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Issue Number: 2025-12. Fessing Up Can Be in Your Own Best Interests: Self-Reporting of Practitioner Misconduct

I. Background

Subject to certain exceptions,¹ Circular 230, *Regulations Governing Practice before the Internal Revenue Service*, which is administered and enforced by the IRS's Office of Professional Responsibility (OPR), limits the eligibility to represent taxpayers and to otherwise practice before the IRS to those who are "practitioners," as defined in the Circular. By its terms, Circular 230 "contains rules governing the recognition of [certain licensed/credentialed tax professionals], . . . and other persons representing taxpayers before the Internal Revenue Service." (Section (§) 10.0.) "Practitioners" are defined in section 10.2(a)(5), in conjunction with section 10.3 (*Who may practice*), as attorneys, certified public accountants (CPAs), enrolled agents (EAs), enrolled retirement plan agents (ERPAs), and enrolled actuaries. Appraisers who perform appraisals and prepare valuation reports for use in federal tax filings and tax matters are also regulated under Circular 230, although they are not classified in the regulations as "practitioners." And like practitioners, they are subject to section 31 USC 330, which the regulations implement, including exposure to a disciplinary sanction (specifically, disqualification). *See* 31 USC 330(d); Circular 230 §§ 10.50(b), 10.60(b).²

Most of the rules in Circular 230 are ones that apply to practitioners when they appear before or engage with the IRS on behalf of taxpayers. Many of them are fundamental and longstanding principles of professional practice – for example, duties of diligence; competence; promptness; informing clients of errors or omissions made on submissions to a governmental authority (such as on a tax return previously filed with the IRS); and avoiding conflicts of interest. *See generally* Subpart B of Circular 230, *Duties and Restrictions Relating to Practice Before the Internal Revenue Service*. These rules share commonality with ethical and professional responsibility standards and requirements of the legal, accounting, actuarial, and other professions.

TIP: Readers interested in examples from those professions can find several in the Appendix, Section 1, at the end of this article.

¹ Individuals may represent taxpayers because they have a special relationship to the taxpayer, such as an immediate family member, a regular fulltime employee of an individual, or a bona fide officer or a regular fulltime employee of a corporation. *See* Circular 230 section 10.7(c)(1); 26 CFR § 601.502(b)(5)(ii).

Also, paid tax return preparers who are not Circular 230 practitioners can represent taxpayers as part of the IRS's voluntary [Annual Filing Season Program](#) (AFSP) (specifically, the preparers can represent taxpayers in examinations of tax returns or claims for refund that the preparer prepared and signed). *See* Rev. Proc. 2014-42, 2014-29 I.R.B. 192, § 6.01 (Jul. 14, 2014).

² For the purpose of simplicity, references in this article to "practitioner" and "practitioners" include appraisers unless noted otherwise.

Depending on the Circular 230 section at issue, willfully or recklessly violating these rules, or committing violations that result from gross incompetence, are subject to prescribed sanctions, namely, censure, suspension from practice, disbarment, or a monetary penalty (and appraiser disqualification, as mentioned).

But Circular 230 also includes provisions on disreputable conduct for which a practitioner can be sanctioned. For example, section 10.51(a) includes certain criminal convictions (notably, any state or federal felony conviction (§ 10.51(a)(3))). Also included is disbarment or suspension from practice as an attorney, CPA, public accountant, or actuary “by any duly constituted authority of any State, territory, or possession of the United States, including a Commonwealth, or the District of Columbia, any Federal court of record or any Federal agency, body or board.” Section 10.51(a)(10).

These instances of disreputable conduct are routinely reported to the OPR by various internal (IRS) and external sources or are uncovered by our office. For example, a revenue agent might send a referral to the OPR about a practitioner’s personal tax noncompliance determined in an audit, and after receiving the referral, the OPR caseworker learns through research that the practitioner was convicted of a state felony two years ago for a financial crime involving dishonesty and is serving a probationary sentence.

Additionally, there are analogous provisions in section 10.82, *Expedited Suspension*. The section authorizes the Director of the OPR, as the Commissioner’s delegate, to use “expedited procedures” described in the section to indefinitely suspend a practitioner, after notice and an opportunity to respond and have a conference with the OPR. Expedited suspension is limited to five bases. They include:

- Suspension or revocation of a license to practice law, certified public accountancy, or actuarial services.
- Conviction of any crime “involving dishonesty or breach of trust, or any felony for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.”
- Imposition of a sanction by a court, in a civil or criminal proceeding (one that’s related to either a taxpayer’s or the practitioner’s tax liability), for the following conduct: commencing or maintaining the case for the purpose of delay, advancing groundless or frivolous arguments, or failing to pursue administrative remedies.

Section 10.82(b)(1), (2), (4). The OPR learns of these events in the same ways as the office does for the section 10.51 disreputable conduct.

The propensity of discovery by the OPR, one way or another, likely leading to the loss of the privilege of practice before the IRS, is something practitioners who have violated Circular 230 should think about, along with whether to be the source of the information themselves.

Depending on the situation, a factor to be weighed in whether to proactively come forward may be any obligatory or voluntary self-disclosure made to an authority outside of the IRS (discussed next).

II. Self-Reporting

- As Licensees

Practitioners, in particular, attorneys and CPAs, convicted of crimes, or found to have engaged in misconduct by a government entity, are usually required to report the matter to their state bar, board of accountancy, or other licensing authority. They also may be required to report civil judgments, court-imposed sanctions, or other adverse actions. Self-reporting requirements, as a subset of the full requirements attendant to having and maintaining a license and to status as a licensee, vary by state or comparable jurisdiction (i.e., the District of Columbia or a U.S. territory, possession, or Commonwealth). *See* Cir. 230 §§ 10.2(a)(1), (2), & 10.3(a), (b) (reflecting that the states determine an individual's good standing and if they're currently quailed to practice there).³ *See also* 5 USC § 500(a)(2).⁴

TIP: For two different state examples of reporting requirements and an ancillary discussion of the American Bar Association (ABA) Model Rules of Professional, consult the Appendix, Section 2, at the end of this article.

- As Circular 230 Practitioners

Circular 230 does not impose any explicit self-reporting requirement on practitioners. That said, certain requirements in and outside of Circular 230 can have the effect of a practitioner reporting unlawful acts or other misdeeds, any resultant governmental actions, or both.

A large segment of Circular 230 practitioners prepare federal tax returns and claims for refund as part of their practice and thus must have and annually renew a preparer tax identification number (PTIN). *See* IRC 6109(a)(4); Treas. Reg. § 1.6109-2(a)(2)(ii), (d), (e). Further, all EAs and ERPAs must possess an active PTIN (Cir. 230 §§ 10.4(a),(b), 10.6(d)(2)(i), (ii)) and must renew

³ All aspects of CPA licensing, and regulation, including CPAs' reporting requirements, especially any self-reporting requirements, are predominantly (if not exclusively) matters of, and seemingly dependent on, state law and rules. *See generally* 1 Am. Jur. 2d *Accountants* § 2 ("The practice of accountancy is a profession or calling requiring special knowledge and skill and is subject to regulation by the State under the State's police powers."); *Goldfarb v. Va. State Bar*, 421 U.S. 773, 792 (1975) ("States have a compelling interest in the practice of professions within their boundaries, and that as part of their power to protect the public health, safety, and other valid interests they have broad power to establish standards for licensing practitioners and regulating the practice of professions.").

"That the regulation of attorneys is an area traditionally occupied by the States is not up for dispute." *United States, ex rel. U.S. Att'ys ex rel. E., W. Districts of Kentucky v. Kentucky Bar Ass'n*, 439 S.W.3d 136, 143 (Ky. 2014). *See also* *Commonwealth Servicing Grp., LLC v. Dep't of Banking*, 332 A.3d 920, 926 (Conn. 2025) (recognizing the principal that the judiciary wields the sole authority to license and regulate the general practice of law in the state) (internal citation and quotation marks omitted); *BiotechPharma, LLC v. Ludwig & Robinson, PLLC*, 98 A.3d 986, 997 (D.C. 2014) (noting that the interest of the states in regulating lawyers is especially great) (internal citation and quotation marks omitted).

⁴ At the federal level, attorneys and other professionals who practice before departments and agencies in the Executive Branch are subject to the ethical and professional responsibility rules established by the governmental entity they practice before, including any self-reporting requirements. Likewise, for attorneys who practice in federal courts, court rules of professional conduct and judicial oversight apply.

their enrollment every three years (§ 10.6(d)(2),(3)). When a tax professional applies to obtain or renew their PTIN, both the online and paper applications ask the new or renewing applicant about past felony convictions. *See* Form W-12, IRS Paid Preparer Tax Identification Number (PTIN) Application and Renewal (Rev. 10-2024), Line 7 (asking, “Have you been convicted of a felony in the past 10 years?” with Yes and No checkboxes, and stating, “If ‘Yes,’ list the date and the type of felony conviction(s)” (with space to enter the information)). When an EA or ERPA applies to renew their enrollment, they are likewise asked about any criminal convictions or civil discipline. *See* Form 8554, Application for Renewal of Enrollment to Practice Before the Internal Revenue Service (Rev. 11-2022), Lines 8 and 10 (respectively, “Have you been sanctioned by a federal or state licensing authority?” and “Have you been convicted of a tax crime or any felony?”); Form 8554-EP (Rev. 11-2022), Lines 7 and 9 (asking the same questions as the Form 8554).

Additionally, the OPR regularly receives reports from state bars and boards of accountancy notifying the office of practitioner discipline. The office also learns of misconduct and criminal and civil judgments, disciplinary adjudications, and the like through media reports, client complaints,⁵ and information referrals.

Although a practitioner is not required to self-report misconduct, it may be in their best interest to do so. Anytime a matter rises to the level of professional discipline enforced by a licensing agency or authority, the OPR will virtually always be notified. Where a practitioner involves the OPR from the outset, it may be possible to arrange, for example, to serve twin suspension periods simultaneously or as concurrently as possible. Otherwise, the OPR may learn about the state suspension months later, and by the time the OPR investigates and acts on the matter, the state suspension has already been served or mostly served, but the practitioner may still face a reciprocal Circular 230 suspension, pursuant to section 10.51(a)(10) or, more likely, the expedited-suspension authority in section 10.81(a) and (b)(1) (see above). In such circumstances, a state suspension of, say, six or nine months could result in an equivalent or lengthier term suspension (perhaps 12 months) or an indefinite suspension by the OPR. And the suspension begins on a later date, one that is well into the running of the underlying state suspension or even after it has expired.

To make informed decisions about whether to self-report and not summarily rule out the possibility, it is important to understand certain basics of how the OPR conducts its enforcement efforts and how the sanctions process works.

When the OPR learns of credible information indicating probable Circular 230 violations by a practitioner, the office begins a process of research and investigation. The first major milestone in the process is contacting the practitioner in writing to inform them of the information obtained and to provide an opportunity to respond.

⁵ These are most commonly submitted to the IRS on Form 14157, *Return Preparer Complaint*, which at the top has a checkbox section for “Preparer’s professional status” that includes “Attorney,” “Certified Public Accountant,” and “Enrolled Agent.”

Circular 230 authorizes the use of written reprimands (§ 10.60(a), (b)), which are private and don't affect eligibility to continue to practice. Although the OPR's Director can unilaterally issue a letter of reprimand, a reprimand sometimes results from successful negotiation and agreement. Similarly, Circular 230 also authorizes consensual sanctions achieved through settlement negotiations, under sections 10.50(d) ("The Internal Revenue Service may accept a practitioner's offer of consent to be sanctioned . . .") and 10.60(b) ("In lieu of a proceeding being instituted or continued under §10.60(a) [a formal proceeding before an ALJ], a practitioner or appraiser (or employer, firm or other entity, if applicable) may offer a consent to be sanctioned under §10.50. . . . The Commissioner, or delegate, may accept or decline the offer . . . [and] has the discretion to accept or reject a revised offer submitted in response to the declination [of an initial offer] or may counteroffer and act upon any accepted counteroffer.")⁶ In negotiating or pursuing a sanction, the OPR follows the standard in section 10.50(e) (emphasis added): "The sanctions imposed by this section shall take into account *all relevant facts and circumstances*." The fact that a practitioner self-reported a violation or violations to our office and their cooperation in obtaining and ascertaining needed or useful information would be relevant facts. As would as any persuasive mitigating evidence the practitioner has to offer.

Additionally, the OPR often enters into agreements with practitioners that do not impose any immediate sanction but rather defer a sanction, suitable to the factual background, for a probationary period. The practitioner admits in the agreement to having committed specified violations of the regulations. The practitioner also acknowledges that if the practitioner breaches the agreement's terms and conditions, the specified sanction will be imposed, after due process as detailed in the agreement. Absent any breach, at the end of the term, the matter is closed without further action. A practitioner who has been civilly sanctioned, criminally convicted, assessed IRC penalties related to their activities as a tax professional, or assessed liabilities for personal tax noncompliance can choose to inform the OPR of what happened, accept responsibility for their conduct, and express a genuine intention to reform their behavior. Those instances would seem to be prime potential candidates for a deferred discipline agreement or other settlement.

III. Conclusion

In sum, this article is meant to introduce practitioners to the interaction between general self-reporting responsibilities imposed by various professional licensing bodies and practice before the IRS, and to alert practitioners to the option and possible advantages of self-reporting to the OPR misconduct that is sanctionable under Circular 230.

If you have questions about this article, please contact our office by phone at 202-317-6897 or eFax at 855-814-1722.

⁶ See also IRS Delegation Order 25-16 (Rev. 2) (Sep. 9, 2022), *Authority of the Office of Professional Responsibility to Perform Certain Functions Concerning Practice before the Internal Revenue Service* (authorizing (in par. 2) the OPR to "exercise responsibility for all matters related to practice before the" IRS "under . . . Circular 230[, as well as], practitioner conduct and discipline . . . This authority includes but is not limited to: . . . (c) Initiating all disciplinary proceedings against individuals and firms or other entities for violations of Circular 230 and *accepting consents to be sanctioned in lieu of instituting or continuing disciplinary proceedings*." (Emphasis added.)

APPENDIX

Section 1 – Examples of Common Standards of Conduct for Licensed Professionals that are Similar to Those in Circular 230

ACCOUNTING

- Maryland Code Regs. 09.24.01.06 (2019) (setting forth the state’s regulatory Code of Professional Conduct for CPAs, including among other prohibitions, that a “licensee may not in the performance of professional services knowingly misrepresent facts, or subordinate judgement to others[,]” “may not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence[,]” and “may not commit any act that reflects adversely on the licensee’s fitness to engage in the practice of public accountancy.”).
- *Zwygart v. State Bd. of Pub. Acct. of State of Nebraska*, 730 N.W.2d 103, 113 (Neb. 2007) (under statutory prohibition against dishonesty, fraud, or gross negligence in the practice of public accountancy, “Any activity that reflects adversely on a CPA’s fitness to engage in public accounting can lead to revocation.”).
- *Powell v. State Bd. of Certified Pub. Accts. of Louisiana*, 366 So. 3d 396, 408 (La. Ct. App. 4 Cir. 2021) (finding CPA’s actions were grossly negligent for purposes of applicable enforcement statute when he recommended and implemented a federal tax filing strategy for husband and wife taxpayers, yet failed to warn the couple of the penalties they might incur if the tax returns, which he advised them to file, were not amended in a timely manner; further, by his own admission, there were actions he could have taken to mitigate the risks).

LAW

- Restatement (Third) of the Law Governing Lawyers § 16, *A Lawyer’s Duties to a Client—In General* (2000) (stating that among the duties owed to clients are to “act with reasonable competence and diligence” and to “comply with obligations concerning the client’s confidences and property, avoid impermissible conflicting interests, deal honestly with the client, and not employ advantages arising from the client-lawyer relationship in a manner adverse to the client”).
- *Taylor v. Tolbert*, 644 S.W.3d 637, 647 (Tex. 2022) (stating that “the interests of clients demand that lawyers ‘competently, diligently, and zealously represent their clients’ interests while avoiding any conflicting obligations or duties to themselves or others.”) (internal citation omitted).
- *Lawyer Disciplinary Bd. v. Blyler*, 787 S.E.2d 596, 612 (W. Va. 2016) (“A lawyer owes an ethical duty to clients including the duty of candor, loyalty, diligence, and competence.”).
- *Att’y Grievance Comm’n of Maryland v. Cocco*, 109 A.3d 1176, 1179-82 (Md. 2015) (finding attorney violated rules of professional conduct when she knowingly issued and served an invalid subpoena, knowingly made a false statement of material fact when she “misrepresented to Bar Counsel that the subpoena was a valid means” of pretrial discovery, “failed and refused to respond to Bar Counsel’s requests for information regarding the issuance of the subpoena and the [related] communications,” and engaged “in conduct involving dishonesty, fraud, deceit or misrepresentation”).

- *In re Peavey*, No. 00-O-148184, Cal. State Bar Ct. Rptr. 483, 491 (Dec. 13, 2002) (“The attorney-client relationship is a fiduciary relation of the very highest character imposing on the attorney a duty to communicate to the client whatever information he has or may acquire in relation to the subject matter of the transaction.”).
- Mark L. Tuft and Kevin E. Mohr, Cal. Prac. Guide Prof. Resp. & Liability (2024)
 - Ch. 3-E *Duties Owed to Client* (“It is the duty of every lawyer to provide competent representation to the client.”).
 - Ch. 6-B *Elements of Attorney Competence* (“Competency requires you to *know whether you can handle* a particular legal problem; and if you cannot, to protect your client's interests by choosing an appropriate alternative.”).
 - Ch. 6-C Other Duties Related to Competence (“Repeated inattention to clients' needs, failure to communicate with clients or misleading clients about the status of their affairs amounts to ‘moral turpitude’ for which professional discipline may be imposed.” (citations omitted) / “A lawyer must not ‘intentionally, repeatedly, recklessly or with gross negligence fail to act with reasonable diligence in representing a client.’” (quoting Cal. R. Prof. Conduct 1.3(a)).

ACTUARIAL SERVICES

- American Academy of Actuaries Code of Professional Conduct (composed of “Precepts” that include “professional Integrity,” requiring acting “honestly, with integrity and competence”; “Qualification Standards,” requiring performance of actuarial services only when “qualified to do so on the basis of basic and continuing education and experience”; “Conflict of interest,” generally prohibiting “an actual or potential conflict of interest”; and “Control of Work Product,” mandating reasonable steps to ensure that actuarial services “are not used to mislead other parties”).

OTHER

- Certified Financial Planner (CFP) Board’s Code of Ethics and Standards of Conduct, <https://www.cfp.net/ethics/code-of-ethics-and-standards-of-conduct>. Under the Code of Ethics, “A CFP professional must: 1. Act with honesty, integrity, competence, and diligence. . . 3. Exercise due care. . . . [and] 4. Avoid or disclose and manage conflicts of interest.” The Standards of Conduct (and its Duties Owed to Clients) also require “Competence,” meaning performing services “with relevant knowledge and skill to apply that knowledge[,]” and “Diligence” (“A CFP professional must provide Professional Services, including responding to reasonable Client inquiries, in a timely and thorough manner.”).
- *S.B. v. Sedgwick Cnty. Area Educ. Servs. Interlocal Coop.* #618, 556 P.3d 902, 908 (Kan. Ct. App. 2024) (“Professional liability is the legal consequence from the wrongful acts, omissions, mistakes, misstatements, and failures of a person performing professional acts or working within the scope of their professional occupation.”).

Section 2 – State Models of Self-Reporting - Two Examples // ABA Model Rules

In North Carolina, CPAs must inform the state’s board of accountancy of convictions, judgments entered against them, and other reportable actions, within 30 days. Specifically, the applicable board rule mandates self-reporting of:

- Any conviction for a criminal offense.
- A judgment or settlement in a civil suit, bankruptcy action, administrative proceeding, or binding arbitration emanating from, among other grounds, allegations of professional negligence.
- An inquiry or investigation by the criminal divisions of the IRS or a state department of revenue pertaining to any personal or business tax matters; and any lien filed by the IRS or a state department of revenue for unpaid taxes.

21 N.C. Admin. Code 8N.0208, *Reporting Convictions, Judgments, and Disciplinary Actions*; see also 21 N.C. Admin. Code 8N.0204(c) (“A CPA shall notify the Board in writing within 30 days of any conviction or finding against him or her of unlawful conduct by any federal or state court or regulatory authority.”); 21 N.C. Admin. Code 8N.0207 (“A CPA shall not knowingly violate any state or federal tax laws or regulations in handling the CPA's personal business affairs, the business affairs of an employer or client, or the business affairs of any company owned by the CPA.”). By contrast, the North Carolina Bar’s Rules of Professional Conduct are less extensive, requiring an attorney to promptly report the misappropriation or misapplication of trust funds or other property entrusted to the attorney by a client. Rule 1.15-2(p). Lawyers must also report being “disciplined in any state or federal court for a violation of the Rules of Professional Conduct in effect” in that state or federal court “no later than 30 days after entry of the order of discipline.” R. 8.3(d).

As another example, Florida requires professional licensees⁷ to report within 30 days a conviction, finding of guilt, guilty plea, or plea of *nolo contendere* (no contest) of a crime in any jurisdiction that relates to the practice of, or the ability to practice, a licensee's profession. See Fla. Stat. § 455.227(1)(c) (including the described convictions, guilty findings, and pleas among the “acts [that] shall constitute grounds for which . . . disciplinary actions . . . may be taken”); § 455.227(1)(t) (providing, as another act subject to disciplinary actions, the failure to timely report covered convictions, findings, and pleas); § 473.323(a)(1), (3) (grounds for disciplinary action, including suspension or revocation of a CPA license, include the]violation of any provision of section 455.227(1)). A failure to self-report can result in discipline, including a reprimand, a fine of up to \$5,000, and a license suspension or permanent revocation. Fla. Stat. § 455.227(2). See also Fla. Stat. § 455.01 (defining “license,” “licensee,” and “profession”).

Florida attorneys are required to report felony charges and convictions of any criminal offense to the Florida Bar’s executive director within prescribed timeframes. Fla. Stat. Bar Rule 3-7.2(c), (e). They must also give notice to the executive director and the Florida Supreme Court of “Discipline by a Foreign Jurisdiction.” *Id.* at (m)(1) (bar member “must file a copy of any order or judgment by a court or other authorized disciplinary agency of another state or by a federal court effecting a disciplinary resignation, disciplinary revocation, disbarment, or suspension or any other surrender of the member's license to practice law in lieu of discipline” within 30 days of the effective date).

⁷ Those persons subject to Title XXXII of the Florida Statutes, *Regulation of Professions and Occupations*, and regulated by the Department of Business and Professional Regulation.

The ABA Model Rules of Professional Conduct, which all 50 states and the District of Columbia have adopted with their own variations, also address this subject-matter area. Model Rule 8.3(a) imposes an obligation on an attorney who “knows” that another attorney “has committed a violation of the Rules of Professional Conduct that raises a substantial question” as to their “honesty, trustworthiness or fitness as a lawyer in other respects” to “inform the appropriate professional authority.” Comment [1] to the rule explains, “Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Rules of Professional Conduct.” The rule, however, does not require an attorney to report their own misconduct (and most states follow this limitation);⁸ yet under the rule, an attorney must still report misconduct by others even if doing so would implicate the attorney's own conduct as well.

⁸ See Ronald D. Rotunda and John S. Dzienkowski, *LEGAL ETHICS - THE LAWYER'S DESKBOOK ON PROFESSIONAL RESPONSIBILITY*, § 8.3-1 *The Duty to Report—In General*; § 8.3-1-1 *Whose Conduct Must Be Reported* (2024-2025 ed.) (“Although most states have abolished a broad-based self-reporting rule, many require self-reporting in specific situations such as being disciplined in another jurisdiction or being convicted of a felony.”).