

WSR 24-16-042

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed July 30, 2024, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-11-049.

Title of Rule and Other Identifying Information: WAC 4-30-053

Client records.

Hearing Location(s): On October 18, 2024, at 9:00 a.m., at Capital Event Center, 6005 Tyee Drive S.W., Tumwater, WA 98512; or via Microsoft Teams meeting. The link to join the meeting will be available on the board of accountancy's (board) website approximately two weeks before the hearing date at <https://acb.wa.gov/next-board-meeting>. A phone number will be provided as well in case you are unable to attend online.

Date of Intended Adoption: October 18, 2024.

Submit Written Comments to: Kirsten Donovan, Rules Coordinator, P.O. Box 9131, Olympia, WA 98507, email Kirsten.donovan@acb.wa.gov, fax 360-664-9190, by October 16, 2024.

Assistance for Persons with Disabilities: Contact Kirsten Donovan, rules coordinator, phone 360-664-9191, fax 360-664-9190, TTY 711, email Kirsten.donovan@acb.wa.gov, by October 16, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board proposes adoption of new rule to provide guidance to consumers regarding client records.

Reasons Supporting Proposal: See purposes above.

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of accountancy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Sciba, Deputy Director, 711 Capitol Way South, Suite 400, Olympia, WA 98501, 360-586-0952.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The board is not a listed agency in RCW 34.05.328 (5) (a) (i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

July 30, 2024
Jennifer Sciba
Deputy Director

OTS-5685.1

NEW SECTION

WAC 4-30-053 Client record requests. (1) For the purpose of this rule:

(a) "Client" includes current and former clients.

(b) "Client-provided records" are accounting or other records, including hard copy and electronic reproductions of such records, belonging to the client that were provided to a licensee by, or on behalf of, the client.

(c) "Licensee-prepared records" are accounting or other records that a licensee was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries (including computations supporting such entries) and supporting schedules and documents that a licensee proposed or prepared as part of an engagement (for example, an audit).

(d) "Licensee's work products" are deliverables set forth in the terms of the engagement, such as tax returns.

(e) "Working papers" are all other items prepared solely for purposes of the engagement and include items prepared by a licensee, such as audit programs, analytical review schedules, and statistical sampling results and analyses, or items prepared by the client at the request of a licensee and reflecting testing or other work done by a licensee.

(f) "Make records available" means to provide the records in any format that is usable and accessible, whether electronic or otherwise, regardless of the format in which they were received.

(2) When an initial request for client-provided records is received, a licensee should make those records in a licensee's custody or control available. A licensee may charge a reasonable fee for the time and expense incurred to retrieve, copy, and ship such records; however, the client-provided records may not be withheld for nonpayment of such fees.

(3) A licensee and the client may agree to terms other than those stated in this rule. When this occurs, a licensee should respond in accordance with such agreement. Otherwise, a licensee should respond to a request for licensee-prepared records or a licensee's work products that are in a licensee's custody or control and that have not previously been made available to the client as follows:

(a) A licensee should make available licensee-prepared records relating to a completed and issued work product; however, such records may be withheld if fees are due to a licensee for that specific work product.

(b) Licensee's work products should be made available; however, such work products may be withheld if fees are due to a licensee for the specific work product; the work product is incomplete; for purposes of complying with professional standards (for example, withholding an audit report with outstanding audit issues); or threatened or outstanding litigation exists concerning the engagement or a licensee's work.

(4) Once a licensee has complied with this rule, a licensee is under no obligation to:

(a) Comply with any subsequent requests to again make records or copies of records available. However, if after complying with a request, a loss of records due to a natural disaster or an act of war is

experienced, a licensee should, when practicable, comply with an additional request to make such records available.

(b) Retain records for periods that exceed applicable professional standards, state and federal statutes and regulations, and contractual agreements relating to the service performed.

(c) Make the records available to any other associated party, such as the general partner, majority shareholder, or spouse.

(5) Working papers are a licensee's property, and a licensee is not required to make such information available.

(6) In fulfilling a request for a licensee's copy of client-provided records that was previously made available to the client, licensee-prepared records, or a licensee's work products, a licensee may:

(a) Charge a reasonable fee for the time and expense incurred to retrieve, copy, and ship such records and require payment before a licensee makes the records available.

(b) Make the requested records available in any usable and accessible format. However, a licensee is not required to convert records that are not in electronic format to electronic format. If the records are requested in a specific format and the records are available in such format within a licensee's custody and control, the request should be honored. In addition, a licensee is not required to make formulas available, unless a licensee was engaged to make such formulas available as part of a completed work product or the formulas were used to create licensee-prepared records without which the client's financial information would be incomplete.

(c) Make and retain copies of any records that a licensee already made available.

(7) When a licensee is required to return or make records available, a licensee should comply as soon as practicable but, absent extenuating circumstances, no later than 45 days after the request is made.

(8) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.