

Professional Ethics and Conduct for North Carolina CPAs

Pittard Perry & Crone, Inc. 2010

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Professional Ethics and Conduct for North Carolina CPAs

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Participant Information Sheet

● Name: ● _____

● Firm: ● _____

● CPA Lic #: ● _____

● Title: ● _____

● CPA Field: ● _____

● Date: ● _____



Continuing Professional Education (CPE): Specifics

- Basic course
- No prerequisites
- No advance preparation
- 2 hours CPE credit
- Applies to all NC CPAs
- PPC course not CPA Board course

Professional Ethics and Conduct: CPE Background

- "As part of the annual CPE requirement, all active CPAs shall complete CPE on professional ethics and conduct as set out in 21 NCAC 8N. They shall complete either two hours in a group study format or four hours in a self-study format. These courses shall be approved by the Board pursuant to 21 NCAC 8G .0400. This CPE shall be offered by a CPE sponsor registered with the Board pursuant to 21 NCAC 8G .0403(a) or (b)."
- This requirement is effective as of January 1, 2005.
- This course fulfills the CPE requirement and qualifies for 2 hours of CPE in a group study setting.
- The course is designed to help NC CPAs keep abreast of current rules and regulations regarding ethics and conduct.
- Make sure the class is an approved one by the Board

Professional Ethics and Conduct: CPE Course Objectives

At the end of the course, you will
have a better understanding
of:

- The ethics and conduct required of NC CPAs within certain areas relating to A&A and Tax.
- The laws applicable to NC CPAs
- Rules and regulations of the AICPA and NC CPA Board

Professional Ethics and Conduct: CPE Course Outline

- Trying to determine what ethics are and how they apply to NC CPAs (Can one who has been in practice for several or many years learn ethics?)
- Trying to determine what laws, rules and guidelines are the applicable NC CPAs
- Activity Review from CPA Board newsletter – Case Studies and Other Issues

Professional Ethics and Conduct: Definitions

WHAT ARE ETHICS?

HOW DOES ONE DEFINE ETHICS?

WHAT ARE SOME EXAMPLES OF ETHICS?

WIKIPEDIA:

Ethics (also known as moral philosophy) is a branch of philosophy which seeks to address questions about morality, such as what the fundamental semantic, ontological, and epistemic nature of ethics or morality is (meta-ethics), how moral values should be determined (normative ethics), how a moral outcome can be achieved in specific situations (applied ethics), how moral capacity or moral agency develops and what its nature is (moral psychology), and what moral values people actually abide by (descriptive ethics).

Professional Ethics and Conduct: Other Issues & Examples

- Ethics – Different meaning for everyone.
- Federal versus State versus Local laws
 - Example

 - Example

 - Example

- Primarily grounded in parental teachings.

Professional Ethics and Conduct: Background

- Why do we need to take an annual ethics course?
 - The result of legislation in the wake of national scandals
 - There still remains questions regarding:
 - Independence (appearance & fact)
 - Laws cannot answer all our questions

Professional Ethics and Conduct: Background

- The Accounting Society continues to update rules, principles, regulations, etc. continually, but one must realize that the accounting profession, as a professional career, is roughly 150 years old.
 - Physicians and Attorneys have much longer histories which has enabled them to sort most issues.

Professional Ethics and Conduct: Background

- Accountants make judgments (ethical decisions) each day. Some are small and some are large.
 - Estimates within financial statements
 - Depreciation and amortization (estimated useful life)
 - Net realizable value of receivables

Professional Ethics and Conduct: Background

- Can ethics survive where:
 - A corporation's stock price is dependent on earnings which are controlled by one or few individual(s) who also benefit from a higher stock price?
 - A person's earnings are based upon budgets or other target and that person is also in control of financial reporting?

Professional Ethics and Conduct: Background

- Auditing relationships:
 - Client / Creditors / Governments / Investors / All FS users
 - We have been contracted by one company but we are responsible to the world with regards to audited financial statements, whether public or private.
 - The public relies upon our audit to help maintain order within business financial reporting.

Professional Ethics and Conduct: Analysis

- Objectivity and Independence
 - Impartiality
 - Intellectual honesty
 - Free of conflicts of interest
- Integrity in Financial Reporting
 - Do what is right, not expedient
 - Follow the spirit and intent
 - No manipulation, stretching or bending

Professional Ethics and Conduct: AICPA Introduction

- **Professional Ethics Division**

The Professional Ethics Executive Committee (PEEC) is a senior technical committee of the AICPA charged with the responsibility of interpreting and enforcing the AICPA Code of Professional Conduct (Code).

Professional Ethics and Conduct: AICPA Introduction

- **PEEC Project**

- 10/13/2009, the AICPA began a project to create a single source of easy-to-use guidance on Ethics and Independence matters .
- Restructure of AICPA Code of Professional Conduct
 - Primary Objectives /Benefits
 - Improve compliance by creating info that is simpler, easier to use and more intuitive
 - Include guidance from other sources
 - Improve research capability
 - Other Benefits
 - Converge existing guidance with international
 - Eliminate redundant rules
 - Ability to sort and aggregate applicable sections
 - Timing and Process
 - 3 year project (2009-2011)
 - State Board input will be sought
 - Due process of exposure will be followed

Professional Ethics and Conduct: AICPA Introduction

- **Joint Ethics Enforcement Program (JEEP)**

The AICPA and each of the state societies have respective codes of professional conduct that their members are obligated to observe as a condition of their membership. The provisions of the codes of many state societies are identical with, or similar to, the provisions of the AICPA Code of Professional Conduct. Because of this identity and similarity, and because it is not uncommon for a CPA to be a member of both the AICPA and one or more state societies, the AICPA and virtually all of the state societies have joined together to create the Joint Ethics Enforcement Program (JEEP).

Professional Ethics and Conduct: AICPA – SSARs No. 19

- SSARs No. 1 *Compilation and Review of Financial*
- AICPA's Accounting and Review Services Committee (ARSC) proposed various significant changes to existing professional literature.
 - Significant proposed changes to the Statements on Standards for Accounting and Review Services (SSARs) include:
 - The introduction of the new terms such as *moderate assurance*, *review evidence* and *review risk* to the review literature to harmonize with international review standards.
 - A discussion of materiality in the context of a review engagement.
 - A requirement that an accountant establish an understanding with management regarding the services to be performed through a written communication, that is, an engagement letter.
 - The establishment of enhanced documentation requirements for compilation and review engagements.
 - Guidance for practitioners who are engaged to perform a compilation or review engagement when they have also been engaged to perform nonattest services. The guidance includes reporting requirements for instances in which the accountant's independence is impaired due to the performance of these services.
 - The ability for an accountant to include a general description in the accountant's compilation report regarding the reason(s) for an independence impairment.

Professional Ethics and Conduct: AICPA Introduction

AICPA -

- The Code of Professional Conduct contains 2 parts: 1) the Principles and (2) the Rules.
- Principles are the framework for the Rules.
- The membership of the AICPA adopted the Code of Professional Conduct for all members.
- Compliance depends upon a members' understanding, self regulation, peer review.

Professional Ethics and Conduct: AICPA Principles

AICPA Code of Professional Conduct-

- Principles express the profession's recognition of its responsibilities to the public, to clients, and to colleagues.

- Principles guide members in the performance of their professional responsibilities and express the basic tenets of ethical and professional conduct.

- Principles call for an unswerving commitment to honorable behavior, even at the sacrifice of personal advantage.

- Rules govern the performance of professional services by members.

Professional Ethics and Conduct: AICPA Other Guidance

Interpretations of Rules:

- Interpretations which provide guidelines as to the scope and application of the Rules.

Ethics Rulings:

- Formal rulings made by the professional ethics division's executive committee. These rulings summarize the application of Rules of Conduct and Interpretations to a particular set of factual circumstances.

Professional Ethics and Conduct: AICPA

Code of Professional Conduct

- Introduction
- Section 50 - Principles of Professional Conduct
- Section 90 - Rules: Applicability and Definitions
- Section 100 - Independence, Integrity, and Objectivity
- Section 200 - General Standards
Accounting Principles
- Section 300 - Responsibilities to Clients
- Section 400 - Responsibilities to Colleagues
- Section 500 - Other Responsibilities and Practices
- ET Appendixes
- ET Topical Index

Professional Ethics and Conduct: AICPA – Test Your Knowledge

QUESTION:

A bank retains a CPA firm to perform an audit. During the period of the engagement, a manager in the CPA firm obtains a mortgage from the bank. The CPA works in the same office as the lead partner on the audit but does not provide any services to the bank. Is the firm's independence impaired?

QUESTION:

Assume the same facts as above, except the CPA works on the engagement? Is the firm's independence impaired?

QUESTION:

A CPA firm is considering hiring the controller of one of its audit clients as a part-time independent contractor for tax season. She would prepare tax returns for clients of the CPA firm, all of which are non-attest clients. The CPA firm has two offices and she would work in the office that does not provide any services to her primary employer. If she is hired, would the CPA firm's independence be impaired with respect to that client?

Professional Ethics and Conduct:

AICPA – Test Your Knowledge

- Answers:
 - No – according to Interpretation 101-1, because the manager does not fall within the “covered person” definition.
 - Yes – by providing attest services, the manager now falls within the definition of “covered person”.
 - Yes – the independent contractor would be considered a professional employee of the firm since she would provide professional services to the firm’s clients. Interpretation 101-1C states that because the professional employee of the CPA firm would be associated simultaneously with the client as an employee independence would be impaired.

North Carolina State Board of Certified Public Accountant Examiners (NC State Board)

Established by Chapter 93 of the North Carolina General Statutes, the North Carolina State Board of Certified Public Accountant Examiners is an occupational licensing board that grants certificates of qualification as certified public accountants (CPAs) to those individuals who meet the legal requirements. The Board also adopts and enforces the rules of professional ethics and conduct to be observed by CPAs in this State

Professional Ethics and Conduct: NC State Board

Focus will be on:

**North Carolina Administrative
Code**

Title 21 - Occupational Licensing
Boards

Chapter 8 - Board of Certified
Public Accountant Examiners

Subchapter N - Professional
Ethics and Conduct

Reference is 21 NCAC 8N

Professional Ethics and Conduct: NC State Board

Listing of Rules

- SUBCHAPTER 8A -Departmental Rules
- SUBCHAPTER 8B - Rule-making Procedures
- SUBCHAPTER 8C - Contested Cases
- SUBCHAPTER 8F - Requirements for Certified Public Accountant Examination and Certificate Applicants

Professional Ethics and Conduct: NC State Board

- SUBCHAPTER 8G - Continuing Professional Education (CPE)
- SUBCHAPTER 8H - Reciprocity
- SUBCHAPTER 8I - Revocation of Certificates and Other Disciplinary Action
- SUBCHAPTER 8J - Renewals and Registrations

Professional Ethics and Conduct: NC State Board

- SUBCHAPTER 8K - Professional Corporations and Professional Limited Liability Companies
- SUBCHAPTER 8M - Peer Review Program
- SUBCHAPTER 8N - Professional Ethics and Conduct

Professional Ethics and Conduct: NC State Board

SUBCHAPTER 8N - Professional Ethics and Conduct

- Section .0100 - Scope and Applicability (3 subsections)
- Section .0200 - Rules Applicable to all CPAs (14 subsections)
- Section .0300 - Rules Applicable to All CPAs Who Use the CPA Title In Offering or Rendering Products or Services to Clients (8 subsections)
- Section .0400 - Rules Applicable to CPAs Performing Attest Services (8 subsections)

Professional Ethics and Conduct: NC State Board

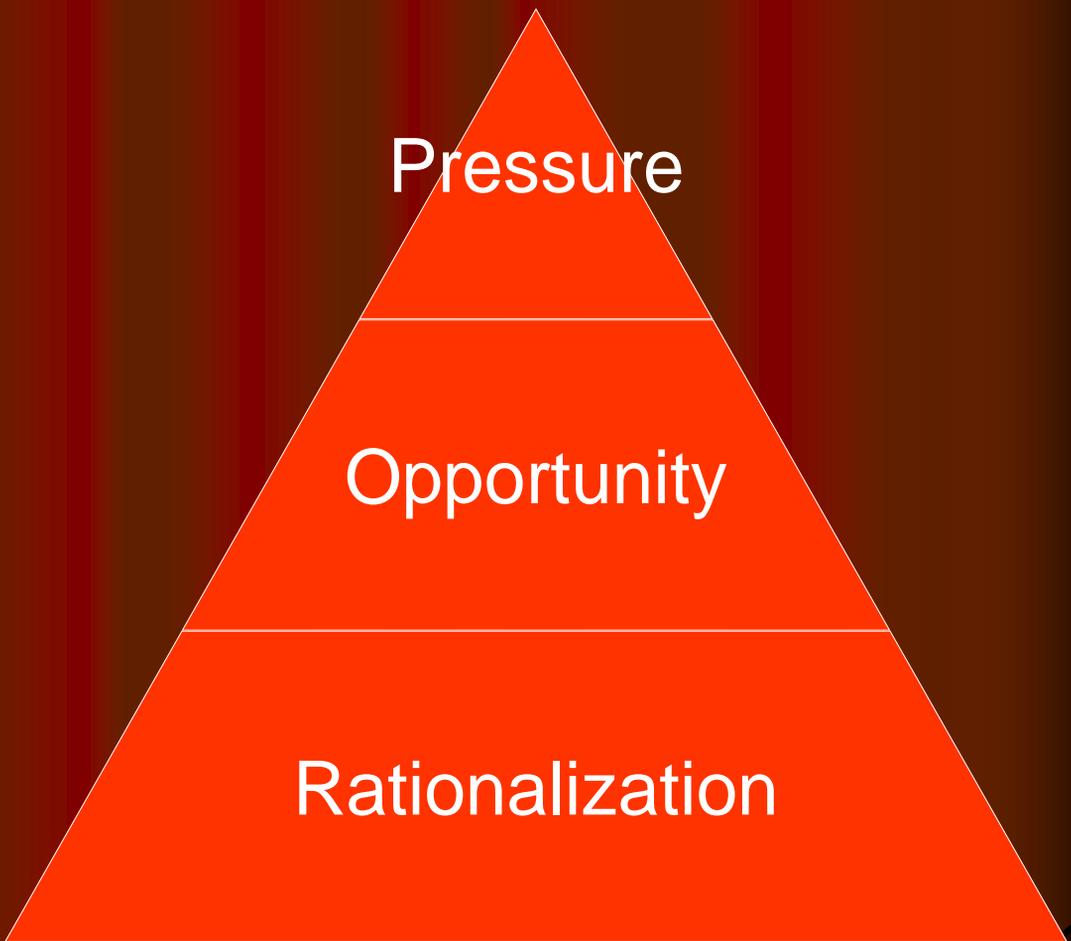
- Please note that many of the NC rules are similar to the AICPA rules.
- But remember that the AICPA is a voluntary group where as the NC State Board is a mandatory group for CPAs.

Professional Ethics and Conduct: Rules and Regulations

- Other sources:
 - Securities and Exchange Commission
 - Government Accountability Office (Yellow Book)
 - Public Company Accounting Oversight Board

Professional Ethics and Conduct

Fraud Triangle
(3 Points of the triangle)



NC State Board Activity Review

- **No. 9-2009 – Disciplinary Action resulting from CPE audit**
 - CPA failed to gather sufficient hours of CPE for a particular year:
 - Result:
 - Denied renewal of certificate for one year
 - \$1,000 civil penalty
 - Make up lost hours which do not count towards current or future periods

NC State Board Activity Review

- **No. 10-2009 – Disciplinary Action resulting from CPE audit**
 - CPA failed to gather sufficient hours of CPE for a particular year but self-reported the infraction:
 - Result:
 - Denied renewal of certificate for ninety days
 - \$1,000 civil penalty
 - Make up lost hours which do not count towards current or future periods

NC State Board Activity Review

- **No. 9-2009 – Disciplinary Action resulting from CPE**
 - CPA obtained the Ethics CPE in a different state for a particular year:
 - **Result:**
 - CPA was not licensed in that state, therefore the CPE does not count towards the annual NC requirement
 - Denied renewal of certificate for one year (ninety days with self-reporting)
 - \$1,000 civil penalty
 - Make up lost hours which do not count towards current or future periods

NC State Board Activity Review

- **No. 10-2008 FAQ's about Ethics CPE**
 - Does the ethics CPE count towards the 40 hour requirement?
 - **YES (2 hour, 4 hour, or 8 hour)**
 - Does the ethics CPE count towards the 40 hour requirement?
 - **YES, only approved courses by the Board / some sponsors listed by NASBA qualify**
 - Do all ethics CPE courses used to meet the Board requirement have to be approved?
 - **Yes, the Board must approve the course**
 - How do I know if an ethics course has been approved by the Board?
 - **Board approved courses are listed on the website: www.nccpaboard.gov**

NC State Board Activity Review

- **No. 10-2008 Moved?
Changed Jobs?**
 - 21 NCAC 08J .0107 requires all licenses and firms to notify the Board in writing within 30 days of any change in address or business locations.
 - CPA can access the website to record a change of address
 - If not changed on-line, all notifications must be in writing, no oral, by fax, email, or letter
 - Be careful if you are using home address for the address on record

NC State Board Activity Review

- **No. 08-2009 CPA Mobility**
 - July 27, 2009, Gov. Perdue signs law allowing non-resident CPAs from other jurisdictions to perform, or offer to perform, services for NC clients without obtaining a reciprocal license, also applies to CPA firms (Tax Practice)
 - CPA firms who provide certain assurance and attest services must register with the Board
 - CPA firm name, advertising and peer review all apply

NC State Board Activity Review

- **Various Issues**

- **No. 4-2008, Responding to a Subpoena for Client or Employer Records: Disclosure of Confidential Client or Employer Records**
 - Is it ever acceptable to disclose confidential client or employer information or records? 21 NCAC 08N .0205, *Confidentiality*, states, "A CPA shall not disclose any confidential information obtained in the course of employment or a professional engagement except with the consent of the employer or client."
 - How is this rule applied when a subpoena for client or employer records is served on a CPA? 21 NCAC 08N .0205(b) requires that the confidentiality rule must not be interpreted "to affect in any way the CPA's compliance with a validly issued subpoena or summons enforceable by this Board or by order of a court."
 - In accordance with the Rules of Civil Procedure, specifically Rule 45, a subpoena signed only by an attorney does not in and of itself compel the disclosure of information held by a CPA which is subject to 21 NCAC 08N .0205. Rule 45(c)(2) provides that "Nothing contained herein shall be construed...to require any privileged communication under law to be disclosed." Furthermore, Rule 45(c)(4) allows that if a CPA objects to the subpoena, then the CPA can only be forced to produce the documents specified in the subpoena if the party seeking the information obtains an order of the court.
 - A subpoena or summons issued by the NC Department of Revenue or the IRS qualify under 21 NCAC 08N .0205(b)(7) as exceptions that do not require that the CPA obtain written permission from the client or employer or an order of the court to release the information or records to the Department of Revenue or IRS. However, a CPA may disclose confidential client or employer information without a subpoena if the CPA obtains written permission from the client or employer prior to the disclosure of the records or information to a third-party.

NC State Board Activity Review

- **Various Issues**

- **Responding to Requests for Comfort Letters**

- There are a few issues with this type of letter that should concern CPAs.
- First, the proposed letter asks the CPA to attest, when the CPA has not specifically been engaged for that purpose. The report would be issued to a third party that has not contracted with the preparer for that specific purpose.
- According to Auditing Standards Board Statement on Standards for Attestation Engagements No. 10, *Attest Engagements*, an attestation engagement is called for if the client wants a written report providing assurance about a specific subject.
- Of course, performing an attestation engagement is not prohibited in the case of a lender's comfort letter request, but CPAs must follow the procedures required in an attestation engagement. The client will likely not want to incur the expense of a formal attestation engagement.
- It is also important to know what is not permitted under the standards. AT Section 9101, *Attest Engagements: Attest Engagements Interpretations of Section 101*, No. 2, ¶ 25 states that practitioners should not provide any form of assurance that an entity is not insolvent or would not be rendered insolvent upon a proposed condition, or that an entity has the ability to pay debts as they mature.
- When asked to provide a comfort letter for a client, a CPA can best avoid risk by sticking to the professional standards and not caving in to pressure from a client or lender. While clients need to have the flexibility to obtain credit, the responsibility for underwriting the loan lies with the lender, not the CPA.

Professional Ethics and Conduct: Surveys

- PWC 2007 Survey
 - Fraud is pervasive: over 40% of companies interviewed reported suffering one or more significant economic crimes
 - Internal audit discovered 19% of the economic crimes
 - Total dollar loss increased from \$1.7M in 2005 to \$2.4M in 2007
 - Internal controls are not enough
 - There needs to be a stronger tone at the top
 - Zero tolerance policies should be put into place

Professional Ethics and Conduct: Surveys

- 2007 National Business Ethics Survey
 - Three forms of misconduct on the rise:
 - Dishonesty / Lying
 - Email and interest abuse
 - One's own interest first to the detriment of the company

Professional Ethics and Conduct: Final Questions

- Each of us must ask:
 - Is it legal?
 - Is it balanced?
 - Is it right?