

**RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
TENNESSEE STATE BOARD OF ACCOUNTANCY**

**CHAPTER 0020-04
DISCIPLINARY ACTION AND CIVIL PENALTIES**

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0020-04-.01 DEFINITIONS.

- (1) For the purpose of this chapter, unless the context otherwise requires “licensee” shall be defined as in Tenn. Code Ann. § 62-1-103.

Authority: T.C.A. §§ 62-1-105, 62-1-111(a)(2), and 62-1-117. **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed December 1, 1987; effective January 15, 1988. Amendment filed May 11, 1995; effective July 24, 1995. Repeal and new rule filed June 10, 1999; effective August 24, 1999.

0020-04-.02 CIVIL PENALTIES.

- (1) The Tennessee State Board of Accountancy may, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for each separate violation of statutes, rules or orders enforceable by the Board in accordance with the following schedule:

<u>Violation</u>	<u>Penalty</u>
Tenn. Code Ann. § 62-1-111(a)(1)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(2)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(3)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(4)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(5)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(6)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(7)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(8)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(9)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(10)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(11)	\$0-\$1000
Tenn. Code Ann. § 62-1-111(a)(12)	\$0-\$1000

- (2) Each day of continued violation may constitute a separate violation.
- (3) In assessing civil penalties, the following factors may be considered.
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator.
 - (b) The circumstances leading to the violation.
 - (c) The severity of the violation and the risk of harm to the public.

(Rule 0020-04-.02, continued)

- (d) The economic benefits gained by the violator as a result of non-compliance.
- (e) The interest of the public.

Authority: T.C.A. §§ 56-1-308, 62-1-105, 62-1-111, and 62-1-117. **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed December 1, 1987; effective January 15, 1988. Amendment filed May 11, 1995; effective July 24, 1995. Repeal and new rule filed June 10, 1999; effective August 24, 1999. Amendment filed August 15, 2006; effective October 29, 2006.

0020-04-.03 GROUNDS FOR DISCIPLINE AGAINST LICENSEES.

- (1) The grounds for disciplinary action against licensees, are set out in Tenn. Code Ann. § 62-1-111 in both specific and general terms. The general terms of that provision include but are not limited to the following particular grounds for such disciplinary action.
 - (a) Fraud or deceit in obtaining a certificate, registration or permit includes the submission to the Board of any knowingly false or forged evidence in, or in support of, an application for a certificate, registration or permit, and cheating on an examination as defined in these rules.
 - (b) Dishonesty, fraud or gross negligence include knowingly, or through gross negligence, making misleading, deceptive or untrue representations in the performance of services.
 - (c) Violations of the Act or of rules promulgated under the Act, include but are not limited to:
 - 1. Using the CPA or PA title or providing attest services in this State without a certificate, registration or permit to practice or without properly qualifying to practice across state lines under the substantial equivalency provision of the Act;
 - 2. Using or attempting to use a certificate, registration or permit which has been surrendered, suspended or revoked;
 - 3. Making any false or misleading statement, in support of an application for a certificate, registration or a permit filed by another;
 - 4. Failure of a licensee to provide any explanation requested by the Board regarding evidence submitted by the licensee in support of an application filed by another, or regarding a failure or refusal to submit such evidence;
 - 5. Failure by a licensee to furnish for inspection upon request by the Board or its representative documentation relating to any evidence submitted by the licensee in support of such an application;
 - 6. Failure to satisfy the continuing professional education requirements set out in the Act and/or failure to comply with the continuing education requirements of these rules;
 - 7. Failure to comply with professional standards as to the attest experience requirement for those who supervise attest engagements and/or sign reports on financial statements; or
 - 8. Failure to comply with the peer review requirements set out in the Act and these rules.

(Rule 0020-04-.03, continued)

9. Failure to timely pay professional privilege tax as required by law.
- (2) Conduct reflecting adversely upon the licensee's fitness to perform services includes but is not limited to:
 - (a) Adjudication as mentally incompetent;
 - (b) Fiscal dishonesty of any kind;
 - (c) Presenting as one's own a certificate, registration or permit issued to another;
 - (d) Concealment of information regarding violations by other licensees of the Act or the Rules thereunder when questioned or requested by the Board; and
 - (e) Willfully failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of such a report or record, or inducing another person to impede or obstruct such filing by another; and the making or filing of such a report or record which one knows to be false.
- (3) The Board has no jurisdiction over fee disputes between a licensee and a client. The Board shall not seek to impose discipline against a licensee solely on the basis of a dispute between the licensee and the client regarding payment of fees by the client for professional services rendered by the licensee.

Authority: T.C.A. §§ 4-3-1304, 62-1-105, 62-1-107, 62-1-111, 62-1-113, 62-1-117, and 67-4-1704.

Administrative History: Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed October 29, 1981; effective January 27, 1982. Amendment filed December 1, 1987; effective January 15, 1988. Amendment filed April 20, 1994; effective July 4, 1994. Amendment filed May 11, 1995; effective July 24, 1995. Amendment filed August 2, 1996; effective October 16, 1996. Repeal and new rule filed June 10, 1999; effective August 24, 1999. Amendment filed August 15, 2006; effective October 29, 2006. Amendment filed December 11, 2013; effective March 11, 2014. Amendment filed February 11, 2015; effective May 12, 2015.

0020-04-.04 REPEALED.

Authority: T.C.A. §§ 62-1-105, 62-1-111(a)(2), 62-1-107(b), and 62-1-117. **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed December 1, 1987; effective January 15, 1988. Amendment filed August 5, 1991; effective September 19, 1991. Repeal and new rule filed June 10, 1999; effective August 24, 1999. Repeal filed August 12, 2016; effective November 10, 2016.

0020-04-.05 REVIEW OF PROFESSIONAL WORK PRODUCT.

- (1) The Board may solicit and receive publicly available reports of licensees and individuals practicing in this state pursuant to Tenn. Code Ann. § 62-1-117, and the related financial statements from clients, public agencies, banks, and other users of financial statements on a general and random basis without regard to whether an application for renewal of the particular licensee's license is then pending or whether there is any formal complaint or suspicion of impropriety on the part of any particular licensee. The Board may review such reports and otherwise proceed with respect to the results of any such review.

Authority: T.C.A. §§ 62-1-105, 62-1-111(a)(2), 62-1-116, and 62-1-117. **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed May 13, 1991; effective June 27, 1991. Amendment filed May 11, 1995; effective July 24, 1995. Amendment filed August 2, 1996; effective October 16, 1996. Repeal and new rule filed June 10, 1999; effective August 24, 1999.

0020-04-.06 SAFE HARBOR LANGUAGE.

- (1) Non-licensees shall use the following or similar disclaimer language in connection with financial statements to not be in violation of the Act:
 - (a) "I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners)."
 - (b) "I (we) have not audited, reviewed or compiled, under professional standards prescribed for such services, the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them. I (we) am (are) not licensed by this state, as a certified public accountant, public accountant or accounting firm, to provide those types of services."
- (2) The use of standard language in any report as defined by Tenn. Code Ann. § 62-1-103, by any non-licensed individual or non-permitted accounting firm, even if the verbiage is slightly altered, will be considered to be a violation of Tenn. Code Ann. §62-1-113(h)(1).

Authority: T.C.A. §§ 62-1-105, 62-1-108(c), 62-1-109(c), 62-1-111(a)(9), 62-1-111(2), 62-1-113(h)(1), and 62-1-117. **Administrative History:** Original rule filed June 9, 1981; effective August 18, 1981. Amendment filed June 30, 1988; effective August 14, 1988. Repeal and new rule filed June 10, 1999; effective August 24, 1999.