

CHAPTER 16
DISCIPLINARY PROCEEDINGS

193A—16.1(17A,272C,542) 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 will be excluded in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board constitutes 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(5).

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193A—16.2(17A,272C,542) Disciplinary contested case procedures. Unless in conflict with a provision of Iowa Code chapter 542 or board rules in this chapter, all of the procedures set forth in 193—Chapter 7 apply to disciplinary contested cases initiated by the board.

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193A—16.3(272C,542) Disciplinary sanctions.

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

a. Revoke a license issued by the board. In the event of a revocation, the licensee is not allowed to remain a member, partner or shareholder of a business entity if the law dictates 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 will 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 order the licensee to undergo a quality review or desk review under the board's supervision. The licensee will select, subject to approval by the board, a CPA, an LPA, or a firm of CPAs or LPAs. The review cost will be paid by the licensee. The board will be furnished a copy of the report issued by the reviewing party and may order remedial actions or education as a result of the report findings.

(2) The board may order 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 probationary period. The agreement will be preapproved by the board. The board may order the licensee to report regularly concerning the preissuance reviews conducted pursuant to the agreement. Any cost incurred in obtaining preissuance review will be paid by the licensee.

(3) The board may order the licensee to undergo a substance abuse evaluation and such care and treatment appropriate under the circumstances.

e. 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 necessary 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. Obligate the licensee to undergo 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 pursuant to Iowa Code section 542.14(2).

- 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, notify clients of unlicensed or unprofessional conduct, or take such other remedial measures that are appropriate under the public interest and circumstances of the infraction.
- j.* Order such alternative discipline as is allowed by law.

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 will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

16.3(4) *Client notification.* Whenever a license is revoked, suspended, under probation, or voluntarily surrendered under this chapter, the licensee will:

a. Within 30 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 licensee is under probation and the subject of compliance terms imposed by the board; for example, the licensee may agree to discontinue governmental audits while the licensee's license is under probation. Such notice will advise the client to obtain alternative professional services, unless probationary compliance terms 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, file with the board copies of the notices sent pursuant to paragraph 16.3(4) "a." Compliance with this paragraph is a condition precedent for an application for reinstatement.

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193A—16.4(272C,542) Notification of decisions. The board will notify NASBA of disciplinary action taken against an Iowa licensee.

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193A—16.5(272C,542) Reinstatement.

16.5(1) The term "reinstatement" as used in this rule and in rule 193—7.38(17A,272C) includes the reinstatement of a suspended license, the modification or removal of a probationary limitation on a licensee's practice, 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 placed under probation 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 probationary limitations of practice in accordance with Iowa Code section 542.12, rule 193—7.38(17A,272C), the provisions of this rule, and the terms of the order of revocation, suspension or probation, denial of license renewal, or acceptance of voluntary license surrender.

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 be made after at least one year has elapsed from the date of the order that revoked, suspended or placed under probation the license, denied license renewal, or accepted a voluntary surrender.

16.5(4) All proceedings for reinstatement are initiated by the respondent and 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,542).

16.5(6) The board will not grant an application for reinstatement when the initial order that revoked, suspended or placed under probation 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 the 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.

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These rules are intended to implement Iowa Code chapters 17A, 272C, and 542.

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