

1105.5600 GROUNDS FOR ENFORCEMENT ACTION.

Subpart 1. **Grounds for disciplinary action.** The grounds for revocation and suspension of certificates, registrations, and permits, and other disciplinary action against licensees, certificate holders, applicants, and individuals with privileges under Minnesota Statutes, section 326A.14, are specified in Minnesota Statutes, section 326A.08. In addition, the grounds include the following particular grounds for disciplinary action:

A. fraud, dishonesty, or deceit in obtaining a certificate, registration, or permit, within the meaning of Minnesota Statutes, section 326A.08, subdivision 5, paragraph (a), clause (5), including the submission to the board of any knowingly false or forged evidence in, or in support of, an application for a certificate, registration, or permit, and cheating on an examination as defined in this chapter;

B. dishonesty, fraud, deceit, or gross negligence through knowingly or through gross negligence, by making misleading, deceptive, or untrue representations in the performance of services;

C. violations of the act or rules promulgated under the act, within the meaning of Minnesota Statutes, section 326A.08, subdivision 5, paragraph (a), clause (1), including:

(1) using the CPA title or providing attest or compilation services in this state without a certificate with an active status, registration, or permit to practice issued under Minnesota Statutes, sections 326A.04 and 326A.05, or without properly qualifying to practice across state lines under the substantial equivalency provision of the act;

(2) using or attempting to use a certificate, registration, or permit which has been suspended or revoked;

(3) making any false, deceptive, or misleading statement, in support of an application for a certificate, registration, or permit filed by another;

(4) failure of a licensee to provide any explanation requested by the board regarding evidence submitted by the licensee in support of an application filed by another, or regarding a failure or refusal to submit such evidence; and failure by a licensee to furnish for inspection, upon request by the board or its representative, documentation relating to any evidence submitted by the licensee in support of such an application;

(5) failure to satisfy the continuing professional education requirements in Minnesota Statutes, section 326A.04, subdivision 4, and failure to comply with the continuing education requirements of this chapter;

(6) failure to comply with professional standards as to the attest or compilation competency requirement for those who supervise attest or compilation engagements and sign reports on financial statements or other compilation communications with respect to financial statements;

(7) failure to comply with the applicable quality review requirements set out in this chapter and Minnesota Statutes, sections 326A.04 and 326A.05, subdivision 8; or

(8) making any false, deceptive, or misleading statement in support of a request to the board to accept the voluntary surrender of a certificate, registration, or permit;

D. conduct reflecting adversely upon the licensee's fitness to perform services, within the meaning of Minnesota Statutes, section 326A.08, subdivision 5, paragraph (a), clauses (2) and (10), includes:

(1) adjudication as mentally incompetent;

(2) fiscal dishonesty of any kind;

(3) presenting as one's own a certificate, registration, or permit issued to another;

(4) concealment of information regarding violations by other licensees of the act or this chapter when questioned or requested by the board;

(5) willfully failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record, or inducing another person to impede or obstruct a filing by another; and the making or filing of a report or record which one knows to be false; and

(6) incompetence, including:

(a) gross negligence, recklessness, or repeated acts of negligence in the licensee's record of professional practice; or

(b) any condition, whether physical or mental, that endangers the public by impairing skill and care in providing professional services.

E. A licensee, applicant, certificate holder, registrant, or person specified in Minnesota Statutes, section 326A.05, subdivision 3, paragraph (c), who is subject to the actions, or has engaged in activities, described in Minnesota Statutes, section 326A.08, subdivision 5, paragraph (a), clause (6) or (7) or has been convicted of, has pled guilty or nolo contendere to, or has been sentenced as a result of the commission of a felony or crime, an element of which is dishonesty or fraud, shall, within 30 days of being subject to or engaging in such actions or activities, notify the board in writing and provide the details of the activities. The notification may be used as a basis for initiating an investigation against the licensee, applicant, certificate holder, registrant, or person specified in Minnesota Statutes, section 326A.05, subdivision 3, paragraph (c), the results of which could result in disciplinary action specified in Minnesota Statutes, section 326A.08.

F. An initial determination by the board not to institute proceedings under Minnesota Statutes, section 326A.08, does not preclude the board from subsequently

doing so if relevant information is obtained which, in the opinion of the board, would have resulted in a different determination if the information was known earlier.

Subp. 2. **Failing to file a report.** A finding, adjudication, consent order, or conviction by a federal or state court, agency, or regulatory authority, or the Public Company Accounting Oversight Board that a licensee has willfully failed to file a required report or record specified in subpart 1, item D, subitem (5), is prima facie evidence of a violation of this part.

Statutory Authority: *MS s 326.18; 326A.02*

History: *27 SR 1425; 28 SR 1636; 30 SR 422; 33 SR 476*

Published Electronically: *September 18, 2008*