

# AN ANALYSIS OF STATE BOARDS OF ACCOUNTANCY DISCIPLINARY ACTIONS AND RESULTS

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## I. INTRODUCTION

Certified Public Accountants (CPAs) are trained to provide financial audits, complete finance functions and assist members of the public with their tax obligations and returns. Due to the sensitive nature of their work and the significant negative ramifications should they fail to do their work diligently, CPAs are understandably required to complete extensive training and continuing education, and they are also subject to regulatory oversight. State boards of accountancy within the United States and its sovereign territories license these practitioners; moreover, the boards also discipline members for actions resulting in harm to the profession and the public. The American Institution of Certified Public Accountants (AICPA), a professional association with over 400,000 members that sets ethical standards, develops and grades the CPA exam, and offers specialty credentials, also has a code of professional conduct.<sup>1</sup>

Each state board, in its effort to further protect the public interest, has adopted unique guidelines for disciplining members.<sup>2</sup> The National Association of State Boards of Accountancy (NASBA) provides an overarching guidance for the disciplinary processes of the

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<sup>1</sup> AICPA Code of Professional Conduct,  
<https://www.aicpa.org/research/standards/codeofconduct.html>.

<sup>2</sup> James Schaefer and Robert B. Welker, *Distinguishing Characteristics of Certified Public Accountants Disciplined for Unprofessional Behavior*, 13 J. OF ACCT. AND PUBLIC POLICY 2, 97-119 (1994). For instance, in Georgia, the State Board of Accountancy provides for a complaint process as well as investigatory procedures and discipline, either through consent order or administrative hearing. *Explanation of the Complaint Process* at [https://gsba.georgia.gov/sites/gsba.georgia.gov/files/related\\_files/site\\_page/Complaint-Process-and-Details-7-17.pdf](https://gsba.georgia.gov/sites/gsba.georgia.gov/files/related_files/site_page/Complaint-Process-and-Details-7-17.pdf).

boards.<sup>3</sup> Though not all boards fully apply NASBA's guidance, the template provides a broad understanding of the disciplinary processes for the profession.<sup>4</sup>

The purpose of this study is (1) to examine CPA activities that resulted in disciplinary action and (2) to review the actual actions taken by all Boards within the United States and territories. The collection and classification of the data was modeled on the Survey on Lawyer Discipline Systems (SOLD), which provides actions triggering discipline and resulting disciplinary actions taken.<sup>5</sup> Reasons for disciplinary actions for this study are classified as failure to renew license, invalid license, unregistered firm or employee, insufficient audit documentation, failure of peer review, commission of a crime, failure to maintain continuing education requirements, and other. Disciplinary actions taken include probation, supervised practice, restricted practice, revocations of certifications, ethics training, continuing education, civil fines, and other. Additional data points gathered included the level of public disclosure of actions, requirements of ethics training, and organization of board. Data was collected from four sources: surveys, websites with database search engines, newsletters, and Board minutes.

This contribution to the existing research has two areas of focus. First, a national survey of disciplinary actions has not been attempted until now, and second, a comprehensive literature review of surveys of disciplinary actions, set forth in Section Two, has not yet

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<sup>3</sup> For instance, NASBA provides enforcement newsletters, a resource guide, and guiding principles of enforcement. See <https://nasba.org/mc/enforcementtools/>.

<sup>4</sup> NASBA, *Uniform Accountancy Act*, 7th Edition (2014).

<sup>5</sup> ABA, *Survey on Lawyer Discipline Systems 2014* (2014).

been compiled. Section Three provides the sources and methods for data collection. Section Four offers our data and analysis, and Section Five summarizes the findings.

## **II. LITERATURE REVIEW**

Existing research investigating disciplinary actions of licensing agencies can be broadly divided into two major areas: the United States and its disciplinary processes and non-United States licensing agencies. United States research focuses on disciplinary actions of boards, state accounting societies, the American Institute of CPAs (AICPA), the Public Company Accounting Oversight Board (PCAOB), and the Securities and Exchange Commission (SEC). International research is generally focused on the licensing agency of Chartered Accountants and their geographic location. In addition, some research has focused on cross-cultural impacts on the disciplinary process.

### **A. UNITED STATES DISCIPLINARY ACTIONS SURVEY RESEARCH**

Stephen E. Loeb completed seminal research examining disciplinary actions of licensing boards for public accounting in 1972.<sup>6</sup> No prior attempt was made to document the disciplinary processes of

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<sup>6</sup>Stephen E. Loeb, *Enforcement of the Code of Ethics: A Survey*, 47 THE ACCT. REVIEW 1, 1-10 (1972).

the state boards of accountancy and their specific actions taken against licensees. The methodology also used the state accounting societies as a comparison of the effectiveness of their actions. State accounting societies are non-licensing groups composed of CPAs with voluntary participation primarily focused on lobbying efforts on behalf of its members. This research was based on the actions of two Midwestern state boards between 1913 and 1969 with a comparison made between the state societies' actions.<sup>7</sup> The boards were given external notification of 85 issues resulting in 25 acquittals and 60 sanctions.

The author found the societies received a total of 112 complaints resulting in 25 acquittals of charges and 87 sanctions. Findings were inconclusive as to whether the relatively low volume of complaints were the result of the satisfactory work performed by the accountants, the long-term relationships between CPA provider and client, or the ineffectiveness of the controlling entities. Loeb chose to focus on the internal disciplinary actions of the board due to administrative actions, including a higher number of reported colleague violations, most of which were initiated by new members of the profession, than violations reported by members of the public, which tended to receive more severe punishment.

Wallace and Campbell furthered the work of Loeb by examining adverse peer review opinions in Florida.<sup>8</sup> A peer review of a CPA's or firm's audit practice is conducted by a separate independent certified public accounting firm that examines the

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<sup>7</sup> *Id.*

<sup>8</sup>W. A. Wallace & R. L. Campbell, *State Boards of Accountancy: Quality Review and Positive Enforcement Programs*, 2 IN RESEARCH IN ACCT. REGULATION 123-154 (1988).

working papers of a firm. In practice, it is an audit of an auditor.<sup>9</sup> Wallace and Campbell suggested that a negative relationship exists between number of years of certification of those under peer review and the number of adverse opinions issued by those conducting the review. The specific contribution of this research is the implications of experience in auditing. Schaefer and Welker were the first authors to expand a scope of investigation beyond two states by inspecting the actions of the boards from Florida, Illinois, Indiana, Iowa, Kentucky, and Missouri (1984 to 1989). In addition, they were the first to use statistical modeling to determine statistical inference of board behavior.<sup>10</sup> According to their study, a total of 205 CPAs were disciplined with violations distributed by due care failures (115), state regulations (59), and criminal acts (34). The authors performed a logistic regression using years as a CPA, membership in a state society, firm size, population of market served, and states as control variables. Significance was reported in gender (male)<sup>11</sup>, size (large

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<sup>9</sup> Occasionally, peer review is required through licensure. Peer Review Summary, AICPA, <https://www.aicpa.org/research/standards/peerreview/peer-review-summary.html>.

<sup>10</sup> James Schaefer and Robert B. Welker, *Distinguishing Characteristics of Certified Public Accountants Disciplined for Unprofessional Behavior*, 13 J. OF ACCT. AND PUBLIC POLICY 2, 97-119 (1994).

<sup>11</sup> According to research completed by Victoria Crittenden, Richard Hanna and Robert Peterson, men are more likely to cheat than women. *The Cheating Culture: A Global Societal Phenomenon*, 52 BUSINESS HORIZONS 337-346 (2009). A gender discrepancy was also noted among auditors, with men tending to engage in activity that harmed the image of the profession whereas women tending to interfere with peer review and engage in offenses regarding audit quality. Géraldine, Hottegindre, Marie-Claire Loison, and Anne-Laure Farjaudon, *Male and Female Auditors: An Ethical Divide?*, 21 INT'L J. OF AUDITING 2, 131 (2017).

population areas), and non-membership in a state society.

Harston and Welch examined the development of the state of Texas' Board enforcement regulations immediately following the board's formation in 1946 until 1978.<sup>12</sup> This research was the first to specifically focus on the development of the regulatory process of a board. Findings suggest that application of the Board's regulations changed during the development and maturation of the board. Thomas, Davis, et al. again used the Texas Board as a sample but focused only on peer reviews. Their research examined the time period from 1991 to 1995 and found 64 violations of peer review, suggesting that experience of auditors was a contributing factor.<sup>13</sup> In other words, the more experienced the auditor, the less likely he or she is to be subject to a violation of peer review. This research was confirmatory of the findings of Wallace and Campbell.

Frank, Ofobike, et al. reviewed the state of Ohio's actions from 1990 to 2006 using the AICPA Code of Ethics as a distribution guide.<sup>14</sup> They identified 213 actions taken by the board with 90 licenses revoked, 18 licenses suspended, 1 license censured, 91 fines issued, and 13 fined along with mandated additional continuing education. Causes of actions included: fraud (16), dishonesty (2), unlawful practice (6), rules of professional conduct (67), commission

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<sup>12</sup> M. E. Harston & S. T. Welch, *Evolution of Professional Enforcement in Texas: an examination of violations and sanctions*, 24 THE ACCT. HISTORIANS J. 1, 25-73 (1997).

<sup>13</sup> C. W. Thomas, C. E. Davis, et al., *Quality Review, Continuing Professional Education, Experience and Substandard Performance: An Empirical Study*, 12 ACCT. HORIZONS 4, 340 (1998).

<sup>14</sup> Gary Frank, Emeka Ofobike, et al., *Teaching Business Ethics: A Quandary for Accounting Educators*, 85 J. OF EDUC. FOR BUS. 3, 132-138 (2009).

of a felony (48), other crimes (2), failure to renew license (2), other Board or federal agency action (16), failure to register license (16), conduct detrimental to the profession (5), failure to pay for firm registration (30), and failure to pay child support (2).<sup>15</sup> The authors suggested that the disciplinary process was successful if the AICPA Code of Ethics was implemented. Spencer, Usrey, et al. surveyed the nation-wide levels of public disclosures of disciplinary actions made by the 50 state boards. The authors classified disciplinary disclosures made by board newsletter, minutes, online database, and reported on the board's website. The authors concluded that all states made some form of public disclosure.<sup>16</sup>

Tidrick used the AICPA as a proxy to examine the distribution of the reasons for sanctions within the profession.<sup>17</sup> The author used a timeframe of 1980 to 1990 for the study. Results revealed 134 actions taken with a distribution of causes showing 41 technical failures, 37 failure to cooperate, 28 acts discreditable to the profession, 21 violations of general standards, and 7 lack of independence in an audit. Badawi and Rude performed a similar study but focused on ethics violations in 32 states from 1994 to 1995 of state societies. They identified 170 sanctions imposed with 38 due to commission of a crime, 57 compliance standards failures, 32 accounting principles

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<sup>15</sup> *Id.*

<sup>16</sup> Angela W. Spencer, Spencer. C. Usrey, and Thomas Z. Webb, *The Disclosure of CPA Disciplinary Action*, 85 THE CPA J. 3: 60 (2015).

<sup>17</sup> Donald Tidrick, *Disciplinary Actions by the AICPA against Individual Members, 1980-1990*, 6 RESEARCH IN ACCT. REGULATION 163-177 (1990).

failures, 24 acts discreditable to the profession, 18 due care violations, and 14 lack of professional competence.<sup>18</sup> Moriarty examined the impact of new ethics standards implemented by the AICPA. Using data from 1980 to 1998 with 1988 as the inflection point, 958 total sanctions were found with increasing levels after 1988 in which the author concluded was the profession's attempt to signal to the public a correction in its disciplinary activities due to accounting scandals.<sup>19</sup>

Finally, Armitage and Moriarty used AICPA sanctions as a means of examining the impact of third parties disciplining professionals. Results showed that the AIPCA automatic adoption of third-party sanctions impacted the number of professionals suffering disciplinary actions. However, the state boards had not adopted the same standards and implemented an ad hoc process in disciplining its membership.<sup>20</sup>

The largest source of research examining the disciplinary processes of the profession is the analysis of the actions of the SEC and the PCAOB. Campbell and Parker surveyed 415 SEC disciplinary releases from 1972 through 1989.<sup>21</sup> The primary causes of actions were lack of independence, auditor association with a fraud, and auditors deceived by management. Hermanson, Houston, et al.

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<sup>18</sup> I. M. Badawi and J. Rude, *AICPA CPC and Disciplinary Actions in Ethics Cases against CPAs*, CONFERENCE PROCEEDINGS OF THE INT'L CONFERENCE PROMOTING BUSINESS ETHICS, 316-323 (1995).

<sup>19</sup> Shane Moriarty, *Trends in Ethical Sanctions within the Accounting Profession*, 14 ACCT. HORIZONS 4, 427-439 (2000).

<sup>20</sup> Jack Armitage and Shane Moriarty, *An Examination of AICPA Disciplinary Actions: 1980-2014*, CURRENT ISSUES IN AUDITING (2016).

<sup>21</sup> D. R. Campbell & L. M. Parker, *SEC Communications to the Independent Auditors: An Analysis of Enforcement Actions*, 11 J. OF ACCT. AND PUBLIC POLICY 4, 297-330 (1993).



analyzed 316 audit inspection reports from 2004 through 2005 of the PCAOB. Researchers found 60 percent of the reports had audit deficiencies, the majority of which originated from small audit firms. Also, the number of deficiencies increased from 2004 through 2005 in the initial years post implementation of Sarbanes-Oxley Act.<sup>22</sup> Messier Jr, Kozloski, et al. reviewed audit engagement quality reports of the SEC and PCAOB from 1993 until 2008.<sup>23</sup> They noted 28 cases with only eight reported from the Big Four accounting firms.<sup>24</sup> All had Generally Accepted Auditing Standards (GAAS) failures and 75% had Generally Accepted Accounting Principles (GAAP) failures.<sup>25</sup> Half of all actions resulted in the loss of the partners leading the audits and the loss of the privilege to audit public companies.

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<sup>22</sup> Dana R. Hermanson, Richard W. Houston, et al., *PCAOB Inspections of Smaller CPA Firms: Initial Evidence from Inspection Reports*, 21 ACCT. HORIZONS 2, 137-152 (2007).

<sup>23</sup> Engagement quality reports are a required part of the audit process to provide an objective measure for findings and conclusions of the auditor. Auditing Standard No. 7, [https://pcaobus.org/Standards/Auditing/pages/auditing\\_standard\\_7.aspx](https://pcaobus.org/Standards/Auditing/pages/auditing_standard_7.aspx).

<sup>24</sup> Based on revenue, the Big Four include Deloitte, LLP, PricewaterhouseCoopers (PwC, LLP), Ernst & Young (EY, LLP), and KPMG, LLP. Katherine Campbell, Katherine & Mary Loyland, *Video as a Recruitment Tool at "Big Four" Public Accounting Firms: Why Video Should Be Part of Accounting Curricula*, 17 ACADEMY OF EDUCATIONAL LEADERSHIP J. 2 (June 2013); *The Big Four The Big 4 Accounting Firms: Everything You Need to Know* (2018), <https://big4careerlab.com/big-4-accounting-firms/>.

<sup>25</sup> W. F. Messier Jr, T. M. Kozloski, et al., *An Analysis of SEC and PCAOB Enforcement Actions Against Engagement Quality Reviewer*, 29 AUDITING: A J. OF PRACTICE & THEORY 2, 233-252 (2010). According to AICPA, "Auditing standards provide a measure of audit quality and the objectives to be achieved in an audit." AU § 150.01. GAAP serve as the foundation of FASB's accounting methods and practices. <https://www.aicpa.org/about/faqs.html>.

Church and Shefchik furthered the work of Messier Jr, Kozloski, et al. by examining only Big Four Accounting firms with audit deficiencies from 2004 to 2009. The authors found a downward trend in deficiencies of audits.<sup>26</sup> Dee, Lulseged, et al. focused on a single sanction of a Deloitte Touche Tohmatsu audit of Ligard Pharmaceuticals.<sup>27</sup> The firm's lead partner responsible for the audit was banned from public company auditing.<sup>28</sup> In addition, the firm's negative reaction in the marketplace outweighed the costs of the fine especially with distressed companies. Anantharaman compared AICPA quality reviews to PCAOB quality reviews and reported that reviewers of firms that were geographically close were more negative than PCAOB staff.<sup>29</sup> Bishop, Hermanson, et al. analyzed first-time and second-time PCAOB inspection reports from 2004 through 2012. Results showed that fifty percent of the reports showed deficiencies.<sup>30</sup> Kraussman and Messier Jr. used Audit Standard 7 of the PCAOB Auditing Standards requiring audit quality review. Sixteen cases were reported with two from the Big Four. Seven were found to have inadequate external quality review and nine simply failed to perform it.<sup>31</sup> Finally, Manita and Elommal inspected 18 audit deficiencies from 2005 through 2014 from the PCAOB. They noted 83% reported lack

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<sup>26</sup> Bryan K. Church & Lori B. Shefchik, *PCAOB Inspections and Large Accounting Firms*, 26 ACCT. HORIZONS 1, 43-63 (2011).

<sup>27</sup> Carol Callaway Dee, Ayalew Lulseged, et al., *Client Stock Market Reaction to PCAOB Sanctions Against a Big 4 Auditor*, 28 CONTEMPORARY ACCT. RESEARCH 1, 263-291 (2001).

<sup>28</sup> *Id.*

<sup>29</sup> Divya Anantharaman, *Comparing Self-Regulation and Statutory Regulation: Evidence From the Accounting Profession*, 37 ACCT., ORGANIZATIONS AND SOCIETY 2, 55-77 (2012).

<sup>30</sup> Carol C. Bishop, Dana R. Hermanson, et al., *PCAOB Inspections of International Audit Firms: Initial Evidence*, 17 INT'L J. OF AUDITING 1-18 (2013).

<sup>31</sup> Michael Kraussman & William F. Messier Jr., *An Updated Analysis of Enforcement Actions Against Engagement Quality Reviewers*, 9 CURRENT ISSUES IN AUDITING 2, A1-A12 (2015).

of competence and 17% were not independent with most deficiencies occurring in non-Big Four firms.<sup>32</sup>

#### **A. INTERNATIONAL DISCIPLINARY ACTIONS SURVEY RESEARCH**

Mitchell, Puxy, et al. examined 52 audit failures of United Kingdom companies where criticism of the auditing firm was made by the disciplinary committees of the Chartered Accounting Association, a world-recognized trade organization serving accountants in mostly English-speaking countries.<sup>33</sup> Results showed a weakness in the ability of the professional licensing bodies to take meaningful disciplinary actions against the firms who suffered an audit failure.<sup>34</sup> Canning and O'Dwyer focused on the Institute of Chartered Accountants in Ireland and its disciplinary process from 1990 through 1999. The study noted 823 cases reported for investigation to the secretary of the organization.<sup>35</sup> Of those cases, 349 were actually sent to an investigative committee, resulting in 123 cases subject to disciplinary action; in addition, seventeen cases that were subject to discipline were

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<sup>32</sup> Riadh Manita and Najoua Elommal, *Audit Deficiencies Leading to PCAOB Sanctions: A Study of PCAOB Reports between 2005 and 2014*, 32 *GESTION* 2000 3, 17-41 (2015).

<sup>33</sup> Austin Mitchell, Tony Puxy, et al., *Ethical Statements as Smokescreens for Sectional Interests: The Case of the UK Accountancy Profession*, 13 *J. OF BUSINESS ETHICS* 1, 39-51 (1994).

<sup>34</sup> *Id.*

<sup>35</sup> Mary Canning and Brendan O'Dwyer, *Professional Accounting Bodies' Disciplinary Procedures: Accountable, Transparent and in the Public Interest?* 10 *EUROPEAN ACCT. REVIEW* 4, 725-749 (2001).

successfully appealed. Fisher, Gunz, et al. examined the disciplinary actions of the Association of Chartered Certified Accountants from 1978 through 1995.<sup>36</sup> Data was collected from the United Kingdom, Ireland, Hong Kong, Singapore, Malaysia, and other overseas locations. Analysis was made using 1989 as an inflection point for the integration of a new ethics standard by the agency. Controls were further made by country. Findings suggest that enforcement actions were motivated to some extent by self-interest as well as the local culture of the location.<sup>37</sup>

Bedard examined the Chartered Professional Accountant Order of Quebec and its disciplinary processes.<sup>38</sup> These findings provided some of the most important research findings in this literature. The author suggested that the greater disclosure to the public increased the severity of the actions taken against members and also increased the cost of the case.<sup>39</sup> Specifically, due process of the disciplinary proceedings was curtailed and investigations were better funded to mitigate their greater notoriety. Bakre examined the actions taken by the Institute of Chartered Accountants of Nigeria after six specific audit failures. The cases included Afribank Nigeria Plc (Deloitte), Cadbury Nigeria Plc (Deloitte), Ile-Oluji Codoa Products Company

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<sup>36</sup> James Fisher, Sally Gunz, et al., *Private/Public Interest and the Enforcement of a Code of Professional Conduct*, 31 J. OF BUSINESS ETHICS 3, 191-207 (2001).

<sup>37</sup> *Id.*

<sup>38</sup> Jean Bédard, *The Disciplinary Process of the Accounting Profession: Protecting the Public or the Profession? The Quebec Experience*, 20 J. OF ACCT. AND PUBLIC POLICY 4, 399-437 (2002).

<sup>39</sup> *Id.*

Limited (Emmanuel Ijewere), Standard Princint and Publishing Company (Adedji Odubogun), African Petroleum (Ashindero Oni Lasebikan), and Union Dicon Salt (Ashindero Oni Lasebikan).<sup>40</sup> The examination suggests that the Institute of Chartered Accountants of Nigeria operates as a protective entity for its members due to the fact that no meaningful disciplinary actions were issued. Chandler, Edwards, et al. performed a historical examination of the founders of the Institute of Charted Accountants in England and Wales.<sup>41</sup> Thirteen cases were reviewed with results suggesting that members were disciplined for ethical breaches but not expelled from the profession unless an external activity caused the expulsion, such as bankruptcy or a criminal charge.

Disciplinary actions of Certified Public Accounting within the United States to date has been limited to comparisons of time series data within single states, cross sectional studies of a handful of states' activities, use of third party entities such as the AICPA as a proxy for national studies, or federal regulatory agencies. These limitations are based on lack of uniform disclosure by boards which gives an incomplete understanding of the processes of the boards. Specifically, it is unwieldy to determine the behaviors of licensees that receive the most significant punishments and match those to their deviant

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<sup>40</sup> Owolabi M. Bakre, *The Unethical Practices of Accountants and Auditors and the Compromising Stance of Professional Bodies in the Corporate World: Evidence from Corporate Nigeria*, 31 ACCT. FORUM 1, 277-303 (Jan. 2007).

<sup>41</sup> R. Chandler, J. R. Edwards, et al., *Disciplinary Action Against Members of the Founding Bodies of the ICAEW*, 21 ACCT., AUDITING & ACCOUNTABILITY J 6, 827-849 (2008).

behavior. International studies, outside of historical reviews, have the benefit of central disclosures and consistency of reporting made available to the public. However, their licensing entities and requirements vary so greatly, a comparison of actions by boards are difficult to discern.

### **III. SOURCES AND DATA COLLECTED**

#### **A. SOURCES OF DATA**

The United States and sovereign territories have 55 boards of accountancy that license and/or discipline its membership. These include the 50 states and the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. The Commonwealth of the Northern Mariana Islands does not issue licenses but accepts licensing from other territories. It does discipline its membership.<sup>42</sup> The 55 accountancy boards with disciplinary authority served as the collection body. Data was gathered using the following sources: a survey, online Board databases, Board newsletters and Board reporting, and Board minutes. Of the 55 boards, data was only collectable from 47 entities. Fourteen responses were received from the survey instrument that provided subjects an opportunity to self-report data. Ten sets of data were retrieved from minutes of board activity available on Board websites. Fourteen boards provided online searchable databases or posted disciplinary actions on their websites. One was obtained via a Board's annual report. The remaining eight were retrieved from Board published newsletters. Eight Boards did not report or provide

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<sup>42</sup> NASBA, *NASBA Annual Report, Momentum* (2010).

information in regards to total CPAs holding active licenses. These entities were phone polled. Sources for the data are listed in Table 1. Alabama is the one state that does not provide board minutes or a newsletter nor does it have a centralized database. Their data was collected through survey instrument.

**Table 1: Sources of Data (Disclosure and Organizational Structure by State)**<sup>43</sup>

<b>Table 1: Sources of Data</b>			
<b>State</b>	<b>Board Minutes</b>	<b>Newsletter</b>	<b>Centralized Database</b>
AK	Yes	No	Yes
AL	No	No	No
AZ	Yes	No	No
CA	Yes	Yes	No
CNMI	Yes	No	No
CO	Yes	No	Yes
CT	Yes	No	No
DE	Yes	No	No
GA	Yes	No	No
GU	Yes	No	No
HA	Yes	No	No
IA	Yes	No	No
ID	Yes	Yes	No
IL	Yes	No	Yes
IN	Yes	Yes	Yes
KS	Yes	No	Yes
LA	Yes	No	No
MD	Yes	No	No
ME	Yes	No	Yes
MI	Yes	No	Yes
MN	Yes	Yes	Yes
MT	Yes	No	No
NC	Yes	Yes	No
ND	Yes	No	No
NH	No	No	Yes
NJ	No	No	Yes
<b>Table 1: Sources of Data (Cont)</b>			

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<sup>43</sup> See also Spencer et al, *supra* note 16.



State	Board Minutes	Newsletter	Centralized Database
NM	Yes	No	Yes
NV	No	Yes	No
NY	No	No	Yes
OH	Yes	No	Yes
OK	Yes	Yes	Yes
OR	Yes	No	Yes
PA	Yes	No	No
RI	Yes	No	No
SC	Yes	Yes	No
SD	No	Yes	Yes
TN	Yes	Yes	Yes
TX	No	Yes	No
UT	No	No	Yes
VA	No	Yes	Yes
VT	No	Yes	Yes
WA	No	No	Yes
WI	Yes	No	Yes
WV	No	Yes	Yes
WY	No	Yes	Yes

## **B. DATA COLLECTED**

The intent of this research is (1) to examine the actions triggering professional discipline and (2) to assess the resulting actions taken by boards. Data was collected in aggregate by cause of action and the resulting action itself. Causes of actions were collected based in four broad classifications: administrative, third-party notifications, proactive, and other. Administrative actions include information that a Board collects as part of its normal course of operations to insure the

validity of a license. For instance, boards collect information on whether professionals pay their licensing fees in a timely manner. More specifically, boards identify those who fail to pay and those who fail to renew a license by the board deadline. In addition, members who do not maintain sufficient continuing professional education requirements to support their licensing also fall within the administrative classification.

The second grouping involves third-party notifications to Boards regarding CPA actions that discredit the profession or harm the public interest. For instance, the commission of a crime believed to have impaired the professional ethics of a member or harmed the public interest is included in this classification. Insufficient audit documentation that leads to an audit failure is also part of this classification. The last item in this group includes operating a practice with an invalid license or by an unregistered firm.

The only item included in proactive causal activities of disciplinary actions is the failure of a peer review by a firm or sole practitioner. Peer reviews, which are required for firms conducting audits in all districts, are conducted by independent evaluators.<sup>44</sup>

A final classification of “other” is included for any action taken that does not meet the categories aforementioned. Often, practitioners engaged in multiple activities that resulted in discipline, such as practicing with an invalid license due to failure to obtain continuing education credit. Other, therefore, includes several

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<sup>44</sup> Jeffrey R. Casterella et al., *Is Self-Regulated Peer Review Effective at Signaling Audit Quality?*, 84 ACCT. REVIEW 3, 713-735 at 715 (May 2009).

combination of factors.

Disciplinary actions are separated into three categories: punitive measures, attempts to rehabilitate individuals, and other activities. Punitive actions are focused on some type of restriction placed on a professional's ability to practice. For instance, the issuance of civil monetary penalties requires the professional to pay a fine related to his or her activity, as well as any processing or legal fees. Probation of license allows for a CPA to continue in full practice but provides room for future, more severe penalties should the practitioner repeat the same activity or engage in another violation. Supervised practice permits CPAs to perform all services; however, any activities that required discipline must be completed under oversight. This type of discipline is generally targeted toward audit failures.<sup>45</sup> The most severe of consequences – revocations or suspensions of a license – prohibit the CPA from engaging in his or her profession in any manner. A revocation may be voluntary or for a limited amount of time. Ramifications of disciplinary actions toward CPAs has two components: the public interest and impairment of license to the individual or firm. CPAs have a single designated authority within the United States: certification of financial statements that adhere materially to Generally Accepted Accounting Principles (GAAP).<sup>46</sup> This information is then used by external stakeholders for

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<sup>45</sup> Attestation involves a review of data that has already been collected and evaluates that data whereas audits involve the collection and analysis of data.

<sup>46</sup> Milton Friedman & Simon Kuznets, *Income from Independent Professional*, National Bureau of Economic Research, New York (1945).

the allocation of capital whether financial or human. Individuals or firms that fail in this duty subject third parties dependent on this information to material errors. The individual ramifications to firms or individuals under disciplinary processes is simple. They could, at worst, lose the ability to practice.

Rehabilitative actions, in a departure from punitive damages that seek to punish professionals, offer support to CPAs in an effort to prevent future activities warranting discipline of the individual or firm. Rehabilitative disciplinary actions often maintain an individual's license through additional activities. Board actions for these classifications typically include two areas: ethics training and continuing education requirements. Most licensing boards have mandatory ethics training as part of their continuing education requirements. However, boards have used ethics training as an additional component of disciplinary action, similar to people convicted of driving under the influence having to undergo substance abuse counseling or driver safety courses as a condition of their probation. Continuing professional educational (CPE) requirements are also mandated for maintaining a CPA license. Boards have also used CPEs as a method of rehabilitating a licensee in an effort to maintain their practice.

The final category is other for any action taken that does not adhere to those already included. Other includes actions by third parties such as other boards or federal agencies. In addition, boards often have district specific registrations, when improperly completed, require disciplinary actions that are not related to quality of work. An example would be a retirement plan audit where an individual board requires additional registration beyond personal and firm traditional licensing.

#### IV. DATA & ANALYSIS

Out of a total of 437,853 CPAs across the United States and within its territories in 2015, 1,358, or 0.31 percent of the total number of CPAs, were reported to have engaged in activities subject to disciplinary action. More specifically, 277 failed to renew their license, 141 possessed an invalid license, 47 were unregistered or otherwise noncompliant, 123 provided insufficient audit documentation, 86 failed their peer review, 153 committed a crime, 397 failed to maintain their continuing education requirements, and 144 engaged in other activity warranting discipline. This data is summarized below in Table 2. By way of comparison, of the total number of attorneys in the United States, 0.07 percent were reported to have engaged in activity subject to disciplinary action in 2014<sup>47</sup>; of the total number of doctors in Canada, 0.06-0.11 percent are reported to have engaged in an action subject to discipline.<sup>48</sup> In the United States in 2017, 970,090 doctors were licensed to practice within all medical

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<sup>47</sup> ABA, *Survey on Lawyer Discipline Systems* 2014 (2014).

<sup>48</sup> These numbers were derived from a study looking at reports of discipline from 2000-2009. Asim Alam, Jason Klemensberg, Joshua Griesman & Chaim M. Bell, *The Characteristics of Physicians Disciplined by Professional Colleges in Canada*, 5 OPEN MEDICINE 4, e166–e172 (2011). A study showed that “7.4% of all physicians [in the United States] had a malpractice claim, with 1.6% having a claim leading to a payment.” Anupam Jena, Seth Seabury et al., *Malpractice Risk According to Physician Specialty*, 365 THE NEW ENGLAND J. OF MEDICINE 7, 629–636 (2011). In a study assessing variation from state to state in regards to physician discipline, “state rates ranged from 2.13 (95% CI 1.86 to 2.45) to 7.93 (95% CI 6.33 to 9.93) actions per 1000 physicians.” Harris John Alexander & Elena Byhoff, *Variations by state in physician disciplinary actions by US medical licensure boards*, 3 BMJ QUALITY & SAFETY 200 (2017).

boards. Individual disciplinary actions totaled 8,813 (0.91%) with 834 (.086%) losing their rights to practice.<sup>49</sup>

**Table 2: Causes of Disciplinary Actions**

Failure to Pay Annual Licensure Fee	277	20%
Unregistered Firm	141	10%
Non-compliance with Order from Board	47	3%
Audit Failure	123	9%
Peer Review Failure	86	6%
Commission of a Crime	153	11%
Failure to Maintain CPE	397	29%
Other	144	11%
Total	1,368	100%

Three general models of professional bodies regulate the practice of accounting. Licensing agencies are affiliated with the government, whether state or territorial. For instance, the State of Pennsylvania, which includes 26,451 active accounting professionals, regulates accountants through a State Board of Accountancy via its Department of State. Independent boards, on the other hand, are not or are loosely affiliated with a governmental entity. California, the state with the highest number of active accounting professionals in the nation at 83,435, regulates and disciplines professionals through its independent State Board of Accountancy. Though it is under California's Department of Community Affairs, it is entirely self-funded. Similarly, Texas, which covers 72,009 active CPAs, regulates the practice of accounting through its semi-independent Board of

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<sup>49</sup> Federation of State Medical Boards of the United States, *U.S. Medical Regulatory Trends and Actions 2018* at 27.

Public Accountancy, which, as of 2001, is entirely self-funded.<sup>50</sup> The final type of regulatory entity is the state agency, such as is used in Georgia, a state that includes 20,900 active professionals. Georgia's State Board of Accountancy is through its State Accounting Office, an agency of the government.

Notably, the states with the fewest reported activities subject to discipline included the Commonwealth of the North Mariana Islands (or CNMI, which again, does not issue licenses), Rhode Island and West Virginia, with zero cases reported. Completing the top ten states/territories with the lowest percentage (comparing number of reported cases to total number of licensed CPAs in that jurisdiction) of reported CPA activity subject to discipline include Maryland (0.06% of active licenses), New York (0.06%), Wisconsin (0.04%), Utah (0.04%), North Dakota (0.03%), New Jersey (0.03%) and Delaware (0.02%). Of those states, New York and New Jersey have the highest number of licensed professionals with 39,043 and 18,930 respectively, and, not surprisingly, the Commonwealth of the North Mariana Islands has the fewest with just twenty active practitioners. The summary of causes of disciplinary actions by state is included in Appendix 1.

In terms of the characteristics of the regulating bodies for each of these states, six of the states with the lowest reported percentages of activity, including CNMI, West Virginia, North

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<sup>50</sup> Texas has the second largest body of CPAs in the nation.

Dakota, New York, Wisconsin and Montana, are governed by independent boards. The remaining four, including New Hampshire, New Jersey, Utah, and Delaware, are regulated by a licensing agency. Four of these professional regulatory entities do not provide a website (CNMI, West Virginia, North Dakota and Montana) and three do not require ethics training (CNMI, North Dakota and Delaware).

On the other end of the spectrum, Texas had the highest reported percentage of unacceptable CPA activity (or causes that prompted discipline), though still relatively small at 1.37% of active licenses, with Nevada (1.16%), Alaska (0.98%), Vermont (0.95%) and Kansas (0.75%) rounding out the top five. Other than Texas, these states have an active professional population of under 6,000. All of these state regulatory bodies provide a website and require ethics training. Alaska is governed by a licensing agency, and the four other states are governed by an independent board.

Overall, 0.34% of active license holders were subject to discipline, and 0.08% lost their license. The discipline most frequently doled out was a fine, which constituted 31% of the discipline issued in 2014. The summary of types of discipline actions taken is summarized below in Table 3. The states with the highest percentage of discipline were Connecticut (1.86%), Texas (1.23%), Alaska (1.22%), Vermont (0.95%) and Nevada (0.74%). Four states had zero discipline issued: West Virginia, North Dakota, CNMI and Arizona. Delaware reported just one, South Carolina reported two as did Utah. New Jersey reported seven disciplinary actions, constituting 0.04% of active licenses. The summary of disciplinary actions taken by state is provided in Appendix 2.



**Table 3: Disciplinary Actions Taken**

Probation	68	5%
Supervised Practice	14	1%
Restricted Practice	43	3%
Suspension of License	162	11%
Revocation of License	205	14%
Ethics Training	92	6%
Continued CPE Training	294	20%
Fine	469	31%
Other	155	10%
Total	1,502	100%

Among the retrieved data, collectively, twenty states and territories fall under the aegis of a licensing agency, and the average percentage of actions subject to discipline within that group is 0.260%. A few states are regulated through state agency membership, including Georgia, Iowa, South Dakota, and Connecticut. Twenty-two states and territories are governed by independent boards, and the average percentage of actions subject to discipline within that group was 0.399%. Of the thirty-eight professional regulatory entities that provide websites, the average percentage of actions subject to discipline was 0.2589%. In the eight states and territories that do not provide a website, the percentage was actually lower at 0.129%.

## V. SUMMARY

Due to the small sample size of states and territories (46), identifying a statistical significance between groups, such as independent boards (22), licensing agencies (20) and state agencies

(4), and levels of disclosure is not possible. However, the data does indicate the greatest level of disclosure among states and territories with CPAs governed by independent boards (0.399% compared to 0.300% of state agencies and 0.260% of licensing agencies). Potentially, the organizational structure of the professional regulatory body does impact the number of disciplinary actions taken. The impact of number of licensing infractions by percentage does not appear to be a size effect. New York (39,043), New Jersey (18,930), Maryland (14,000), and Wisconsin (8,967) represent 147,880 practitioners or 33% of total. Yet, they discipline less than .06% of their professionals. Inconsistent application of disciplinary processes may be a component of the process. Potentially, it is the political influence of CPAs within these states mitigating the independence of the licensing boards disciplinary actions. An additional theory could include the active involvement of the State Societies membership (the lobbying organizations for CPA's) on the membership of the board themselves. Higher current state society membership within boards could influence their disciplinary decision making.

Despite a clear understanding of the lack of consistent application of discipline within the profession, this study does provide a comprehensive literature review in regards to disciplinary action imposed on CPAs as well as a summary of actions that prompted discipline as well as the specific disciplinary actions taken against licensed professionals in 2014. Further data collection compiling individual disciplinary actions by boards could provide a more meaningful statistical analysis of their behavior with sufficient controls for organization and board backgrounds. It could also determine what actions cause the most severe restrictions to license.

## Appendix One: Causes of Disciplinary Actions by State: Highest to Smallest Infractions %

State	Active Licenses	Fee	License	Unregistered	Audit	Peer	Crime	CPE	Other	Total	% of Active Licenses
TX	28,541	116	10	17	14	24	7	183	19	390	1.37%
NV	2,162	2	4	-	4	2	5	3	5	25	1.16%
AK	818	-	-	-	-	-	-	8	-	8	0.98%
VT	1,262	8	-	-	-	-	-	-	4	12	0.95%
KS	5,214	22	-	-	2	2	-	8	5	39	0.75%
CT	7,592	21	1	-	7	2	4	17	1	53	0.70%
HA	1,645	-	-	-	-	-	3	7	-	10	0.61%
OH	30,343	73	50	10	-	2	26	12	8	181	0.60%
WA	11,471	-	9	-	-	-	31	26	-	66	0.58%
NM	2,993	-	-	-	-	-	2	11	1	14	0.47%
AZ	10,238	2	5	-	16	6	1	5	6	41	0.40%
MN	6,751	1	18	-	-	2	2	3	1	27	0.40%
WY	763	1	-	-	-	1	-	1	-	3	0.39%
NC	16,532	4	-	-	5	12	1	7	35	64	0.39%
TN	10,535	4	9	-	2	2	3	12	6	38	0.36%
OK	9,600	5	-	-	2	1	1	16	8	33	0.34%
ID	2,700	-	-	-	-	2	2	-	5	9	0.33%
LA	7,191	2	2	2	1	5	10	-	-	22	0.31%
MT	1,100	-	-	-	1	1	-	1	-	3	0.27%
PA	15,141	-	-	-	3	-	4	33	-	40	0.26%
OR	7,956	-	3	-	4	1	5	-	4	17	0.21%
SD	1,915	-	-	-	-	-	-	4	-	4	0.21%
CO	12,151	-	8	6	4	-	-	3	2	23	0.19%
CA	42,161	-	5	3	19	5	23	-	16	71	0.17%
GA	18,751	2	8	5	4	2	2	3	3	29	0.15%
IA	4,600	-	6	-	1	-	-	-	-	7	0.15%
GU	686	-	-	-	-	-	-	-	1	1	0.15%
SC	5,488	3	-	-	3	-	2	-	-	8	0.15%
VA	27,166	7	-	-	7	1	-	21	-	36	0.13%
IL	17,936	1	1	1	4	4	5	-	7	23	0.13%
ME	1,903	-	-	-	1	-	1	-	-	2	0.11%
MI	9,861	-	1	3	5	-	1	-	-	10	0.10%
NH	1,200	-	-	-	1	-	-	-	-	1	0.08%
IN	14,971	-	-	-	2	4	2	2	-	10	0.07%
MD	14,000	-	-	-	-	-	1	8	-	9	0.06%
NY	39,043	-	-	-	11	-	6	1	7	25	0.06%
WI	8,967	3	-	-	-	-	1	-	-	4	0.04%
UT	5,238	-	-	-	-	-	2	-	-	2	0.04%
ND	2,900	-	1	-	-	-	-	-	-	1	0.03%
NJ	18,930	-	-	-	-	5	-	1	-	6	0.03%
DE	5,124	-	-	-	-	-	-	1	-	1	0.02%
CNMI	20	-	-	-	-	-	-	-	-	-	0.00%
RI	1,794	-	-	-	-	-	-	-	-	-	0.00%
WV	2,500	-	-	-	-	-	-	-	-	-	0.00%
<b>Total</b>	<b>437,853</b>	<b>277</b>	<b>141</b>	<b>47</b>	<b>123</b>	<b>86</b>	<b>153</b>	<b>397</b>	<b>144</b>	<b>1,368</b>	<b>0.31%</b>

**Appendix Two: Disciplinary Actions by State: Highest to Smallest Infractions %**

State	Active Licenses	Probation	Supervised	Restricted	Suspension	Revocation	Ethics	CPE	Fines	Other	Total	% of Active Licenses
CT	7,592	-	-	-	7	-	43	43	48	-	141	1.86%
TX	28,541	-	1	12	73	124	-	65	25	51	351	1.23%
AK	818	-	-	-	-	3	-	-	-	7	10	1.22%
VT	1,262	2	-	-	-	-	-	10	-	-	12	0.95%
NV	2,162	3	3	1	-	1	2	3	3	-	16	0.74%
RI	1,794	3	-	1	-	-	-	-	4	5	13	0.72%
NM	2,993	-	-	-	-	-	-	7	13	1	21	0.70%
MN	6,751	-	-	-	3	1	-	3	22	13	42	0.62%
NC	16,532	-	-	1	15	7	-	19	34	25	101	0.61%
NH	1,200	1	-	-	-	-	1	1	1	3	7	0.58%
ID	2,700	1	-	-	-	1	4	4	5	-	15	0.56%
WY	763	-	-	1	-	-	-	1	2	-	4	0.52%
KS	5,214	-	-	3	3	2	5	2	10	2	27	0.52%
OK	9,600	-	-	-	-	-	2	17	30	-	49	0.51%
PA	15,141	3	-	-	1	3	-	33	34	-	74	0.49%
HA	1,645	-	-	-	1	3	-	-	4	-	8	0.49%
LA	7,191	-	3	3	-	1	-	-	25	-	32	0.45%
SD	1,915	-	-	-	-	-	-	4	4	-	8	0.42%
CO	12,151	-	-	-	-	3	1	12	19	14	49	0.40%
MT	1,100	-	-	-	-	2	-	-	1	1	4	0.36%
TN	10,535	1	-	-	1	5	-	3	27	-	37	0.35%
IA	4,600	-	-	-	-	-	-	1	7	7	15	0.33%
VA	27,166	-	-	3	20	1	-	22	31	4	81	0.30%
OR	7,956	-	-	-	2	5	-	4	10	2	23	0.29%
CA	42,161	36	-	4	4	17	4	9	22	4	100	0.24%
OH	30,343	-	7	-	-	7	20	6	22	1	63	0.21%
GA	18,751	-	-	-	-	3	4	4	18	8	37	0.20%
MD	14,000	-	-	1	-	1	6	8	8	-	24	0.17%
NY	39,043	12	-	10	8	7	-	9	13	-	59	0.15%
GU	686	-	-	-	-	1	-	-	-	-	1	0.15%
WA	11,471	-	-	-	13	2	-	-	-	-	15	0.13%
MI	9,861	-	-	-	-	1	-	-	11	-	12	0.12%
ME	1,903	-	-	-	-	-	-	-	1	1	2	0.11%
IN	14,971	2	-	1	-	2	-	2	7	1	15	0.10%
IL	17,936	2	-	2	10	-	-	-	3	-	17	0.09%
WI	8,967	-	-	-	1	-	-	-	4	-	5	0.06%
UT	5,238	2	-	-	-	-	-	-	-	-	2	0.04%
NJ	18,930	-	-	-	-	-	-	1	1	5	7	0.04%
SC	5,488	-	-	-	-	2	-	-	-	-	2	0.04%
DE	5,124	-	-	-	-	-	-	1	-	-	1	0.02%
AZ	10,238	-	-	-	-	-	-	-	-	-	-	0.00%
CNMI	20	-	-	-	-	-	-	-	-	-	-	0.00%
ND	2,900	-	-	-	-	-	-	-	-	-	-	0.00%
WV	2,500	-	-	-	-	-	-	-	-	-	-	0.00%
<b>Totals</b>	<b>437,853</b>	<b>68</b>	<b>14</b>	<b>43</b>	<b>162</b>	<b>205</b>	<b>92</b>	<b>294</b>	<b>469</b>	<b>155</b>	<b>1,502</b>	<b>0.34%</b>