

LOUISIANA STATE BOARD OF CPAS

STATEMENT OF POSITION

Adopted October 22, 2021

Advertising and Public Communications

Objective: The purpose of this Statement of Position by the State Board of CPAs of Louisiana (the “Board”) is twofold: First, to remind licensees that Board Rules on advertising and public communications apply to all forms of advertising, marketing and public communications, including licensees’ websites, e-mails and other electronic or internet marketing; and, secondly, to address specific areas of the Board’s Rules on advertising where the Board has noted recurring instances of noncompliance, and to provide guidance as to whether certain statements in those areas are in compliance with the Board’s Rules.

Summary: The Board’s Rules of Professional Conduct relative to advertising and public communications (the “Rules”) apply to all forms of marketing, advertising and public communication. LAC 46 XIX §§1700(A)(5) and 1707(A)(1), and AICPA *Code of Professional Conduct* Part 1.600 *et seq.*

Explanation: Prior to the advent of the internet and universal access to marketing and advertising information, a CPA’s promotional materials may have been in brochures or other printed formats. Traditionally such material was disseminated only by hand or mail and was not as available for general reference or scrutiny. The use of the internet for marketing has now become ubiquitous, and a CPA’s promotional materials are often available to the public at large.

As a result, questions have arisen on how website material and information should be presented. The Board’s staff has occasionally been asked to review a licensee’s website and offer advice as to compliance with the Rules. On the other hand, some licensees or their marketers appear to design websites without realizing they should refer to the Board’s Rules on advertising. The website presentation or representations they create may inadvertently conflict with advertising or other regulations. Other licensees exposed to such content may erroneously conclude that it is acceptable. They may then take a similar approach on their websites, and the lack of compliance becomes more pervasive. The Board wishes to remind licensees in clear terms that a licensee’s website and marketing communications transmitted through the internet are simply another form of advertising. Such content should be regarded as the same as any other form of advertising material.

Generally, the Rules prohibit licensees from using or participating in any advertisement or other form of solicitation which contains false, fraudulent, misleading, or deceptive statements or claims. The Rules identify certain types of statements or claims that are considered to be false, fraudulent, misleading, or deceptive. The Rules also prohibit solicitation of clients through the use of coercion, overreaching, or harassing conduct.

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In recent years the Board has noted an increase in noncompliance with the Board’s Rules on advertising and public communications. Therefore, the Board sets forth this statement of position to provide guidance and clarification to licensees on the Rules governing all venues and forms of advertising and public communications.

Statement of Position: The Louisiana Accountancy Act (LAA) provides authority to the Board to adopt Rules of Professional Conduct. La. Rev. Stat. §37:74(J). The Board’s Rules of Professional Conduct incorporate by reference the AICPA *Code of Professional Conduct* (the “Code”) in its entirety. LAC 46 XIX §1700(A)(5). The *Code* sections relative to advertising and public communications, Part 1.600 *et seq.*, apply to all forms of marketing, advertising, and public communication. The LAA provides authority to the Board to consider action against an individual’s CPA Certificate or a Firm’s CPA Firm Permit for violation of the Board’s Rules, and, by extension, the *Code*. La. Rev. Stat. §37:79.A(5).

Applicability of Board Advertising Rules on Third-Party Advertisements The Board’s Rules of Professional Conduct covering advertising and public communications are mainly set forth in the *Code* Part 1.600 *et seq.* That Part refers to “advertising or other forms of solicitation” as well as “promotional efforts.” It applies to both the licensee’s own promotional efforts as well as the promotional efforts of a third party which benefit the licensee. [*Code* Part 1.600.001.01 and 1.600.010.01; LAC 46 XIX §1707(A)(1)]. Promotional efforts are considered false, misleading, or deceptive if they:

1. Create false or unjustified expectations of favorable results;
2. Imply the ability to influence any court, tribunal, regulatory agency, or similar body or official;
3. Contain a representation that the licensee or firm will perform specific professional services in current or future periods for a stated fee, or fee range, when it was likely at the time of the representation that such fees would be substantially increased and the client was not advised of that likelihood
4. Contain any other representations that would be likely to cause a reasonable person to misunderstand or be deceived.

[*Code* Part 1.600.010.02]

Problem Areas Concerning Advertisements. The Board has observed increased noncompliance in certain areas. The illustrations provided below, while by no means all-inclusive, are intended to provide clarification and guidance to licensees on specific provisions of the Rules.

Statements That Imply Guarantees

The Board’s Rules prohibit a licensed CPA or CPA Firm from using statements in advertisements which are intended or likely to create false or unjustified expectations of favorable results. [*Code* Part 1.600.010.02(a)]. Licensees should be cautious about using statements or words which tend to imply, state or predict a definite outcome if the public uses the CPA’s services, or any statement that in any way makes a guarantee as to the results of the services.

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Statements such as “We will [can] minimize [your] taxes,” or “We will [can] make [your] business more profitable,” or similar statements are considered to be violations. On the other hand, if the statements were re-worded as “Our goal is to minimize [your] taxes,” or “Our goal is to make your business more profitable,” these would be permissible.

In addition, the use of the word “solutions,”¹ or the phrase “tax and financial solutions,” or “audit solutions,” or similar phrases, implies a guarantee that the CPA will in fact provide a solution in each and every situation, for each and every client or potential client, and is therefore considered by the Board to be a violation.

Use of the CPA Credential, CPA-Inactive and CPA-Retired Designations

Use the CPA title in violation of Board Rules is also considered a violation of the *Code* rules on advertising. [*Code* Part 1.600.100.01.] Only certificate holders with a valid, active license, or privilege holders under LA Rev. Stat. §37:94, may use the abbreviation “CPA,” the title “certified public accountant,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant. [LA Rev. Stat. §37:83(C)]. Only firms which hold a valid, active firm permit and are owned in accordance with Board Rules may use the abbreviation “CPAs,” the title “certified public accountants,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm. [LA Rev. Stat. §37:83(D)]. The same is true of the use of any title, abbreviation, or designation likely to be confused for “CPA” or “certified public accountant.” [LA Rev. Stat. §37:83(E)].

Certificate holders who do not perform or offer to perform for the public one or more kinds of service involving the use of accounting or auditing skills, including issuance of reports on financial statements, or one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters may be granted an exemption to the Board’s continuing education requirements. Certificate holders granted such an exception by the board shall place either the word “inactive” or “retired” adjacent to their CPA title on any business card, letterhead, or any printed, electronic, or other form or communication, document or device, with the exception of their CPA certificate on which their CPA title appears. [LA Rev. Stat. §37:76(D)(2)]. If an individual is granted an exemption, but then offers to perform, or performs, for the public professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills, they shall not use the designation “CPA inactive” or “CPA-retired” in connection

¹ There is an exception allowed for the term “solutions” because of the conventional and pervasive use of this term in the Information Technology (IT) field. The term “solutions” is permissible if used in the context of the advertising of business lines, products, or services that are exclusively related to information technology (e.g., sales, consulting, and implementation services of software applications and computer-based information systems). Thus, it would be permissible to state that you offer “Information Technology Solutions” or “Information System Solutions” or “Computer Software Solutions,” etc., and to use the term “solutions” in describing and marketing IT products and IT services.

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therewith or in any other manner or in connection with any employment. [LAC 46 XIX 1707(B)(2)(b)]. However, a “CPA-retired” may perform uncompensated volunteer services as long as the individual does not sign any documents related to such services as a CPA. [LAC 46 XIX 1707(B)(2)(c)].

Use of AICPA-Awarded Designations

A CPA who holds an AICPA-awarded designation, such as the Personal Financial Specialist designation, may use the designation after their name. [Code Part 1.600.030.01]. A firm may only use an AICPA-awarded designation on the firm letterhead and marketing materials if all the firm’s partners hold that designation. [Code Part 1.600.030.02]. When using other designations in public communications, licensees should keep in mind the prohibition on the use of promotional materials which contain representations that would be likely to cause a reasonable person to misunderstand or be deceived. [Code Part 1.600.010.02(d)].

Other Rules On Advertising / Compliance

The above-cited Rules are areas where the Board has noted problems. Licensees should review all of the Rules of Professional Conduct concerning advertisements and public communications before making any statement or claim other than a general description of services. CPAs should also be mindful that they are responsible for any statements or claims made by marketing personnel or public relations contractors on their behalf, and should review all advertisements for compliance with the Board’s Rules. The Rules can be accessed on the Board’s website www.cpaboard.state.la.us. The AICPA *Code of Professional Conduct* can be found by searching for “code of professional conduct” on www.aicpa.org. The Rules on Advertising also appear in this statement under the caption “Excerpted Citations.” Board staff are pleased to offer assistance to CPAs by reviewing proposed advertisements for any potential problems with Board Rules which appear below.

Excerpted Citations.

Louisiana Accountancy Act (LA Rev. Stat. §37:71 *et seq*)

§37:76 Issuance and Renewal of Certificates and Maintenance of Competency

(D)(2) The board may create an exception to such continuing education requirement for certificate holders who do not perform or offer to perform for the public one or more kinds of service involving the use of accounting or auditing skills, including issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Certificate holders granted such an exception by the board shall place either the word “inactive” or “retired” adjacent to their CPA title on any business card, letterhead, or any printed, electronic, or other form or communication, document or device, with the exception of their CPA certificate on which their CPA title appears.

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§37:83 Unlawful Acts

(C) No person shall use or assume the title “certified public accountant” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless the person holds a valid active certificate issued as provided for in this Part or a privilege pursuant to R.S. 37:94.

(D) No firm shall provide attest services or assume or use the title “certified public accountants” or the abbreviation “CPAs” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm unless the firm holds a valid permit issued as provided for in this Part and ownership of the firm is in accordance with this Part and rules adopted by the board.

(E) No person or firm shall assume or use the title “public accountant”, “certified accountant”, “chartered accountant”, “enrolled accountant”, “licensed accountant”, “registered accountant”, or any other title or designation likely to be confused with the title “certified public accountant” or use any of the abbreviations “CA”, “LA”, “RA”, “PA”, or similar abbreviation likely to be confused with the abbreviation “CPA”, unless such person or firm holds a valid active certificate or permit issued as provided for in this Part. The title “enrolled agent” or “EA” may only be used by individuals so designated by the Internal Revenue Service.

Board Rules of Professional Conduct (LAC Title 46 Part XIX)

§1700. General

(A)(5) All licensees and certificate holders shall comply with the AICPA *Code of Professional Conduct* revised effective December 15, 2014, incorporated herein by reference in this rule. The AICPA *Code of Professional Conduct* may be found at the AICPA website, www.aicpa.org. The board’s rules of professional conduct shall prevail if a conflict exists between it and the AICPA *Code of Professional Conduct*.

§1707. Other Responsibilities and Practices

A. Acting through Others

1. A CPA or CPA firm shall not permit others to carry out on his behalf or on the firm's behalf, either with or without compensation, acts which, if carried out by the CPA or CPA firm, would place him or the CPA firm in violation of the rules of professional conduct, professional standards, or any provisions of the Act.

B. Use of the “CPA Inactive” or “CPA Retired” Designation

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1. Certificate holders under prior law. Prior to applying for and obtaining a certificate under R.S. 37:75.I, individuals who annually register in inactive status may use the “CPA inactive” designation in connection with an employment position held in industry, government, or academia, or in personal correspondence.

a. Any such individual who offers to perform or performs, for the public, professional services of any type involving the use of the accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation CPA or “CPA inactive” in connection therewith or in any other manner or in connection with any employment

2. Certificate Holders Subject to CPE Exemption

a. Individuals granted an exception to continuing education requirements under R.S. 37:76(D)(2) shall not perform or offer to perform for the public one or more kinds of services involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills and must place the word “inactive” or “retired”, as applicable based on the individual’s registered status, adjacent to their CPA title on any business card, letterhead, or any other document or device.

b. Any individual referenced in R.S. 37:76(D)(2) who after being granted an exemption under that Section offers to perform or performs for the public professional services of any type involving the use of accounting, management advisory, financial advisory, tax, or consulting skills shall not use the designation “CPA inactive” or “CPA-retired” in connection therewith or in any other manner or in connection with any employment.

c. A “CPA-retired” may perform uncompensated volunteer services as long as the individual does not sign any documents related to such services as a CPA.

AICPA Code of Professional Conduct

Part 1.600 Advertising and other forms of Solicitation

1.600.001.01: A *member in public practice* shall not seek to obtain *clients* by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive. Solicitation by the use of coercion, over-reaching, or harassing conduct is prohibited.

1.600.010.01: False, Misleading, or Deceptive Acts in Advertising or Solicitations. A member would be in violation of the “Advertising and Other Forms of Solicitation Rule” [1.600.001] if the member’s promotional efforts are false, misleading, or deceptive. If a member is asked to perform professional services for a client or customer of a third party, the member should

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determine that the third party’s promotional efforts comply with the “Advertising and Other Forms of Solicitation Rule”. Such action is required because the member will receive the benefits of such efforts by third parties, and members must not do through others what they are prohibited from doing themselves.

- 1.600.010.02: Promotional efforts would be considered false, misleading, or deceptive if they:
- a. create false or unjustified expectations of favorable results.
 - b. imply the ability to influence any court, tribunal, regulatory agency, or similar body or official.
 - c. contain a representation that the *member* will perform specific *professional services* in current or future periods for a stated, fee, estimated fee, or fee range when it was likely at the time of the representation that such fee would be substantially increased and the *member* failed to advise the prospective *client* of that likelihood
 - d. contain any other representations that would be likely to cause a reasonable person to misunderstand or be deceived

1.600.030.01: A *member* who holds an AICPA-awarded designation, such as the Personal Financial Specialist (PFS) designation, may use the designation after the *member’s* name

1.600.030.02: A *member’s firm* may use an AICPA-awarded designation, such as the PFS designation, on *firm* letterhead and in marketing materials if all the *firm’s* partners hold the AICPA-awarded designation.

1.600.100.01: A *member* should refer to the applicable state accountant laws and board of accountancy rules and regulations for guidance regarding the use of the CPA credential. A *member* who fails to follow the accountancy laws, rules, and regulations on use of the CPA credential in any of the jurisdictions in which the CPA practices would be considered to have used the CPA credential in a manner that is false, misleading, or deceptive and in violation of the “Advertising and Other Forms of Solicitation Rule” [1.600.001].