

WAC 4-30-142 What are the bases for the board to impose discipline? RCW 18.04.055, 18.04.295, 18.04.305, and 18.04.350 authorize the board to revoke, suspend, refuse to issue, renew, or reinstate an individual or firm license, CPA-Inactive certificate, the right to exercise practice privileges in this state, or registration as a resident nonlicensee firm owner; impose a fine not to exceed thirty thousand dollars; recover investigative and legal costs; impose full restitution to injured parties; impose remedial sanctions; impose conditions precedent to renew; or prohibit a resident nonlicensee from holding an ownership interest in a firm licensed in this state for the specific acts listed below.

The following are specific examples of prohibited acts that constitute grounds for discipline under RCW 18.04.295, 18.04.305, and 18.04.350. The board does not intend this listing to be all inclusive.

(1) Fraud or deceit in applying for the CPA examination, obtaining a license, registering as a resident nonlicensee firm owner, or in any filings with the board.

(2) Fraud or deceit in renewing or requesting reinstatement of a license, CPA-Inactive certificate, registration as a resident nonlicensee firm owner.

(3) Cheating on the CPA exam.

(4) Making a false or misleading statement in support of another person's application or request to:

(a) Take the national uniform CPA examination;

(b) Obtain a license or registration required by the act or board;

(c) Reinstate or modify the terms of a revoked or suspended license, certificate, or registration as a resident nonlicensee firm owner in this state;

(d) Reinstate revoked or suspended practice privileges of an individual or firm licensed in another state.

(5) Dishonesty, fraud, or negligence while representing oneself as a licensee, CPA-Inactive certificate holder, or a resident nonlicensee firm owner including, but not limited to:

(a) Practicing public accounting in Washington state prior to obtaining a license required per RCW 18.04.215, obtaining a firm license as required by RCW 18.04.195, or without qualifying to operate under firm mobility;

(b) Offering or rendering public accounting services in this state by an out-of-state individual not qualified for practice privileges under RCW 18.04.350(2);

(c) Offering or rendering public accounting services in this state by an out-of-state firm not qualified for practice privileges under firm mobility per RCW 18.04.195.

(d) Making misleading, deceptive, or untrue representations;

(e) Engaging in acts of fiscal dishonesty;

(f) Purposefully, knowingly, or negligently failing to file a report or record, or filing a false report or record, required by local, state, or federal law;

(g) Unlawfully selling unregistered securities;

(h) Unlawfully acting as an unregistered securities salesperson or broker-dealer;

(i) Discharging a trustee's duties in a negligent manner or breaching one's fiduciary duties, acting in a manner not in compliance with chapter 11.96A RCW; or

(j) Withdrawing or liquidating, as fees earned, funds received by a licensee, CPA-Inactive certificate holder, or a resident nonlicensee

firm owner from a client as a deposit or retainer when the client contests the amount of fees earned, until such time as the dispute is resolved.

(6) The following shall be prima facie evidence that a licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, a nonlicensee firm owner, or the employees of such persons has engaged in dishonesty, fraud, or negligence while representing oneself as a licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, a nonlicensee firm owner, or an employee of such persons:

(a) An order of a court of competent jurisdiction finding that the person or persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on the person's fitness to represent himself, herself, or itself as a licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, or a nonlicensee firm owner;

(b) An order of a federal, state, local or foreign jurisdiction regulatory body, or a PCAOB, finding that the licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, or nonlicensee firm owner, or employee of such persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on the person's fitness to represent himself, herself, or itself as a licensee, as defined in WAC 4-30-010, a CPA-Inactive certificate holder, or a nonlicensee firm owner;

(c) Cancellation, revocation, suspension, or refusal to renew the right to practice as a licensee, certificate holder, or a nonlicensee firm owner by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state; or

(d) Suspension or revocation of the right to practice before any state agency, federal agency, or the PCAOB.

(7) Sanctions and orders entered by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee, CPA-Inactive certificate holder, or nonlicensee firm owner;

(8) Any state or federal criminal conviction or commission of any act constituting a crime under the laws of this state, or of another state, or of the United States.

(9) A conflict of interest such as:

(a) Self dealing as a trustee, including, but not limited to:

(i) Investing trust funds in entities controlled by or related to the trustee;

(ii) Borrowing from trust funds, with or without disclosure; and

(iii) Employing persons related to the trustee or entities in which the trust has a beneficial interest to provide services to the trust (unless specifically authorized by the trust creation document).

(b) Borrowing funds from a client unless the client is in the business of making loans of the type obtained by the licensee, as defined in WAC 4-30-010, CPA-Inactive certificate holder, or nonlicensee firm owner and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness.

(10) A violation of the Public Accountancy Act or failure to comply with a board rule contained in Title 4 WAC, by a licensee, defined in WAC 4-30-010, CPA-Inactive certificate holder, or employees of such persons of this state or a licensee of another substantially equivalent state qualified for practice privileges, including but not limited to:

(a) An out-of-state individual exercising the practice privileges authorized by RCW 18.04.350(2) when not qualified;

(b) Submission of an application for firm license on behalf of a firm licensed in another state that does not meet the firm mobility requirements under RCW 18.04.195 (1)(a)(iii)(A) through (D) by an out-of-state individual not qualified under RCW 18.04.350(2) or authorized by the firm to make such application;

(c) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(2) to cease offering or performing professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business is no longer valid;

(d) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(2) to cease offering or performing specific professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business has been restricted from performing those specific services;

(e) Failure of an out-of-state firm operating under firm mobility per RCW 18.04.195 (1)(a)(iii), in this state to cease offering or performing professional services in this state through one or more out-of-state individuals whose license from the state of those individuals' principal place(s) of business is (are) no longer valid or is (are) otherwise restricted from performing the specific engagement services;

(f) Failure of a firm licensed in this state, or a firm operating under firm mobility to comply with the ownership requirements of RCW 18.04.195 within a reasonable time period, as determined by the board;

(g) Failure of a firm licensed in this state or another state to comply with the board's quality assurance program requirements, when applicable.

(11) Violation of one or more of the rules of professional conduct included in Title 4 WAC.

(12) Concealing another's violation of the Public Accountancy Act or board rules.

(13) Failure to cooperate with the board by failing to:

(a) Furnish any papers or documents requested or ordered to produce by the board;

(b) Furnish in writing a full and complete explanation related to a complaint as requested by the board;

(c) Respond to an inquiry of the board;

(d) Respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding.

(14) Failure to comply with an order of the board.

(15) Adjudication of a licensee, as defined by WAC 4-30-010, CPA-Inactive certificate holder, or a nonlicensee firm owner as mentally incompetent is prima facie evidence that the person lacks the professional competence required by the rules of professional conduct.

(16) Failure of a licensee, as defined by WAC 4-30-010, CPA-Inactive certificate holder, nonlicensee firm owner, or out-of-state person exercising practice privileges authorized by RCW 18.04.195 and 18.04.350 to timely notify the board, in the manner prescribed by the board, of any of the following:

(a) A sanction, order, suspension, revocation, or modification of a license, certificate, permit or practice rights by the SEC, PCAOB, IRS, or another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure

to meet the continuing professional education requirements of another state board of accountancy;

(b) Charges filed by the SEC, IRS, PCAOB, another state board of accountancy, or a federal or state taxing, insurance or securities regulatory body that the licensee, CPA-Inactive certificate holder, or nonlicensee firm owner committed a prohibited act that would be a violation of board ethical or technical standards;

(c) Sanctions or orders entered against such persons by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee, CPA-Inactive certificate holder, or nonlicensee firm owner.

[Statutory Authority: RCW 18.04.055. WSR 16-17-036, § 4-30-142, filed 8/9/16, effective 9/9/16. Statutory Authority: RCW 18.04.055(16), 18.04.195 (11)(d), 18.04.295, 18.04.305, 18.04.350(2). WSR 11-07-070, § 4-30-142, filed 3/22/11, effective 4/22/11; WSR 10-24-009, amended and recodified as § 4-30-142, filed 11/18/10, effective 12/19/10; WSR 08-18-016, § 4-25-910, filed 8/25/08, effective 9/25/08. Statutory Authority: RCW 18.04.055(16), 18.04.295, and 18.04.305. WSR 05-01-137, § 4-25-910, filed 12/16/04, effective 1/31/05; WSR 03-24-033, § 4-25-910, filed 11/25/03, effective 12/31/03. Statutory Authority: RCW 18.04.055(11), 18.04.295, and 18.04.305. WSR 02-04-064, § 4-25-910, filed 1/31/02, effective 3/15/02; WSR 00-11-078, § 4-25-910, filed 5/15/00, effective 6/30/00. Statutory Authority: RCW 18.04.055 and 18.04.295. WSR 94-23-070, § 4-25-910, filed 11/15/94, effective 12/16/94.]