of the on-site peer review, respondent shall submit to the Board the peer review, the reviewer's letter of comments, respondents responses thereto and the letter of acceptance signed by the Chair of the OSCPA Peer Review Acceptance Committee. Respondent is responsible for all costs associated with the peer review. Failure to submit the completed and approved peer review to the Board prior to the deadline specified in this adjudication order shall result in revocation of the respondent's public accounting firm registration and appropriate disciplinary action against the owners of the firm.

## ADMINISTRATIVE POLICIES WITH RESPECT TO SANCTIONS

## **General Considerations-Disciplinary Orders**

Formal letters describing the results of administrative hearings should include the following:

- 1. Specific code sections violated with their definitions.
- 2. Clear description of the violation(s).
- 3. When suspension is recommended, the disciplinary order should include terms within the recommended guidelines for that offense unless the reason for departure there from is clearly set forth in the findings and supported by the evidence.
- 4. If the respondent fails to appear for the scheduled hearing, such action may result in a default decision by the Board to revoke the respondent's CPA certificate, firm registration, or both.
- 5. When the Board, at a reinstatement hearing, denies a petitioner's request for reinstatement, the Office of the Attorney General will provide technical assistance in formulating language clearly setting forth the reasons for denial. Such a statement should include, for example, a statement on rehabilitation, including suggestions for further approaches by petitioner to demonstrate rehabilitation and compliance with section 4701.01(V) of the Ohio Revised Code concerning good moral character, where appropriate.
- 6. The Board will consider stipulated settlements to promote cost effectiveness and to expedite disciplinary decisions if such agreements achieve its disciplinary objectives. The Assistant Attorney General should inquire as to respondent's interest in stipulated settlement promptly after receipt of a notice of defense. If stipulated settlement appears unlikely, the case should be set for hearing. Following is an example of a consent order:

#### **Consent Order**

Respondent understands that respondent has a constitutional and statutory right to a fair hearing on this matter before an impartial fact finder wherein respondent will have an opportunity to present and confront witnesses and may present a defense. Respondent knowingly and willingly waives this right in exchange for the Board's concessions on many issues in this matter (List issues), including the Board's agreement to probate the penalty imposed in this Agreed Consent Order. Respondent understands and knowingly and willingly agrees that if the Executive Director is satisfied, in his sole and exclusive discretion, that respondent violated the terms, conditions, or requirements of respondent's probation, then respondent's (license may be suspended/certificate may be revoked) without any hearing, opportunity to confront and present witnesses or offer a defense

regarding the probation violations. Respondent was afforded adequate opportunity to consult with counsel concerning this waiver.

- 7. The Board's policy is that all disciplinary actions will be published on the Board's website and made available in hard copy.
- 8. The Board may impose reinstatement conditions equivalent to a term of probation, during which the licensee is prohibited from applying for reinstatement. This term may vary, but is generally three years. During the probation period, a licensee may be required to appear in person at interviews/meetings as directed by the Board or its designated representatives to report on probation compliance.
- 9. Where an actual suspension is imposed, the order shall include the requirement that respondent engage in no activities for which certification is required (see Model Disciplinary Orders). In addition, the respondent shall relinquish the certificate and/or firm registration in question to the Board and shall notify clients regarding the suspended status of the certificate and/or firm registration, if directed to do so by the Board.

# **Evidence in Aggravation of Penalty**

The following are among aggravating circumstances to be considered by the Board in providing for penalties in proposed decisions:

- 1. Evidence that the violation was knowingly committed and/or was premeditated.
- 2. Licensee has a history of prior discipline, particularly where the prior discipline is for the same or similar type of conduct.
- 3. Licensee's actions resulted in financial damage to his or her clients or other consumers. The amount of loss may be an additional aggravating factor.
- 4. Violation of Board probation.
- 5. Failure to comply with a final adjudication order.
- 6. Failure to comply with a notice to appear before the Board or its designated representatives.
- 7. Failure to comply with continuing education requirements as ordered by the Board or its designated representatives.
- 8. Evidence that the licensee has not cooperated with the Board's investigation.
- 9. Misappropriation of entrusted funds or other breach of fiduciary responsibility.
- 10. Duration of violation(s).
- 11. Evidence that the licensee knew or should have known that his or her actions could harm his or her clients or other consumers.
- 12. Evidence that the licensee took advantage of his or her client for personal gain, especially if the licensee was able to take advantage due to the ignorance, age, or lack of sophistication of the client.

# **Evidence in Mitigation of Penalty**

The following are among mitigating circumstances that may be taken into account by the Board in providing for penalties in proposed decisions:

- 1. The licensee has cooperated with the Accountancy Board of Ohio's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
- 2. The passage of considerable time since an act of professional misconduct occurred with no evidence of recurrence or evidence of any other professional misconduct.
- 3. Convincing proof of rehabilitation as well as other relevant considerations.
- 4. Recognition by licensee of his or her wrongdoing and demonstration of corrective action to prevent recurrence.
- 5. Violation was corrected without monetary losses to consumers and/or restitution was made in full.
- 6. If violation involved multiple licensees, the relative degree of culpability of the subject licensee should be considered.

# **Reinstatement Criteria**

The Board's reinstatement criteria are as follows:

When considering the denial, suspension, or revocation of a certificate or permit under Section 4701.16(B) of the Ohio Revised Code, or restoration of a revoked or suspended certificate under Section 4701.17 of the Ohio Revised Code, the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a certificate or permit, will consider the following criteria:

- 1. Nature and severity of the act(s) or offense(s).
- 2. Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration that also could be considered as grounds for denial, suspension or revocation.
- 3. The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2).
- 4. The extent to which the applicant or respondent has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or respondent.
- 5. If applicable, evidence of expungement proceedings pursuant to relevant sections of the Penal Code.
- 6. Evidence, if any, of rehabilitation submitted by the applicant or respondent.
- 7. The nine criteria outlined in division 4701.01(V)(3) of the Revised Code regarding good moral character.

## **Reinstatement Conditions**

Individuals whose licenses have been denied, suspended, or revoked, and whose licenses have been subsequently reinstated by the Board, should complete certain requirements before reinstatement is granted. The following are conditions that the Board may require as a condition of reinstatement:

## **Restitution (Consent Order)**

<b>Option A:</b> Respondent shall make restitution directly to in the amount of
\$ Restitution shall be paid in full within 30 days of the date this Order is adopted
by the Board. Respondent shall provide the Board with written acknowledgment from
the recipient that full restitution was made.
<b>Option B:</b> Respondent shall make restitution directly to in the total amount of
\$ Restitution shall be paid \$ on the first day of each month until paid in full.
with the first payment due on the first day of, 20xx. Respondent shall provide the
Board with written acknowledgment from the recipient that full restitution was made.

## **Professional Standards and Responsibilities Course**

Respondent shall complete a Board-approved professional standards and responsibilities course prior to reinstatement within (specify time period).

If respondent fails to complete said course within the time period provided or within two attempts, respondent must reapply for reinstatement at a later date specified by the board.

### **Continuing education courses**

Respondent shall complete and provide proper documentation of (specified) continuing professional education within (a designated time). These courses shall be in addition to the continuing education requirements normally applicable.

If respondent fails to complete said course within the time period provided or within two attempts, respondent must reapply for reinstatement at a later date specified by the board.

### **Retake the CPA Examination**

Respondent shall take and pass the (list sections or refer to entire exam) of the CPA examination (within a given period of time - e.g., within 180 days of the effective date of the decision to reinstate).

If respondent fails to pass the CPA examination within the time period provided or within two attempts, unless the Board grants an extension of time, respondent must reapply for reinstatement at a later date specified by the board.

## **Criminal Violations/Referrals**

## **Philosophy**

Referrals for prosecution should be made when evidence exists that a licensee of the Board or an applicant for licensure has committed a criminal violation.

## **Policy Statement**

The Board will generally refer for prosecution any complaints where a criminal violation is identified. For cases that are investigated by other agencies, the Board will monitor such referrals and assist in the prosecution process as necessary.

### **Purpose**

To provide for protection of consumers, impose appropriate disciplinary sanctions, and provide rehabilitation for licensees.

#### **Guidelines-Licensed Practitioner Cases**

- If a case has been referred to the appropriate federal, state, or local prosecutor, or local police department for criminal prosecution, the Board will not take disciplinary action against the respondent until after resolution of the case by the appropriate court.
- If the Assistant Director discovers a possible criminal violation based upon the work of the investigative staff, the Disciplinary Advisory Committee shall review the case and provide a recommendation to the Executive Director on whether criminal prosecution should be pursued.
- If the Executive Director elects to pursue criminal conviction, the investigative staff provides assistance in creating a case file for referral to the appropriate local prosecutor or police department.
- Once a case is filed with the appropriate local prosecutor or police department, the investigator in charge of the case will wait a total of 90 days for action from the prosecutor. If there is no action within the 90-day period, the Board will send, by certified mail, return receipt requested, a hearing notice to the firm in violation.
- If a court issues a bench warrant for a licensee's failure to appear for a court hearing, the Board will wait a total of 60 days to determine if the warrant has been served. If the jurisdiction does not serve the warrant within the 60-day period, the Board will send, by certified mail, return receipt requested, a hearing notice to the firm in violation.

### **Guidelines-Unlicensed Practitioner Cases**

- If an unlicensed person is advertising as a licensed practitioner, the investigative staff shall investigate the case.
- If an application for the CPA examination lists an offense committed by the applicant, the investigative staff shall review the offense and make a recommendation to the Executive Director for denial/acceptance of the application.

- The Assistant Director may authorize an investigation of the applicant to determine the extent of rehabilitation and to accumulate certified copies of the necessary documents.
- If the Executive Director denies the application for examination and the applicant requests a formal hearing, the Assistant Director shall refer the request to the Attorney General's Office.

# **Disciplinary Advisory Committee**

## **Philosophy**

The Disciplinary Advisory Committee is charged with advising the Board on enforcement matters pursuant to rule 4701-1-10. In exercising its prescribed duties, the Disciplinary Advisory Committee shall act only in an advisory capacity.

## **Policy Statement**

The Disciplinary Advisory Committee shall meet at the call of the committee chair to review issues related to enforcement and advise the Board staff on major cases.

### **Purpose**

Regular meetings of the Disciplinary Advisory Committee will ensure that the enforcement and administrative activities are discharged in a consistent and timely manner.

#### **Guidelines**

- Formal agendas are to be prepared for all meetings by the Executive Director in consultation with the Assistant Director
- Committee meetings should follow parliamentary procedure.
- Public notice of each meeting should be posted on the Board's Web site.

## Role and Responsibilities of the Disciplinary Advisory Committee Chairman

### **Philosophy**

A Disciplinary Advisory Committee Chair is necessary to provide direction and leadership to the Committee in fulfilling its advisory duties.

## **Policy Statement**

A Chair with specific duties and authorities designated by the Board heads the Disciplinary Advisory Committee.

## **Purpose**

This policy delineates the roles and responsibilities of the Disciplinary Advisory Committee Chairman and provides direction in carrying out his or her duties related to the Committee.

### Guidelines

Duties of the Disciplinary Advisory Committee are to include:

- Chairing all Committee meetings;
- Calling for interim file review sessions as necessary;
- Consulting with the Executive Director and Assistant Director as necessary regarding a variety of policy issues.

Authority of the Committee Chairman includes:

- Convening special meetings of the Committee as necessary.
- Advise the Board about major case disciplinary matters that have been referred to the Committee.
- Appointing other Committee members to task forces and assigning special duties to these members.
- Authorizing the opening of all major cases.
- Proposing terms for stipulation in a consistent manner.
- Interpreting the proper application of disciplinary terms.
- Reviewing proposed changes to this manual for consideration by the Board at its annual December retreat.

## PROCEDURE FOR AMENDING THIS MANUAL

The Executive Director must approve amendments to this manual with the concurrence of the Board. Amendments to this manual may be proposed at any time.