

CHAPTER 16
DISCIPLINARY PROCEEDINGS

193A—16.1(17A,272C,79GA,ch55) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board shall constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the administrator may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11, subsection 5.

193A—16.2(17A,272C,79GA,ch55) Disciplinary contested case procedures. Unless in conflict with a provision of 2001 Iowa Acts, chapter 55, or board rules in this chapter, all of the procedures set forth in 193—Chapter 7 shall apply to disciplinary contested cases initiated by the board.

193A—16.3(272C,79GA,ch55) Disciplinary sanctions.

16.3(1) Type of sanctions. The board has authority to impose the following disciplinary sanctions:

a. Revoke a license issued by the board. In the event of a revocation, the licensee shall not be allowed to remain a member, partner or shareholder of a business entity if the law requires that all members, partners or shareholders of such an entity be actively involved.

b. Suspend a license issued by the board. A CPA or LPA who is under suspension shall refrain, during the period of the suspension, from all facets of the ordinary practice of public accounting.

c. Revoke or suspend the privilege to engage in one or more areas of the practice of public accounting.

d. Impose a period of probation. As a condition to a period of probation, the board may impose terms and conditions deemed appropriate by the board which may include, but are not limited to, the following:

(1) The board may require the licensee to undergo a quality review or peer review under the board's supervision. The licensee shall select, subject to approval by the board, a CPA, LPA, or a firm of CPAs or LPAs, or a review program which would qualify as a peer review program under 193A—Chapters 11 and 12. The costs of the review shall be paid by the licensee. The board shall be furnished a copy of the report issued by the reviewing party and may require remedial actions or education as a result of the report findings.

(2) The board may require the licensee to enter into an agreement with a CPA, an LPA, or a firm of CPAs or LPAs to obtain a preissuance review of any audits, compilations, or reviews issued by the licensee or other public accounting services performed during the period of probation. The agreement shall be preapproved by the board. The board may require the licensee to report regularly concerning the preissuance reviews conducted pursuant to the agreement. Any cost incurred in obtaining preissuance review shall be paid by the licensee.

(3) A substance abuse evaluation and such care and treatment as are recommended in the evaluation or otherwise appropriate under the circumstances.

e. Impose requirements regarding continuing education. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a certificate, permit, license, or registration. The board may also specify that current reference materials be obtained and maintained.

f. Require reexamination, using one or more parts of the CPA or LPA examination given to candidates for the CPA certificate or the LPA license.

g. Impose civil penalties, the amount of which shall be at the discretion of the board, but which shall not exceed \$1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193A—14.2(17A, 272C,79GA,ch55).

h. Issue a reprimand.

i. Order the licensee to alter a professional practice or refrain from engaging in a particular act or practice in the future.

16.3(2) *Imposing discipline.* Discipline may be imposed against a licensee only by the affirmative vote of a majority of the members of the board who are not disqualified.

16.3(3) *Voluntary surrender.* The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board shall not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges will be filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

16.3(4) *Notification requirements.* Whenever a license is revoked, suspended, restricted, or voluntarily surrendered under this chapter, the licensee shall:

a. Within 15 days of receipt of the board's final order, notify in writing all clients of the fact that the license has been revoked, suspended or voluntarily surrendered or that the practice of the licensee has been restricted; for example, the licensee may agree to discontinue governmental audits. Such notice shall advise the client to obtain alternative professional services, unless the restriction at issue would not impact the public accounting services provided for that client;

b. Within 30 days of receipt of the board's final order, the licensee shall file with the board copies of the notices sent pursuant to paragraph 16.3(4) "a." Compliance with this requirement shall be a condition for an application for reinstatement.

16.3(5) *Civil penalties.* Factors the board may consider when determining whether to assess and the amount of civil penalties include:

- a. Whether other forms of discipline are being imposed for the same violation.
- b. Whether the amount imposed will be a substantial deterrent to the violation.
- c. The circumstances leading to the violation.
- d. The severity of the violation and the risk of harm to the public.
- e. The economic benefits gained by the licensee as a result of the violation.
- f. The interest of the public.
- g. Evidence of reform or remedial action.
- h. Time lapsed since the violation occurred.
- i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j. The clarity of the issues involved.
- k. Whether the violation was willful and intentional.
- l. Whether the licensee acted in bad faith.
- m. The extent to which the licensee cooperated with the board.
- n. Whether the licensee improperly used a title restricted by 2001 Iowa Acts, chapter 55, performed attest services or issued a compilation report when not properly licensed to do so, or with a lapsed, inactive, suspended, restricted or revoked license engaged in practices which require licensure.

193A—16.4(272C,79GA,ch55) Publication of decisions.

16.4(1) The board shall publish in the board's newsletter, or in another professional publication designated by the board, the name of each licensee disciplined by the board, along with a brief description of the underlying circumstances, regardless of the nature of the violation.

16.4(2) The board shall issue a formal press release in those instances in which a certificate, permit, or license has been suspended or revoked.

16.4(3) The board shall notify other state boards of accountancy that have issued a similar license to an Iowa licensee of disciplinary action taken against the Iowa licensee. The board shall also notify

the National Association of State Boards of Accountancy of disciplinary action taken against an Iowa licensee.

193A—16.5(272C,79GA,ch55) Reinstatement.

16.5(1) The term “reinstatement” as used in this rule and in rule 193—7.38(17A,272C) shall include the reinstatement of a suspended license, the modification or removal of a practice restriction, the issuance of a license following the denial of an application to renew a license, and the issuance of a new license following the revocation or voluntary surrender of a license.

16.5(2) Any person whose license has been revoked, suspended or restricted by the board, or who has voluntarily surrendered a license to conclude a disciplinary investigation or proceeding, or whose application to renew a license has been denied may apply to the board to modify or terminate the suspension, issue or reissue the license, or modify or remove the restriction in accordance with 2001 Iowa Acts, chapter 55, section 12, rule 193—7.38(17A,272C), the provisions of this rule, and the terms of the order of revocation, suspension or restriction, denial of license renewal, or acceptance of voluntary surrender of a license.

16.5(3) If the applicable order did not establish terms upon which the licensee may apply for reinstatement, an initial application for reinstatement may not be made until one year has elapsed from the date of the order which revoked, suspended or restricted the license, denied license renewal, or accepted a voluntary surrender.

16.5(4) All proceedings for reinstatement shall be initiated by the respondent and shall be subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant’s request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

16.5(5) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193A—16.3(272C,79GA,ch55).

16.5(6) The board shall not grant an application for reinstatement when the initial order which revoked, suspended or restricted the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board’s satisfaction that:

- a.* All terms of the sentencing or other criminal order have been fully satisfied;
- b.* The applicant has been released from confinement and any applicable probation or parole; and
- c.* Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55.

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