ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY ADMINISTRATIVE CODE

CHAPTER 30-X-6 RULES OF PROFESSIONAL CONDUCT

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30-X-6-.01 Applicability.

(1) All holders of CPA certificates issued by the Alabama State Board of Public Accountancy and all public accountants registered under provisions of the Public Accountancy Act who are engaged in the practice of public accounting shall observe and comply with all of the following rules of professional conduct adopted by the Board. Certificate holders and registered Public Accountants not engaged in the practice of public accounting must observe only Rules 30-X-6-.01(4), 30-X-6-.05(1) and 30-X-6-.05(2), since all other rules of conduct relate solely to the practice of public accounting. Failure to observe and comply with the applicable rules will subject any Certified Public Accountant or Registered Public Accountant to disciplinary action authorized by Section 34-1-12, Code of Ala. 1975, of the Public Accountancy Act of 1973.

(2) The rules of professional conduct which follow apply to all services performed in the practice of public accountancy including tax and management advisory services except (a) where the wording of the rule indicates otherwise and (b) that a registrant who is practicing outside the United States will not be subject to discipline for departing from any of the rules stated herein so long as his conduct is in accord with the rules of the organized accounting profession in the country in which he is practicing. However, where a registrant's name is associated with financial statements in such a manner as to imply that he is acting as an independent public accountant and under circumstances that would entitle the reader to assume that United States practices were followed, he must comply with Rules 30-X-6-.03(2) and 30-X-6-.03(3).

(3) A registrant may be held responsible for compliance with the rules of professional conduct by all persons associated with him in the practice of public accounting who are either under his supervision or are his partners or shareholders in the practice.

(4) A Certified Public Accountant or Public Accountant shall not permit others to carry out on his behalf, either with or without compensation, acts which, if carried out by the Certified Public Accountant or Public Accountant would place him in violation of the rules of professional conduct.
Author: Alabama Board of Public Accountancy
Statutory Authority: Code of Ala. 1975, §§34-1-1, et seq.
History: Filed September 3, 1982. **Amended:** Filed January 22, 2018; effective March 8, 2018.

30-X-6-.02 Independence, Integrity And Objectivity.

(1) Independence. A registrant or a firm of which he is a partner or shareholder shall not express an opinion on financial statements of an enterprise unless he and his firm are independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

(a) During the period of his professional engagement, or at the time of expressing his opinion, he or his firm

1. had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

2. was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

3. had any joint closely held business investment with the enterprise or any officer, director, or principal stockholder thereof which was material in relation to his or his firm's net worth; or

4. had any loan to or from the enterprise or any officer, director or principal stockholder thereof. This latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms and requirements:

(i) Loans obtained by him or his firm which are not material in relation to the new worth of such borrower.

(ii) Home mortgages.

(iii) Other secured loans, except loans guaranteed by his firm which are otherwise unsecured.

(b) During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, he or his firm

1. was connected with the enterprise as a promoter, underwriter, or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or

2. was a trustee for any pension or profit-sharing trust of the enterprise.

(c) The above examples are not intended to be all-inclusive.

(2) Integrity and Objectivity. A Certified Public Accountant or Public Accountant shall not knowingly misrepresent facts, and when engaged in the practice of public accounting, including the rendering of tax and management advisory services, shall not subordinate his judgment to others. In tax practice, he may resolve doubt in favor of his client as long as there is reasonable support for his position.
Author: Alabama Board of Public Accountancy
Statutory Authority: Code of Ala. 1975, §§34-1-1, et seq.
History: Filed September 3, 1982.

30-X-6-.03 Competence And Technical Standards.

(1) General Standards. A registrant shall comply with the following general standards as interpreted by bodies designated by Council of the American Institute of Certified Public Accountants and must justify any departures therefrom.

(a) Professional Competence. He shall undertake only those engagements which he or his firm can reasonably expect to complete with professional competence.

(b) Due Professional Care. He shall exercise due professional care in the performance of an engagement.

(c) Planning and Supervision. He shall adequately plan and supervise an engagement.

(d) Sufficient Relevant Data. He shall obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

(e) Forecasts. He shall not permit his name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that he vouches for the achievability of the forecast.

(2) Auditing Standards. A registrant shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent public accountant unless he has complied with the applicable generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants. Statements on auditing standards issued by the Institute's Auditing Standards Executive Committee are, for the purposes of this rule, considered to be interpretations of the generally accepted auditing standards, and departures from such statements must be justified by those who do not follow them.

(3) Accounting Principles. A registrant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from an accounting principle promulgated by the body designated by Council of the American Institute of Certified Public Accountants to establish such principles which has a material effect of the statements taken as a whole, unless he can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In such cases his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(4) Other Technical Standards. A registrant shall comply with other technical standards promulgated by bodies designated by Council of the American Institute of Certified Public Accountants to establish such standards, and departures therefrom must be justified by those who do not follow them.
Author: Alabama Board of Public Accountancy
Statutory Authority: Code of Ala. 1975, §§34-1-1, et seq.
History: Filed September 3, 1982.

30-X-6-.04 Responsibilities To Clients.

(1) Confidential Client Information. A registrant shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client.

(a) This rule shall not be construed

1. to relieve registrant of his obligation under Rules 30-X-6-.03(2) and 30-X-6-.03(3),

2. to affect in any way his compliance with a validly issued subpoena or summons enforceable by order of a court,

3. to prohibit review of a practitioner's professional practices as a part of voluntary quality review, or,

4. to preclude him from responding to any inquiry made by the ethics division or Trial Board of the American Institute of CPAs, by a duly constituted investigative or disciplinary body of a State CPA Society or PA Association, or under State statutes.

(2) Contingent Fees. A member in public practice shall not

(a) Perform for a contingent fee any professional services for, or receive such a fee from a client for whom the member or the member's firm performs,

1. an audit or review of a financial statement' or

2. a compilation of a financial statement when the member expects, or reasonably might expect, that a third party will use the financial statement and the member's compilation report does not disclose a lack of independence; or

3. an examination of prospective financial information; or

(b) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

(c) The prohibition in (1) above applies during the period in which the member or the member's firm is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in any such listed services.

(d) Except as stated in the next sentence, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this rule, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

(e) A member's fees may vary depending, for example, on the complexity of services rendered.

(3) Sale or Transfer of Licensee’s Practice. A licensee that sells or transfers all or part of the licensee’s practice to a successor firm or individual and will no longer retain any ownership in the practice shall comply with all of the following:

(a) send a written notice regarding the sale or transfer of the practice via first class mail to the last known address of

each client that may be subject to the sale or transfer. The notice shall contain, at a minimum, the following: a request for the client's consent to transfer that client's files or records to the successor firm or individual and a notice that the client's consent will be presumed if it does not notify the licensee that it objects within 90 days from the date of the written notice. The licensee may not transfer any client files or records to the successor firm or individual until either the client's consent is obtained, or the time indicated in the licensee's written notice has lapsed without any objection from the client, whichever is shorter. The licensee is required to retain a copy of the written notice and any document reflecting the client's consent or objection to the transfer. The written notice and any document reflecting the client's consent or objection to the transfer of the client's files shall be retained for not less than five years from the sale or transfer of the licensee's practice.

(b) if the client objects to the transfer of their files or records, client records as defined in 30-X-7-.07(2), to the successor firm or individual, the licensee shall return the files or records in a reasonable period of time or as agreed upon with the client; and

(c) with respect to files or records not subject to the sale or transfer, a licensee shall return the client's files or records in a reasonable period of time or as agreed upon with the client.

(d) If the licensee is unable to contact a client, that client's files or records, if not transferred or returned, shall be retained by the licensee for a period of not less than five years from the date of sale or transfer of the licensee's practice. After the five-year retention period required by this section, the licensee shall dispose of or arrange for the disposal of client records that are no longer to be retained by the licensee by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

(4) Discontinuance of Licensee's Practice.

(a) In the case of a discontinuance of a licensee's practice without a sale or transfer of the practice to a successor firm or individual, a licensee shall send a written notice via first class mail regarding the discontinuance of the practice to the last known address of each client. The licensee shall also return the client's files or records, client records as defined in 30-X-7-.07(2), in a reasonable period of time, or as agreed upon with the client.

(b) If the licensee is unable to contact a client, that client's files or records shall be retained for a period of

not less than five years from the date the licensee's practice discontinues. After the five-year retention period required by this Section, the licensee shall dispose of or arrange for the disposal of client records that are no longer to be retained by the licensee by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

Author: Alabama Board of Public Accountancy
Statutory Authority: Code of Ala. 1975, §§34-1-1, et seq.
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30-X-6-.05 Other Responsibilities And Practices.

(1) Conduct in General. A Certified Public Accountant or Public Accountant shall conduct himself in a manner which will contribute to the honor and dignity of the State and the profession and shall not at any time commit an act or engage in any conduct discreditable to the public accounting profession.

(2) Disbarment by Treasury, Agencies, or Boards. A Certified Public Accountant or a Public Accountant shall conduct himself in a manner which will not cause him to be suspended or disbarred from practice before the Treasury Department or other federal agency, or have his CPA certificate issued by any other state or territory revoked or suspended. Such disbarment, revocation or suspension shall automatically raise the question of unprofessional conduct.

(3) Advertising and Other Forms of Solicitation. A registrant shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive.

(4) Commissions.

(a) Prohibited Commissions. A member in public practice shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the member or the member's firm also performs for that client

1. an audit or review of a financial statement; or

2. a compilation of a financial statement when the member expects, or reasonably might expect, that a third party will use the financial statement and that member's compilation report does not disclose a lack of independence; or

3. an examination of prospective financial information.

This prohibition applies during the period in which the member is engaged to perform any of the services listed above the period covered by any historical financial statements involved in such listed services.

(b) Disclosure of Permitted Commissions. A member in public practice who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the member recommends or refers a product or service to which the commission relates.

(c) Referral Fees. Any member who accepts a referral fee for recommending or referring any service of a CPA to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.

(5) Incompatible Occupations. A person who is engaged in the practice of public accounting shall not concurrently engage in any business or occupation which would create a conflict of interest in rendering professional services.

(6) Form of Practice and Name. A registrant may practice public accounting, whether as an owner or employee, only in the form of a sole proprietorship, a partnership, a professional association, professional corporation, limited liability company, limited liability partnership, or any other form of business entity now or hereafter recognized by Alabama law. All firms regardless of their business form shall be duly registered with the Board. A registrant shall not practice public accounting under a firm name which is misleading or is misleading as to the type of organization (proprietorship, partnership, or corporation). However, names of one or more past partners or shareholders may be included in the firm name of a successor business entity recognized by Alabama law.

(7) Professional Corporations. Professional corporations practicing public accounting in Alabama, in addition to matters covered by other rules of the Board, shall comply with the following:

(a) All shares of stock shall be owned by Certified Public Accountants if practicing as Certified Public Accountants, or by Certified Public Accountants or Public Accountants if practicing as Public Accountants.

(b) Members of the Board of Directors need not be shareholders of the professional corporation or professional association, provided, however, that at least one member of the Board shall be duly licensed to practice public accountancy either as a Certified Public Accountant or Public Accountant in the State

of Alabama, and provided further that no member of the Board who is not duly licensed to practice as a Certified Public Accountant or Public Accountant in the State of Alabama shall participate in any decisions affecting the technical aspects of public accountancy.

(c) The chief executive officer shall be a Certified Public Accountant or Public Accountant.

(d) Revocation or suspension of the CPA certificate or permit held by the chief executive office shall also affect a corresponding revocation or suspension of the right to practice public accounting by the professional corporation, unless the Board specifically grants a continuance of such right to practice.

(8) Each office established or maintained in this State by a certified public accountancy ("Practice unit") shall comply with the annual registration, reporting, and response requirements of Code of Ala. 1975, §34-1-10, and Chapter 30-X-8.

Author: Alabama Board of Public Accountancy
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