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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 1. Accountants [5000 - 5158] (*Chapter 1 repealed and added by Stats. 1945, Ch. 1353.*)

ARTICLE 6.5. Administrative Penalties [5116 - 5116.6] (*Article 6.5 added by Stats. 2004, Ch. 921, Sec. 14.*)

5116. (a) The board, after appropriate notice and an opportunity for hearing, may order any licensee or applicant for licensure or examination to pay an administrative penalty as provided in this article as part of any disciplinary proceeding or other proceeding provided for in this chapter.

(b) The board may assess administrative penalties under one or more provisions of this article. However, the total administrative penalty to be paid by the licensee shall not exceed the amount of the highest administrative penalty authorized by this article.

(c) The board shall adopt regulations to establish criteria for assessing administrative penalties based upon factors, including, but not limited to, actual and potential consumer harm, nature and severity of the violation, the role of the person in the violation, the person's ability to pay the administrative penalty, and the level of administrative penalty necessary to deter future violations of this chapter.

(d) Administrative penalties assessed under this article shall be in addition to any other penalties or sanctions imposed on the licensee or other person, including, but not limited to, license revocation, license suspension, denial of the application for licensure, denial of the petition for reinstatement, or denial of admission to the licensing examination. Payment of these administrative penalties may be included as a condition of probation when probation is ordered.

(e) All administrative penalties collected under this article shall be deposited in the Accountancy Fund.

(*Added by Stats. 2004, Ch. 921, Sec. 14. Effective January 1, 2005.*)

5116.1. In accordance with Section 5116 and applicable regulations, except as provided in Section 5116.2, any licensee who violates any provision of this chapter may be assessed an administrative penalty of not more than five thousand dollars (\$5,000) for the first violation and not more than ten thousand dollars (\$10,000) for each subsequent violation.

(*Added by Stats. 2004, Ch. 921, Sec. 14. Effective January 1, 2005.*)

5116.2. In accordance with Section 5116 and applicable regulations, any licensee who violates subdivision (a), (c), (i), (j) or (k) of Section 5100 may be assessed an administrative penalty of not more than one million dollars (\$1,000,000) for the first violation and not more than five million dollars (\$5,000,000) for any subsequent violation, except that a licensee who is a natural person may be assessed an administrative penalty of not more than fifty thousand dollars (\$50,000) for the first violation and not more than one hundred thousand dollars (\$100,000) for any subsequent violation.

(*Added by Stats. 2004, Ch. 921, Sec. 14. Effective January 1, 2005.*)

5116.3. In accordance with Section 5116 and applicable regulations, any person who is found to have cheated or subverted or attempted to subvert or cheat on any licensing examination or who conspired with or aided or abetted any other person to cheat, subvert or attempt to subvert any examination may be assessed an administrative penalty of not more than five thousand dollars (\$5,000) for the first violation and not more than ten thousand dollars (\$10,000) for each subsequent violation.

(*Added by Stats. 2004, Ch. 921, Sec. 14. Effective January 1, 2005.*)

5116.4. (a) The board's executive officer may request assessment of an administrative penalty in any disciplinary or other proceeding provided in this chapter or in any notice to an applicant pursuant to Section 5112.

(b) The administrative penalty pursuant to subdivision (a) shall become final unless contested within the time period provided for the filing of a notice of appeal, for the filing of a notice of defense, or for requesting a hearing in the proceeding.

(c) Nothing in this article shall prevent an administrative penalty from being included in a final contested or default decision of the board or in a notice issued pursuant to Section 5112 once the time period for requesting a hearing has expired.

(Added by Stats. 2004, Ch. 921, Sec. 14. Effective January 1, 2005.)

5116.5. The board may obtain a judgment in any court of competent jurisdiction ordering the payment of any final administrative penalty assessed by the board pursuant to this article upon the filing of a certified copy of the board's final decision or notice issued pursuant to Section 5112.

(Added by Stats. 2004, Ch. 921, Sec. 14. Effective January 1, 2005.)

5116.6. Anywhere the term "licensee" is used in the article it shall include certified public accountants, public accountants, partnerships, corporations, holders of practice privileges, other persons licensed, registered, or otherwise authorized to practice public accountancy under this chapter, and persons who are in violation of any provision of Article 5.1 (commencing with Section 5096).

(Added by Stats. 2004, Ch. 921, Sec. 14. Effective January 1, 2005.)