

OCCUPATIONAL CODE (EXCERPT)

Act 299 of 1980

ARTICLE 7

339.701-339.716 Repealed. 1997, Act 10, Imd. Eff. May 16, 1997.

Compiler's note: The repealed sections pertained to practice of public accountancy; creation of state board of accountancy; and certification, registration, and licensure of certified public accountants.

Popular name: Act 299

339.720 Definitions; practice of public accounting.

Sec. 720. (1) As used in this article:

(a) "Attest" means providing any of the following services, but does not include providing a compilation:

(i) An audit or other engagement to be performed in accordance with the statements on auditing standards.

(ii) A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.

(iii) An examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

(iv) An engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(v) An examination, review, or agreed-upon procedures engagement to be performed in accordance with the statements on standards for attestation engagements, other than an examination described in subparagraph (iii).

(b) "Certified public accountant" means an individual who is either of the following:

(i) Qualified by education, examination, and experience to engage or offer to engage in the practice of public accounting as evidenced by the issuance of a certificate as a certified public accountant under section 725 or 726 and a license or registration issued under section 727.

(ii) An individual whose principal place of business is not in this state and who satisfies the requirements set forth in section 727a.

(c) "Client" means an individual or entity that engages a licensee or licensee's employer to receive any service in the practice of public accounting.

(d) "Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that are presenting, in the form of financial statements, information that is the representation of management or owners without undertaking to express any assurance on the statements.

(e) "Firm" means a corporation, partnership, limited liability company, unincorporated association, sole proprietorship operating under an assumed name, or other legal entity.

(f) "License cycle" means the term of a license issued under this article.

(g) "Nonresident licensee" means an individual licensee whose principal place of business is not located in this state.

(h) Subject to subsection (2), "practice of public accounting" means rendering or offering to render an opinion on or attesting to or offering to attest to the reliability of a representation or estimate, including, but not limited to, the giving of an opinion in substance that 1 or more of the following types of information concerning the entity that is the subject of the opinion present fairly the condition of the entity:

(i) Financial or other information about which the opinion is given.

(ii) Facts respecting the entity's compliance with conditions established by law or contract, including, but not limited to, a statute, ordinance, regulation, grant, loan, or appropriation.

(iii) The scope of the accounting procedures rendered in connection with the presentation of the entity's financial statement.

(i) "Principal place of business" means the office location designated by the licensee for the purposes of substantial equivalency and reciprocity.

(j) "Report", when used with reference to an attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of attested information or compiled financial statements and that also includes, or is accompanied by, any statement or implication that the individual or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the individual or firm is an accountant or auditor or from the language of the report itself. Report includes any form of language that disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled

financial statements referred to or special competence on the part of the individual or firm issuing that language, or both, and includes any other form of language that is conventionally understood to imply that assurance or special knowledge and competence, or both.

(k) "Uniform CPA exam" means the Uniform CPA Examination developed and scored by the American Institute of Certified Public Accountants or a successor organization.

(2) In addition to the definition set forth in subsection (1)(h), practice of public accounting includes 1 or more of the following activities when performed or offered to be performed by an individual who is holding himself or herself out as a certified public accountant for a client or a potential client:

(a) The issuance of reports in connection with any attest or compilation services.

(b) One or more kinds of management advisory, financial advisory, or consulting services, including, but not limited to, business valuation, forensic accounting, and fraud examination services.

(c) The preparation of tax returns.

(d) The furnishing of advice on tax matters.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010;—Am. 2016, Act 76, Eff. July 4, 2016;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.721 State board of accountancy; creation; qualifications of members; promulgation of rules.

Sec. 721. (1) The state board of accountancy is created.

(2) Subject to subsection (3), the board shall consist of 9 members as follows:

(a) Six members who are certified public accountants who hold a certificate as a certified public accountant, who are licensed under section 727, and who have practiced in this state as certified public accountants for not less than 5 years.

(b) Three members who represent the general public, 1 of whom shall be an attorney who is a member in good standing in the bar of this state.

(3) One of the 9 members of the board shall be a full-time instructor of accounting above the elementary level at an accredited college or university.

(4) The director may promulgate the following rules:

(a) Rules of professional conduct for establishing and maintaining high standards of competence and integrity in the practice of public accounting.

(b) Rules governing corporations practicing public accounting, consistent with former 1962 PA 192 or chapter 2A of the business corporation act, 1972 PA 284, MCL 450.1281 to 450.1289, as applicable.

(c) Rules governing educational requirements that qualify an applicant to sit for the uniform CPA exam.

(d) Rules governing educational and experience requirements for the issuance of a certificate as a certified public accountant.

(e) Rules of procedure governing the conduct of matters before the board.

(f) Rules governing the recognition of educational institutions by the board.

(g) Rules governing continuing education required under section 729.

(h) Any other rules considered necessary by the director to implement and enforce this article.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2012, Act 566, Imd. Eff. Jan. 2, 2013;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

Administrative rules: R 338.5101 et seq. of the Michigan Administrative Code.

339.722 Licenses, registrations, and certificates as certified public accountant.

Sec. 722. The department shall issue licenses, registrations, and certificates as a certified public accountant under this article. The department shall issue a license to engage in the practice of public accounting in this state only to an individual who holds a certificate as a certified public accountant and who has furnished evidence satisfactory to the board of compliance with the requirements of this article and the rules promulgated under this article.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

339.723 Use of title, terms, or abbreviations indicating person is certified public accountant; prohibited conduct; display or uttering of certain instrument or device as prima facie evidence that person caused or procured display; use of certain designations in

connection with firm name; violation; fine; investigation and enforcement.

Sec. 723. (1) Each individual having complied with the requirements described in section 720(1)(b) shall be known as a certified public accountant and any other person shall not use that title or the abbreviation "CPA" or any other word, words, letters, or figures to indicate that the person using them is a certified public accountant unless the use is specifically approved by the board. Use of the terms "certified accountant", "chartered accountant", "public accountant", and "registered accountant" and the abbreviations "C.A.", "P.A.", and "R.A." is specifically prohibited as being prima facie misleading to the public.

(2) Except as provided in section 724, a person shall not engage in the practice of public accounting either in the person's own name, under an assumed name, or as a member of a firm or as an employee, unless the person holds a Michigan license as a certified public accountant issued under this article or is practicing public accounting in this state pursuant to section 727a.

(3) Unless use of a term is specifically approved by the board, the display or uttering by a person of a card, sign, advertisement, directory listing, or other printed, engraved, or written instrument or device bearing a person's name in conjunction with a title described in subsection (1) shall be prima facie evidence that the person whose name is so displayed caused or procured the display or uttering of the card, sign, advertisement, directory listing, or other printed, engraved, or written instrument or device. Evidence of the commission of a single act prohibited by this section is sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

(4) Each licensed firm may use the designation "certified public accountants" in connection with the firm name, except that a licensed firm having only 1 member may use only the designation "certified public accountant". An unlicensed firm shall not use the designation "certified public accountants", "certified accountants", "chartered accountants", "public accountants", or "registered accountants" or the abbreviation "C.P.A.", "CPA", "CPAs", "C.A.", "P.A.", or "R.A." in connection with the firm name unless the firm is licensed under the laws of another licensing jurisdiction and is permitted to practice in this state without obtaining a license as described in section 728.

(5) A person that violates this section or a rule or order promulgated or issued under or related to this section is liable for an administrative fine payable to the department of not more than \$25,000.00 per violation.

(6) The department may conduct an investigation and proceed under article 5 to enforce this section.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 161, Imd. Eff. June 11, 2008.

Popular name: Act 299

339.724 Conduct not prohibited by article.

Sec. 724. This article does not prohibit the following:

(a) An individual who is not a certified public accountant from serving as an employee of, or an assistant to, a certified public accountant or firm composed of certified public accountants who are licensed to practice under this article if the individual does not issue an accounting or financial statement over his or her name.

(b) A licensed certified public accountant of another licensing jurisdiction who does not meet the requirements of section 727a, or an accountant who is licensed in a foreign country for the practice of public accounting in that country, from temporarily and periodically engaging in the practice of public accounting in this state if all of the following requirements are met:

(i) The individual is conducting a regular practice of public accounting in another licensing jurisdiction or foreign country.

(ii) The temporary practice is conducted in conformity with section 736 and applicable rules promulgated by the director, if any.

(iii) The individual secures a temporary permit from the department to conduct the practice in this state.

(c) A practicing attorney from preparing reports or presenting records customarily prepared by an attorney in connection with the attorney's professional work.

(d) A person from preparing a financial report or tax return, not requiring the expression of an opinion on the report or return, for filing with a federal, state, or local governmental unit.

(e) An officer, employee, partner, or principal of an organization from signing a statement or report in reference to the financial affairs of the organization with wording designating the position, title, or office which the officer, employee, partner, or principal of an organization holds in that organization.

(f) An act of a public official or public employee in the performance of that individual's official duties.

(g) An individual who may be employed by more than 1 individual or firm from keeping books, making trial balances or statements, and preparing audits or reports, if the audits or reports are not used or issued by the employer as having been prepared by a certified public accountant.

(h) A firm that does not hold a valid license under section 728 and that does not have an office in this state from providing its professional services in this state in the practice of public accountancy and from using the certified public accountant designation so long as it complies with the requirements of section 728(4) or (5), whichever is applicable.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.725 Issuance of certificate as certified public accountant; requirements; examination; qualifying experience.

Sec. 725. (1) The department shall issue a certificate as a certified public accountant to an individual who meets all of the following requirements:

- (a) Is of good moral character.
- (b) Has complied with the education requirements of subsection (2).
- (c) Has passed an examination meeting the requirements of subsection (3).
- (d) Has complied with the experience requirements of subsection (4).

(e) Has completed at least 150 semester hours of college education, including a baccalaureate degree or higher degree with a concentration in accounting, at an educational institution approved by the board.

(2) An individual who has completed a curriculum required for a baccalaureate degree with a concentration in accounting at an educational institution approved by the board may sit for the examination required under subsection (3).

(3) An applicant for a certificate as a certified public accountant shall pass an examination in accounting, auditing, and other related subjects, acceptable to the department and the board, that is given reciprocal status in the plurality of states as compared to other examinations.

(4) For an application for a certificate as a certified public accountant received on or after the effective date of the amendatory act that added this subsection, or an application received before that date if a certificate of certified public accountant has not been issued, the applicant shall have 1 year of qualifying experience, all of which is verified by a certified public accountant of this state, any other state, or any jurisdiction of the United States, submitted on a form prescribed by the department. Qualified experience is experience gained through employment in government, industry, academia, or public practice in 1 or more of the following areas:

- (a) Audits of financial statements in accordance with the applicable standards at the time of engagement.
- (b) Reviews of financial statements in accordance with the applicable standards at the time of engagement.
- (c) Compilations of financial statements with complete disclosure in accordance with the applicable standards at the time of engagement.
- (d) Attestation engagements in accordance with the applicable standards at the time of engagement.
- (e) Other auditing in accordance with applicable standards at the time of engagement that leads to an expression of a written opinion including any of the following:
 - (i) Reviews regarding internal control.
 - (ii) Operational audits.
 - (iii) Compliance audits.
 - (iv) Expressions of an opinion on financial forecasts and projections.
- (f) Performance of an independent internal audit function.
- (g) Compliance audits of government contracts performed on behalf of a government agency that result in the issuance of an opinion or report.
- (h) Audits performed on behalf of a government audit agency that result in the issuance of an opinion or report.
- (i) Preparation of income and nonprofit tax returns for any taxing jurisdiction.
- (j) Properly documented tax research.
- (k) Representation of a client before a government agency on a tax matter.
- (l) Financial forecasts, analyses, and projections.
- (m) Management advisory services including, but not limited to, business valuation, forensic accounting, and fraud examination services that meet applicable standards.
- (n) Management and supervision of accounting functions and preparing financial statements for profit or nonprofit entities.
- (o) Professional accounting-related work in a public accounting firm.
- (p) Other work generally associated with the profession of public accounting.

(5) An applicant for certification under this section shall not receive credit as qualifying experience for the following:

(a) Experience consisting of nonprofessional work, including recruiting, industrial engineering, administration, bookkeeping, and appraisals.

(b) Paraprofessional work that does not comply with subsection (4)(o).

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 1998, Act 380, Imd. Eff. Oct. 23, 1998;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 1, Imd. Eff. Mar. 1, 2007;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

Popular name: Act 299

339.726 Holder of certificate issued by another state or foreign jurisdiction; requirements for issuance of certificate by department.

Sec. 726. (1) The department shall issue a certificate as a certified public accountant to an individual who holds a valid and unrevoked certificate as a certified public accountant issued by or under the authority of another state or United States jurisdiction and meets either of the following conditions:

(a) Provides proof that the applicant's original certificate as a certified public accountant was secured on the basis of requirements that the board determines are equivalent to the standards required for qualification in this state at the same time the applicant was issued his or her original certificate.

(b) Has had 4 years of experience of the type described in section 725(4) after having passed the examination upon which the applicant's certificate was based, within 10 years immediately preceding the date of application.

(2) The department shall issue a certificate as a certified public accountant to an individual who holds a valid and unrevoked certificate as a certified public accountant or an equivalent title issued by or under the authority of a jurisdiction outside the United States equivalent to the requirements as described in section 725.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

Popular name: Act 299

339.727 Use of authorized title; requirements.

Sec. 727. After obtaining a certificate as a certified public accountant under section 725 or 726, an individual seeking to use a title authorized by this article shall do 1 of the following:

(a) If the individual only seeks to use a title authorized by this article, the individual shall apply for registration under this article.

(b) If the individual seeks to use a title authorized by this article and to engage in the practice of public accounting, the individual shall apply for licensure under this article. A nonresident member of a firm who has authority for the firm's practice of public accounting in this state is considered to be engaged in the practice of public accountancy in this state.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

Popular name: Act 299

339.727a Individual whose principal place of business is outside of state; practice without need to obtain certificate, license, or temporary practice permit; requirements; practice privileges.

Sec. 727a. (1) An individual whose principal place of business is not in this state is considered to have qualifications substantially equivalent to this state's requirements, has all the privileges of licensees of this state, and may practice public accountancy without the need to obtain a certificate, license, or temporary practice permit under this article, if the individual meets either or both of the following:

(a) Holds a valid license as a certified public accountant from another licensing jurisdiction that requires, as a condition of licensure, that the individual meets all of the following:

(i) Has at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university.

(ii) Achieves a passing grade on the uniform CPA exam.

(iii) Possesses at least 1 year of experience including providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which may be obtained through government, industry, academic, or public practice as verified by a licensee.

(b) Holds a valid license as a certified public accountant from another licensing jurisdiction that does not meet the requirements of subdivision (a), but has certified public accountant qualifications that are substantially equivalent to those requirements. Any individual who passed the uniform CPA exam and holds a valid license issued by another licensing jurisdiction before January 1, 2012 is exempt from the education requirement in subdivision (a)(i) for purposes of this subdivision.

(2) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means under this section shall be granted practice privileges in this state, and no notice, fee, or other submission is required of that individual. An individual described in this subsection is subject to the requirements of section 734a.

History: Add. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.728 License to engage in practice of public accounting; application by firm; requirements; change in address; practice of public accountancy without license under subsection (1); conditions; other professional services practiced without license.

Sec. 728. (1) A firm that establishes or maintains an office in this state must apply for and obtain a Michigan license under this article in order to engage in the practice of public accounting in this state.

(2) A firm that is applying for licensure under this article shall meet both of the following requirements:

(a) At least a simple majority of the equity and voting rights of the firm are held directly or beneficially by individuals who are licensed in good standing as certified public accountants of this state or another state or the equivalent in another licensing jurisdiction acceptable to the board. Each owner who is not a certified public accountant must be an active individual participant in the firm or 1 or more of its affiliated entities. An individual with practice privileges under section 727a who performs services for which a firm license is required under this section is not required to obtain a certificate under section 726 or a registration or license under section 727.

(b) All attest and compilation services provided by the firm in this state are performed under the supervision of an individual who is licensed and in good standing as a certified public accountant in this state or another state or holds an equivalent authorization to practice public accounting from another licensing jurisdiction acceptable to the board.

(3) A firm shall notify the department of any change in address within 30 days of the change.

(4) A firm that is not required to obtain a Michigan license under subsection (1) may perform a review engagement in accordance with the statements on standards for accounting and review services, perform an examination, a review, or agreed-upon procedures engagement in accordance with the statements on standards for attestation engagements, or perform a compilation for a client in this state, only if it meets each of the following conditions:

(a) It has met the requirements in subsection (2)(a) and (b) and section 729(2).

(b) It performs those services through an individual who has practice privileges under section 727a.

(c) It is authorized or permitted to perform those services in the licensing jurisdiction where the individual described in subdivision (b) has his or her principal place of business.

(5) A firm that is not required to obtain a Michigan license under subsection (1) and that is not seeking to practice under subsection (4) may perform attest services, or any other professional services within the practice of public accountancy, while using the title "CPA" or "CPA firm" in this state without a license issued under subsection (1) only if it meets all of the following conditions:

(a) It performs those services through an individual with practice privileges under section 727a.

(b) It is authorized or permitted to perform those services in the licensing jurisdiction where the individual described in subdivision (a) has his or her principal place of business.

(c) It meets the requirements in subsection (2)(a) and (b) and section 729(2).

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2000, Act 334, Imd. Eff. Dec. 20, 2000;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010;—Am. 2014, Act 177, Imd. Eff. June 17, 2014;—Am. 2016, Act 76, Eff. July 4, 2016;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.729 License renewal; continuing education requirements.

Sec. 729. (1) As a condition of license renewal, an individual licensee must successfully complete at least 40 hours of continuing education for each year of a license cycle. All of the following apply to the continuing education requirement described in this subsection:

(a) A licensee is not required to meet the continuing education requirements for a period of 12 months, beginning on the date of his or her original license.

(b) At least 8 of the 40 hours of continuing education for each year of a license cycle must be in the areas of auditing and accounting. However, the board shall not require completion of more than 8 hours of education in the areas of auditing and accounting in 1 year of a license cycle.

(c) Subject to subdivision (d), at least 2 of the 40 hours of continuing education for each year of a license cycle must be in the area of professional ethics. However, the board shall not require completion of more than

2 hours of education in the area of professional ethics in 1 year of a license cycle.

(d) The content of 1 hour of the 4 hours of continuing education in professional ethics required in a 2-year license cycle must be the statutes and administrative rules of this state applicable to public accountancy. A statewide professional association of certified public accountants approved by the department shall create the content for this 1 hour of professional ethics education.

(e) A licensee who earns more than the required 40 hours of continuing education in a year may carry over those excess hours to the next year, but not to any subsequent year, subject to all of the following:

(i) The maximum number of excess hours a licensee may carry over into the next year is 40 hours.

(ii) A licensee may not carry over more than 8 hours to meet the minimum accounting and auditing education requirements described in subdivision (b) for the next year.

(iii) A licensee may not carry over more than 2 hours to meet the minimum professional ethics requirement described in subdivision (c) for the next year.

(iv) A licensee may not carry over more than 1 hour of education in public accountancy described in subdivision (d) to meet the minimum ethics requirements for the next license cycle.

(f) Except as provided in subdivision (g), a nonresident licensee must certify in his or her renewal application that he or she has met the continuing education requirements under this subsection.

(g) A nonresident licensee who is applying for renewal of his or her license is considered to have met the continuing education requirements under this subsection if he or she meets the continuing education requirements for renewal of an individual license in the state in which his or her principal place of business is located. If the state in which a nonresident licensee's principal place of business is located does not have continuing education requirements for renewal of a license, the nonresident licensee must comply with all continuing education requirements for renewal of a license under this subsection.

(h) On request, a licensee must provide the department with 1 of the following, as applicable:

(i) For a licensee with a principal place of business located in this state, proof acceptable to the department that the licensee meets the continuing education requirements for license renewal in this state.

(ii) For a nonresident licensee, proof acceptable to the department, from the state board or other licensing authority in the licensing jurisdiction in which his or her principal place of business is located, that the nonresident licensee meets the continuing education requirements for license renewal in that licensing jurisdiction.

(2) Each licensed firm and sole practitioner that performs any of the following services shall participate in a peer review program established by rule of the department and approved by the board:

(a) Audit.

(b) Review.

(c) Compilations that are relied upon by third parties.

(3) An applicant for renewal shall submit to the department, on a form prescribed by the department and at the time of renewal, proof of peer review obtained within the 3 years immediately preceding the application.

(4) A firm or sole practitioner required to participate in a peer review program under this subsection shall notify the department within 30 days after receipt of a fail rating or second consecutive pass with deficiencies rating. Verbal testimony or documents, or both, pertaining to a peer review shall be considered confidential and shall be exempt from disclosure to the department, except in the case of a fail or second consecutive pass with deficiencies rating.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 1, Imd. Eff. Mar. 1, 2007;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.730 Contingent fee.

Sec. 730. (1) Except as otherwise provided in this section, a certified public accountant may charge or receive a contingent fee.

(2) A licensee shall not charge or receive a contingent fee from a client during the period in which a licensee or a licensee's firm is engaged to perform for the client 1 or more of the following services or during the period of time covered by any of such client's historical financial statements involved in those services:

(a) An audit or review of a financial statement.

(b) A compilation of a financial statement when the licensee expects, or may reasonably expect, that a third party will use the financial statement and that the compilation report does not disclose a lack of independence.

(c) An examination of prospective financial information.

(3) A licensee shall not charge or receive a contingent fee for the preparation of an original or amended tax return or claim for a tax refund.

(4) As used in this section, "contingent fee" means a fee established for the performance of a service

pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained or in an arrangement where the amount of the fee is dependent upon a finding or result of the service. Contingent fee does not include a fee fixed by a court or other public authority and, in tax matters, a fee determined based upon the results of judicial proceedings or the findings of a governmental agency.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

339.731 Commission or referral fee.

Sec. 731. (1) Except as otherwise provided in this section, a certified public accountant may perform services for or receive for services a commission as long as the certified public accountant discloses that arrangement to the person to whom the certified public accountant recommends or refers a product or service to which the commission relates.

(2) A licensed certified public accountant shall not receive a commission for recommending or referring to a client a product or service or for causing to be recommended, referred, or supplied to a client a product or service during the period in which a licensee or a licensee's firm is engaged by the client to perform 1 or more of the following services or during the period of time covered by any historical financial statements in those services:

(a) An audit or review of a financial statement.

(b) A compilation of financial statement when the licensee expects, or may reasonably expect, that a third party will use the financial statement and that the compilation report does not disclose a lack of independence.

(c) An examination of prospective financial information.

(3) This section does not prohibit a licensee from paying or receiving a referral fee for recommending or referring a service involving the practice of public accounting if the payment or receipt of the referral fee is disclosed to the client.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

339.732 Confidentiality; disclosure of information.

Sec. 732. (1) Except by written permission of the client or the heir, successor, or personal representative of the client to whom the information pertains, a licensee, or a person employed by a licensee, shall not disclose or divulge and shall not be required to disclose or divulge information relative to and in connection with an examination or audit of, or report on, books, records, or accounts that the licensee or a person employed by the licensee was employed to make. Except as otherwise provided in this section, the information derived from or as the result of professional service rendered by a certified public accountant is confidential and privileged.

(2) Subsection (1) does not prohibit any of the following:

(a) A certified public accountant, whose professional competence has been challenged in a court of law or before an administrative agency, from disclosing information otherwise confidential and privileged as part of a defense in the court action or administrative hearing.

(b) The disclosure of information required to be disclosed in the course of practice monitoring programs and ethical investigations conducted by a licensed certified public accountant. In such cases, the information disclosed to another licensed certified public accountant in the course of practice monitoring programs and ethical investigations is confidential and privileged to the same degree and in the same manner as provided for in subsection (1).

(c) A licensee, or a person employed by a licensee, from disclosing information otherwise privileged and confidential to appropriate law enforcement or governmental agencies when the licensee, or person employed by the licensee, has knowledge that forms a reasonable basis to believe that a client has committed a violation of federal or state law or a local governmental ordinance.

(3) Documents or records in the possession of the department pertaining to a review, an investigation, or disciplinary actions under this article are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, unless the records or documents are used for either or both of the following purposes:

(a) As evidence in a contested case held by the department.

(b) As a basis for formal action by the department and until the action is resolved by a final order issued by the board.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005.

Popular name: Act 299

339.733 Statements, records, schedules, working papers, or memoranda; restriction; sale, transfer, bequeathing, or assignment.

Sec. 733. (1) Statements, records, schedules, working papers, or memoranda made by a licensee or by an employee of a licensee shall remain the property of the licensee unless there is an agreement to the contrary. This subsection does not apply to a report submitted by a licensee to a client or a document constituting the original books or records of a client's business.

(2) Statements, records, schedules, working papers, or memoranda pertaining to a client shall not be sold, transferred, or bequeathed without consent of the client or the client's personal representative and shall not be assigned except to 1 or more surviving partners or a new partner of the licensee or members of the licensee's firm.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299

339.734 Prohibited conduct; penalties; report to department.

Sec. 734. (1) A holder of a certificate, registration, or license as a certified public accountant or an individual exercising the practice privilege granted under section 727a and the firm employing that individual is subject to the penalties of section 602 for 1 or more of the following:

(a) Fraud or deceit in obtaining a certificate or registration as a certified public accountant, a license to practice public accounting, or a practice privilege under this article.

(b) Dishonesty, fraud, or negligence in the practice of public accounting.

(c) Violation of a rule of professional conduct promulgated under this article.

(d) Departure from standards of professional practice applicable to the engagement, at the time of engagement.

(e) Conviction of a felony under the laws of this or another state or the United States or conviction of a crime, an element of which is dishonesty, fraud, or negligence, under the laws of this or another state or of the United States, including, but not limited to, the failure to file a personal federal, state, or local income tax return.

(f) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant by another state or any jurisdiction of the United States for a cause other than failure to pay a licensure or other required fee in that state.

(g) Suspension or revocation of the right to engage in the practice of public accounting before a state or federal agency or a public accounting oversight board.

(h) Conduct discreditable to the public accounting profession.

(i) Determination of mental incompetency by a court of law.

(j) A violation of this article or a rule promulgated under this article.

(k) A violation of the provisions of section 604.

(l) A violation of professional standards regarding the issuance of reports on financial statements; 1 or more kinds of management advisory, financial advisory, or consulting services; the preparation of tax returns; or the furnishing of advice on tax matters.

(2) Notwithstanding section 602(e), a person that violates this article or a rule or order promulgated or issued under or related to this article is liable for an administrative fine payable to the department of not more than \$25,000.00 per violation.

(3) Within 30 days after a final determination rendered by a federal or state administrative agency or a judgment or conviction issued by a federal court, a state court, or any other court of record, a licensee or registrant shall report to the department in writing or electronically a determination, order, judgment, or conviction regarding a violation in which dishonesty, fraud, or negligence is an element of that determination, order, judgment, or conviction.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2010, Act 215, Imd. Eff. Nov. 23, 2010.

Popular name: Act 299

339.734a Exercise of privilege granted by MCL 339.727a; conditions; disciplinary action for act committed in another licensing jurisdiction; prima facie evidence of violation.

Sec. 734a. (1) An individual who meets the requirements of, and is exercising the practice privilege granted by, section 727a, and the firm that employs that individual, each agree to all of the following as a condition of the exercise of that privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board and the

department.

(b) To comply with this act and the applicable rules.

(c) If the license from the licensing jurisdiction of the individual's principal place of business is no longer valid, that the individual will cease offering or rendering professional services in this state individually and on behalf of a firm.

(d) To the appointment of the state board or other licensing authority that issued his or her license as the agent on which process may be served in any action or proceeding by this board against the individual or the firm that employs that individual.

(2) A licensee under this article who offers or renders public accounting services or uses the certified public accountant title in another licensing jurisdiction or before a state or federal agency is subject to disciplinary action under this article for an act committed in another licensing jurisdiction or before a state or federal agency for which the licensee would be subject to discipline for an act committed in another licensing jurisdiction or before a state or federal agency. The department is required to examine any complaint made by a state licensing board or other licensing jurisdictional authority and may accept, as prima facie evidence of a violation of this act, a final order of violation issued by another state licensing board or other licensing jurisdictional authority.

History: Add. 2008, Act 161, Imd. Eff. June 11, 2008;—Am. 2018, Act 81, Eff. June 17, 2018.

Popular name: Act 299

339.735 Violation as felony; penalty; enforcement.

Sec. 735. (1) A person who violates section 723(1) through (4) is guilty of a felony punishable by a fine of not more than \$25,000.00, or imprisonment for not more than 5 years, or both.

(2) The attorney general or the prosecuting attorney of a county may bring an action in a court of competent jurisdiction to enforce this section and section 601.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997;—Am. 2005, Act 278, Imd. Eff. Dec. 19, 2005.

Popular name: Act 299

339.736 Issuance of audit report; opinion as to whether financial information is presented according to statutory accounting principles.

Sec. 736. If requested by an insurer, a licensee who agrees to issue an audit report concerning the statutory financial statements of a domestic insurer shall include an opinion as to whether the financial information is presented according to statutory accounting principles as prescribed or permitted by the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or orders issued or rules promulgated under that act. An opinion issued pursuant to this section may be separate from the audit report if the letter of engagement provides that the opinion be available for general distribution.

History: Add. 1997, Act 10, Imd. Eff. May 16, 1997.

Popular name: Act 299