



North Carolina State Board of Certified Public Accountant Examiners

September 21, 2020

Brian S. Lynch, Chair
AICPA Professional Ethics Executive Committee
220 Leigh Farm Rd
Durham, NC 27707-8110

Dear Committee Members:

The North Carolina State Board of CPA Examiners (Board) has reviewed the Exposure Draft, *Proposed revised interpretation – Records Requests* prepared by the American Institute of Certified Public Accounts (AICPA) Profession Ethics Executive Committee (PEEC). The draft exposes for comment revisions to the interpretation “Records Requests” found in the AICPA Professional Standards. The proposal seeks to clarify a member’s responsibilities in returning client-provided records. The Board offers the following comments:

As of May 1, 2017, the Board adopted much of the AICPA’s Records Requests interpretations as its current Board Rule 21 NCAC 08N .0305 Retention of Client Records. The proposed revisions actually align with the Board’s reading and evaluation of the Records Requests’ original language and guidance previously found in the Board’s rules. In fact, the proposed revisions to the Records Request interpretation includes clarifying language similar to verbiage that was found in the Board’s previous rendering of the Retention of Client Records Rule. Paragraph .06 is being reintroduced to state:

When a client makes a request for client-provided records, the member should return those records in the member’s custody or control to the client. Such client-provided records cannot be withheld regardless of nonpayment of fees. Further, although the member may charge the client a reasonable fee for the time and expense incurred to retrieve, copy, and ship such records, the client-provided records may not be withheld or delayed due to the non-payment of such fees.

The Board’s previous rule identified that “a CPA shall not retain a client’s records in order to force payment of any kind.” In addition, it stated that “nothing in this rule shall be construed to require the CPA to furnish a client with copies of the client’s records already in the client’s possession; however, if the client asserts that such records have been lost, or are otherwise not in the client’s

possession, the CPA shall furnish copies of the records and may charge a reasonable fee.” As the proposed revisions mirror concepts previously adopted by the Board, the Board is supportive of the proposed revisions.

The other proposed modifications that speak to “making the records available to the client” align with the current methods by which CPAs make documents available to the client--through portals and other electronic means--and not necessarily through hard copies. The Board is also in agreement with these clarified revisions made to the Records Request interpretations.

The Board appreciates the opportunity to provide comments as it relates to the proposed revisions and clarifications in the AICPA Code of Professional Ethics.

Sincerely,

A handwritten signature in cursive script that reads "Michael S. Massey".

Michael S. Massey, CPA
President

Attachments

Board's Current Rule – Effective 05/01/2017

21 NCAC 08N .0305 RETENTION OF CLIENT RECORDS

(a) A CPA shall return client-provided records in the CPA's custody or control to the client at the client's request. Client-provided records are accounting or other records, including hardcopy and electronic reproductions of such records, belonging to the client that were provided to the CPA by, or on behalf of, the client.

(b) Unless a CPA and the client have agreed to the contrary, when a client makes a request for CPA prepared records or a CPA's work products that are in the CPA's custody or control that have not previously been provided to the client, the CPA shall respond to the client's request as follows:

- (1) The CPA shall provide CPA prepared records relating to a completed and issued work product to the client, except that such records may be withheld if fees are due to the CPA for that specific work product; and
- (2) CPA's work products shall be provided to the client, except that such work products may be withheld:
 - (a) if fees are due to the CPA for the specific work product;
 - (b) if the work product is incomplete;
 - (c) if for purpose of complying with professional standards (for example, withholding (d) an audit report due to outstanding audit issues); or
 - (e) if threatened or outstanding litigation exists concerning the engagement or CPA's work.

(c) CPA prepared records are accounting or other records that the CPA was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries (including computations supporting such entries) and supporting schedules and documents that the CPA proposed or prepared as part of an engagement, (for an example, an audit). CPA's work products are deliverables set forth in the terms of the engagement, such as tax returns.

(d) Once a CPA has complied with these requirements, he or she shall not be under any further ethical obligation to:

- (1) comply with any subsequent requests to again provide records or copies of records described in Paragraphs (a) and (b) of this Rule. If subsequent to complying with a request, a client experiences a loss of records due to a natural disaster, the CPA shall comply with an additional request to provide such records; and
- (2) retain records for periods that exceed applicable professional standards, state and federal statutes and regulations, and contractual agreements relating to the service performed.

(e) A CPA who has provided records to an individual designated or held out as the client's representative, such as the general partner, majority shareholder, or spouse, shall not be obligated to provide such records to other individuals associated with the client.

(f) Work papers shall be the CPA's property, and the CPA is not required to provide such information to the client. However, state and federal statutes and regulations and contractual agreements may impose additional requirements on the CPA.

(g) In fulfilling a request for client provided records, CPA prepared records, or a CPA's work products, the CPA may:

- (1) charge the client a fee for the time and expense incurred to retrieve and copy such records and require that the client pay the fee before the CPA provides the records to the client;

- (2) provide the requested records in any format usable by the client. The CPA is not required to convert records that are not in electronic format to electronic format. If the client requests records in a specific format and the records are available in such format within the CPA's custody and control, the client's request should be honored. In addition, the CPA is not required to provide the client with formulas, unless the formulas support the client's underlying accounting or other records or the CPA was engaged to provide such formulas as part of a completed work product; and
 - (3) make and retain copies of any records that the CPA returned or provided to the client.
- (h) A CPA who is required to return or provide records to the client shall comply with the client's request as soon as practicable, but no later than 45 days after the request is made.

Board's Previous Rule

21 NCAC 08N .0305 RETENTION OF CLIENT RECORDS

(a) Return Upon Demand. A CPA shall return client records in his or her possession to the client after a demand is made for their return. The records shall be returned upon demand unless circumstances make some delay reasonable in order to retrieve a closed file or to extract the CPA's work papers described in Paragraph (f) of this Rule. If the records cannot be returned upon demand, the CPA shall immediately notify the client of the date the records will be returned. Nothing in this Rule shall be interpreted to require a CPA to pay delivery costs when the records are returned to the client.

(b) Who May Demand Client Records. If the client is a partnership, records shall be returned upon request to any of its general partners. If the client is a limited partnership or a registered limited liability partnership, records shall be returned upon request to its general partner(s) and the managing partner, or his or her designated individual respectively. If the client is a corporation, records shall be returned upon request to its president. If the client is a limited liability company, records shall be returned upon request to the manager. Joint records shall be returned upon request to any party to the record.

(c) Return of Original Records. If the engagement is terminated prior to completion or the CPA's work product has neither been received nor paid for by the client, the CPA shall be required to return only those records originally given to the CPA by the client.

< (d) Retention to Force Payment. A CPA shall not retain a client's records in order to force payment of any kind. >

(e) Work Papers Included in Client Records. Work papers are usually the CPA's property and need not be surrendered to the client. However, in some instances work papers may contain data that should be reflected in the client's books and records but for convenience have not been duplicated therein with the result that the client's records are incomplete. In such instances, the portion of the work papers containing such data constitutes part of the client's records, and copies shall be given to the client along with the rest of the client's records. Work papers considered part of the client's records include but are not limited to:

- (1) worksheets in lieu of original entry (such as listings and distributions of cash receipts or cash disbursements on columnar work paper);
- (2) worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers, or similar types of depreciation records;
- (3) all adjusting and closing journal entries and supporting details not fully set forth in the journal entry; and
- (4) consolidating or combining journal entries and worksheets and supporting detail used in arriving at final figures incorporated in an end product such as financial statements or tax returns.

(f) Work Papers Belonging to the CPA. Work papers developed by the CPA incident to the performance of an engagement that do not result in changes to the client's records, or are not in themselves part of the records ordinarily maintained by such clients, are the CPA's work papers and are not the property of the client. For example, the CPA may make extensive analyses of inventory or other accounts as part of the selective audit procedures. These analyses are considered to be a part of the CPA's work papers, even if the analyses have been prepared by client personnel at the request of the CPA. Only to the extent these analyses result in changes to the client's records would the CPA be required to furnish the details from the work papers in support of the journal entries recording the changes, unless the journal entries themselves contain all necessary details.

< (g) Reasonable fees for Copies. Nothing in this Rule shall be construed to require the CPA to furnish a client with copies of the client's records already in the client's possession. However, if the client asserts that such records have been lost, or are otherwise not in the client's possession, the CPA shall furnish copies of the records and may charge a reasonable fee. >

(h) Retention of Work Product and Work Papers. A CPA shall ensure that the work product and the work papers created in the performance of an engagement for a client are retained for at least of five years after the date of issuance of the work product unless the CPA is required by law to retain such records for a longer period.