CFP Ethics 2 Hour Course

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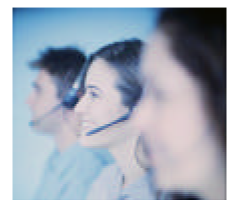

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PREFACE

A Code of Ethics and Standards are the cornerstone of any recognized professional designation. Doctors, dentists, lawyers and accountants, for instance, must adhere to a Code of Ethics within their respective professions. Anyone who strays from the Code or standards risks losing their license. In the world of financial services, there are many designations. The CFP® certification is one of a few that demands strict adherence to a professional Code of Ethics and Standards specific to the practice of financial planning. To that end, CFP® certificants are required to take a content -specific course covering their Code of Ethics or Financial Standards every renewal period (two years).

The ***Code of Ethics and Professional Responsibility (Code of Ethics)*** developed by Certified Financial Board of Standards, Inc (CFP Board) is designed to provide principles and rules to all persons to whom it has recognized and certified to use the CFP®, CERTIFIED FINANCIAL PLANNER™, and CFP® certification marks. The CFB Board determines who is certified and thus authorized to use the marks. Implicit in the acceptance of this authorization is an obligation not only to comply with the mandates and requirements of all applicable laws and regulations, but also to take responsibility to act in an ethical and professionally responsible manner in all professional services and activities. [1]

The ***CFP Board Financial Planning Practice Standards*** establish the level of professional practice that is expected of CFP Board designees engaged in financial planning. *Practice Standards* apply to CFP Board designees in performing the tasks of financial planning regardless of the person's title, job position, type of employment or method of compensation. Compliance with the Practice Standards is mandatory for CFP Board designees, but all financial planning professionals are encouraged to use the *Practice Standards* when performing financial planning tasks or activities addressed by a *Practice Standard*. [2]

This course will cover BOTH, the CFP Board Code of Ethics and Financial Planning Practice Standards in detail, followed by a self-directed exam to test your knowledge. First, however, we present a discussion of ethics and its effect on your financial planning practice.

[1] CFP Board, Code of Ethics and Professional Responsibility, Preamble, page 5
[2] CFp.net/learn/standards

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ETHICS: WHAT'S ALL THE FUSS?

Why is a course on ethics important? Yes, CFP Board and now many States mandate it, but perhaps you might take a keener interest if you knew how you could be effected when a transaction goes bad or client conflict arise. The fact is, you ***are*** very accountable and probably very reachable for violating any number of issues dealing with familiar, and not so familiar, issues such as money laundering, consumer protection, credit scoring, fair trade practices, fair claims practices, fair underwriting practices, fair sales practices, fraud awareness, fiduciary duties, product suitability and compliance. You might better relate to the broader meaning of these terms as market conduct and ethics.

A few years ago, no one knew what ***market conduct*** meant in financial industry. ***Ethical violations*** were something bad that happened . . . usually to the other guy . . . when he got caught doing what everybody else was doing anyway. And, the consequence was typically a slap on the wrist or a license suspension for a few months.

Today, however, the stakes are higher. There are class action suits and negligence claims filed against product suppliers, insurers and planners alike amounting to millions of dollars for a variety of legal conduct and ethical violations.

Of course, lawsuits involving financial consultants is nothing new. You can find court cases dating back to the early 1800's. What is different nowadays is the trend toward fiduciary responsibility. In essence, the courts and clients are viewing agents, reps and planners as ***more than mere salesmen***. Recent cases, for example, lean toward the legal theory that as a financial professionals, you ***should have known*** something was wrong compared to years ago where liability was generally limited to issues of ***outright negligence***. Back then you had to do something really wrong like running off with a client's savings account, forgetting to submit a life application or back-dating a form to land yourself in court.

What is happening is an expansion of a decision by some judge 30 or 40 years ago. Dozens of cases have expanded the original intent of the law to the point where the level of agent duty has notched higher and higher. This is known as the ***legal precedent theory***. In a nutshell, because our legal system makes legal decisions based on precedents, it is destined to constantly expand. Each decision in the chain sets the stage for the next step of expansion and attorneys get better at convincing juries that planners and CFP® certificants should be held more accountable.

Ethics & The CFPâ Certificant

Do you think you're an honest CFP® certificant? Could you prove it to a jury? What would your mother say about your practices? In the end, how will you judge your career? By how much money you made? By how many customers you helped? By what you accomplished for your family and your community? The answer lies within you. And, you are not alone if you are not 100% sure. There are many people and industries trying to grapple with the solution to "truth in practice".

Possessing a moral code is not all that is needed to set a professional apart from a salesperson. However, maintaining a Code of Ethics can inspire us to do better — especially if the breach of the code means we will lose our membership or be scrutinized by our peers.

Having ***high ethical standards***, or more simply being honest, can be more important than being right because honesty ***reflects character*** while being right reflects a ***level of ability***. Unfortunately, the financial industry, for the most part, still rewards ability. There are, for example, plenty of "million dollar" marketing winners and "sales achievement awards"; but few, if any, "Ethics & Due Care" certificates.

For some, ethical selling or consulting, whether by a code of ethics or just plain honesty, is reward by itself. Consider, for example, the satisfaction you would realize when the interest of a client has been served by the proper placement of insurance in the following situations:

- The capital needs of a family are met by a $1 million life insurance policy when the breadwinner dies prematurely
- The estate of an entire family is left intact because an umbrella liability policy sheltered against a major accident claim
- A business is able to survive after the death of a partner because a life policy payment provided necessary capital to replace the devastating loss
- The retirement plans of a once young married couple are made possible through investments in pensions and annuities
- The owner of income property financially survives a major fire because his liability policy included "loss of income" provisions
- A family survives a mother's long term bout with cancer because their health insurance carried a sufficient "lifetime" benefit

The list is endless, but the point is already made: The work of a CFP® certificant often impacts the entire financial well being and future of businesses and families. Ethics place the interest of these clients ***above*** any commissions and fees and is, in fact, the very root of what constitutes a true professional.

Being ethical is indeed professional but the gesture goes beyond the mere compliance with law. It ***means*** being completely honest concerning ALL FACTS. It means more than merely NOT telling lies because an incomplete answer can be more deceptive than a lie. It means more than being silent when something needs to be said, because saying nothing can be the same as a lie.

Someday, it may be real important for a court and jury to hear that you have a history of serving clients without consideration for how much commission you made or how busy you were, i.e., you are a person with good ethics. For example, let's say your planning advice led to a client obtaining a health insurance policy while in her 50's. After the client reached 65 you continued to collect premiums despite the fact that Medicare would replaced most of the benefits of her policy. Maybe it was an honest mistake, but the court would consider the lack of duty to notify your client a serious breach of ethics.

Ethics For Life

Does all this talk on ethics mean anything? Does it help you become a better, more successful CFP® certificant in the long run? The answer is a definite YES! At the MONY Group, for instance, building a relationship in sales and marketing is emphasized with a program called ***Client for Life***. Its premise, "When you constantly exceed the needs and expectations of your clients, you're doing the right thing". Sales tools such as reports and newsletters are used to educate clients in a non-threatening and highly personalized manner. ***Long-term success*** is closely associated with building ***long-term relationships*** with clients rather than a quick sale. The results may vary from agent to agent, but a surprising benefit seems to be a ***loyalty factor*** where more than 70 percent of sales comes from existing policyholders or their referrals.

How can planners develop a sense for long-term ethics? The best way is to fully understand what ethics is and the many levels it plays in your career. Following are some special areas of interest you should know about ethics:

Ethics Defined

Just what is ethics? A simplified definition of ethics is a ***set of values*** that constantly guides our values. These values are typically ***aligned*** with what society considers correct and positive behavior within legal boundaries. Ethics is also the ***balancing*** of an individual's good with the good of the whole. Let's say you develop a seminar series on "asset protection". At the event, you have a person pass around a clipboard asking people if they would like to be informed of future seminars. The real purpose of this exercise, however, is to create a mailing list to market financial products. Smart marketing? Or, breach of ethics? Are you really concerned with your clients' education (the whole) or only what you will get out of their business (the one)?

Balancing the good of the one with the good of the whole is not as easy any more. The whole that we have to consider is everybody, not just a competing agent down the street or in the next town. Survival is important, but not at any cost. True survival requires long-term, successful relationships with customers and companies, as well a co-workers and competitors. When people do not understand their role in the "whole" and are completely self and survival oriented, it throws the ethical system we once knew out of whack.

How can you stay on track? Most important is that you know your personal core values and the values that your company or practice stands for and then live and work congruently and consistently with those values. The people will know you as a person of integrity. And, with integrity comes trust.

The authentically ethical person in our seminar example would have simply disclosed the purpose of the clipboard or simply buy a mailing list from someone else. Respect for privacy would be honored and remembered.

Shades of Grey

One of the problems with ethics today is that we have so many different mores or values that guide our society. The values that guide each individual and/or company can vary tremendously, therefore an individual or company may be ***ethical*** according to their values and not to yours or the definition above. Several major shifts in right or wrong standards means that we are faced with more and more gray areas in our personal and professional lives. The shifts are occurring at such a pace that they may even hinder our ability to cope and process the changes.

Take the example of two planners who met with numerous company officials at manufacturing company for the purpose of securing permission to offer interested employees a "unique, local product". The planners explained that purchasers of the product would receive allegedly ***better coverage*** than that provided by their current insurer which issued the policies then-held by many employees.

More specifically, the planners explained that what they were offering was not an ordinary life insurance policy; rather, it was a ***supplemental retirement program with a death benefit*** and an "immediate cash benefit plan" containing a $ 1,000 "check" which, in the event of an insured's death, could be cashed immediately to pay for such burdensome expenses as funeral arrangements. Of critical significance, the planners assured that employees who decide to enroll in this "retirement program": (1) could allow their current policies to lapse, and (2) would be covered (insured) "immediately" and unconditionally upon completing an application and "upon signing . . . the[ir] payroll deduction card."

In essence, the planners guaranteed all-important ***risk aversion*** and ***peace of mind***. This was critical to those who were currently insured and were concerned about being without coverage once they allowed their policies to lapse. The so-called $ 1,000 "check" was not actually a check which can be taken to a bank and cashed. The only purpose it seems to serve is as a misleading gimmick to promote sales of the policies.

Clearly this is a ***shade of grey*** bordering legal issues like misrepresentation and fraud. The practice, ***unfortunately***, is widespread.

Moral Compass

The American economy depends on ethical standards upheld by responsible business leaders. Unfortunately, this unwritten rule was violated in recent ethics scandals occurring in many corporate boardrooms. Respected companies lost credibility and innocent investors lost millions in the late 1990's and early 2000's. Cheating became rampant because it was the norm. It was no longer seen as wrong. In fact, at the peak of the problem, much of our economy resembled a giant pyramid scheme, taking in money from new suckers to pay those who invested earlier. A so-called ***bubble economy*** developed where businessmen willing to gamble with other people's money were rewarded handsomely. Stock prices were rising so fast that if you cut corners to meet projected numbers, you probably thought you were doing your shareholders a favor. And, there was always new money pouring in to make up the difference.

During times of fundamental change like this, values that were previously taken for granted may be strongly questioned. These are the times when the attention to business ethics is critical. Leaders, workers and planners must sensitize their actions -- they must maintain a strong moral compass.

John Kennedy Jr's last flight went wrong because he lost sight of land. In the growing dark around him, the horizon line became blurred and he became disoriented eventually flying his place right into the ocean. When nothing is stable or dependable, you also can lose your own sense of moral direction. When it happens, you start accepting ambiguity as real. You begin making up your own rules. You cut corners. This is exactly how things started going bad at Enron. Accountants simply made-up their own accounting standards. They lied, cheated and waffled because it was to their economic advantage. Over time, they began justifying their unethical behavior as acceptable.

How can you keep this from happening to you? You can have a strong, unfailing sense of what is right and stay focused on it at all times. It's called ***integrity***. When you have it, it allows others to trust you, even when things go bad.

Kim Cameron, Professor of Organizational Behavior at the University of Michigan, says that it is not enough to simply encourage ethical behavior, honesty and integrity because these concepts in themselves imply an ***absence of harm***. A ***strong moral compass*** means that you strive for ***virtuousness*** where your actions rise to doing good, honoring others, taking a positive stance -- i.e., . . . "behaving in ways where ***self-interest is not the driving motivation***."

Too soft and fuzzy for you? Well take note, Kim's research proved that businesses with high scores on virtuousness significantly outperformed those with low scores. ***It pays to have a strong moral compass!***

<u>Example</u>: You investigate two proposal insurance quotes for a client. Proposal A is the least expensive policy, but it meets the client's needs. Proposal B also meets the client's needs with a few bells and whistles added at a much higher premium. And, because it includes significant exit penalties, it also pays a much higher commissions. The client relies entirely on your recommendation and doesn't have a clue what a competitive premium might be for a comparable policy. What do you do? As a planner with a strong moral compass, you present Policy A, but explain the options available on Policy B and the fact that premiums and commissions are higher. If the client wants Policy B the honest response is that it is not the one you want him to buy as long as Policy A meets his protection needs.

This is a simplified example for sure, but you get the idea. You are legally able to provide either product but what is the fairest deal for the client? Truly honest and ethical people live by the choice to do what is right, even when it is not pleasurable. This is how reputations are built. And, regarding reputations, ***Alan Greenspan*** summed it up quite nicely . . "Your reputation is your stock and trade. If you do something to undermine that, then you very well may not have a company any more."

<u>Moral Distress</u>

Have you ever thought about why people make bad decisions? One reason is dissatisfaction with your work or how about near impossible objections. When either one of these occurs, a person experiences growing pressure to engage in unethical behavior. You are left in a situation where every decision must weigh your own survival against the care and attention you give your client. The end results is that shortcuts will be taken or you become frustrated, resentful, angry or guilty about your bad decisions.

What can you do?

Stakeholders: Experts suggest that, among other things, you adopt a long-term stakeholder mentality, and, to be ethical under social justice theories you should be fair to all ***stakeholders***. What does this mean? A stakeholder is anybody that can be affected by your actions. Your client is a stakeholder in that he depends on you and your financial products to protect his economic well-being. Your insurer or product company is a stakeholder in you representing product fairly and within the scope of the law. The shareholders who have invested in the insurance company or product company are also stakeholders and when it comes down to it, you are a stakeholder yourself. That's right! You owe it to yourself to survive in your chosen field. And, as we have already described, the best way to do this is long-term, with integrity and respect for others and all stakeholders.

Remember, customers ultimately pay your commissions and fees and insurers and product companies enable you to make a living. That's something that should be important to you. So, how could you be a bystander and watch either of them be injured in any way by your actions?

Pace Yourself: Another way to reduce moral distress is to operate at a reasonable pace. We have already explained that when you cut corners it promotes unethical practices. For instance, if you fail to budget time to read a client's will or policy, they go out without being reviewed raising ethical questions and moral distress. What about when you forgot to get a client's signature on an application. It's awful tempting to sign it yourself when you know the client will approve it anyway rather than drive 30 miles back out to meet the client a second time. Again, moral distress raises its ugly head. Of course, the solution is to allow more time the first time out. But, this will mean less production which creates economic stress. At times like this, you have to assure yourself that you are in this for the long-term. Being genuine and ethical means that you live by the choice to do what is right, even when it is not pleasurable. You could also look at it in more positive terms. Why not make a ***client for life*** by taking that 30 mile drive and explaining why you did it!

A Tolerance For Problems: When you succeed at something, it's normally because you are doing something that other people do not want to do. In a sense, you have to "tune-up" your instincts to be ***satisfied*** at meeting objectives that others find hard to take or when people don't want you to succeed. What does this have to do with moral distress. A lot, because you can reduce your level of moral distress by increasing your tolerance for problems. Think about it. You can convince yourself that external forces are never-ending anyway, so there is no reasons to sweat it so much. The fact is, you're in the problem solving business and you're a pro! Just remember the immortal words of Saturday Night Live's Rosanna Rosanna Danna -- "It's always something!"

Loss Control

Being ethical does not mean you have to be the town's whipping boy. You need to avoid problems that could cause major financial havoc to you and other stakeholders. When you do, your levels of moral distress will be lower. Of course, this is easier said than done, since there is NO foolproof method to avoid a conflict. There are, however, some steps that planners can use to help reduce the possibility of liability developing.

- Know your basic ***legal responsibilities*** as an insurance agent, securities rep, real estate agent, notary, etc and only exceed them when you are absolutely sure what you're doing. Then, pull out your agency agreements and ***read them . . . right now***!!! And, when you decide that you want to be more than an agent, i.e., ***a specialist or expert***, understand that it comes with a high price tag -- ***added liability***. Also, make sure you are complying with basic license responsibilities to keep you and your companies from becoming a target for suspension or revocation.

- Learn from the mistakes of other. The best school in town is the one taught by other planners who have already had a problem. Study their errors, learn from them and make sure you don't repeat them. Countless lawsuits, for instance, surface due to something a planner or agent wrote down in an application causing the policy to void or a claim denied. The insured typically denies they responded in that manner. If applications were made out in an insured's own handwriting, however, there is less they can say.

- Be aware of and avoid current industry conflicts that could develop into problems for you, e.g., viatical settlements, life insurance acting as retirement plans, wiered tax plans, etc. There are hundreds of professional industry publications and online sources that will help you keep abreast. Once you are aware of a potential problem, take action to make sure it doesn't end up at your doorstep.

- Maintain a strong code of ethics. As you will see from our discussion of ethics, you don't need a list of degrees to be ethical. Simply be as honest and responsible as possible.

- Be consistent in your level of "due care". Adopt a code of procedures and create an operations manual that forces you to treat client situations the same way every time. Courts and attorneys alike are quick to point out any inconsistency or lack of standard operating procedures where the client with a problem was handled different than another client.

- Know every trade practice and consumer protection rule you can and act within standards of other planners. The violation of "unfair practice rules" is a really big deal to lawyers. They will portray you as something short of a "master criminal" for the smallest of violations, especially if they are outside the standards of others working in your same profession.

- Use client disclosures whenever possible. There is nothing more convincing than a client's own signature witnessing his knowledge of the situation or a note in an application offering an explanation. And while we're on the subject, ***spend more time with client applications***. The information provided in an application is serious business. Mistakes, whether intentional or not, can void a policy or reduce benefits and lead to a lot of trouble for your client and you. Use mini-disclosures to evidence a position and reasoning. For instance, assuming your state regulator and company approve, the applicant could be asked to write "I have read everything on this page. The answers are true".

- Get connected to the latest office protocol systems. The ability to access a note concerning a client conversation or the way you "package" correspondence can make a big difference in the outcome of a claim or avoiding one at the outset. You want a system that will produce solid evidence not "hearsay".

- Maintain and understand your errors and omission insurance. This policy is your "first line of defense", but know its limitations and gaps.

- Protecting a client's privacy is an ethical responsibility as well as an area of increasing liability for planners. The concern by clients is that highly personal health and financial information you collect in the process of planning and placing product will get in the hands of groups who might use this data to exploit them. As a result, new legislation has passed that requires certain disclosures be made to your clients whenever non-public (personal) data is being shared with other parties. Also, they must be given the opportunity to restrict its use.

Ethics From Education

The client can't understand what the planner can't explain. Further, a customer who understands a product is much less vulnerable to deceptive selling. Both statements stress the importance and need for more education. A recent study by the Insurance Institute found that four out of every five people don't understand their insurance policies. And, if the planner doesn't understand his product the company and client are at risk. Planners end up concentrating on a "comfort zone" product or service even if it is not the most appropriate one because he is uncertain about newer, more complex products.

Constant training is the answer from the company's perspective, as well as making a long-term effort to ***demystify products***. One solution is the translating of legalese into easily understandable, everyday English. This includes brochures, advertising, applications and the policies themselves.

The process of educating ethics is also the responsibility of our schools. Currently, there is a glaring lack of attention to the selling disciplines. Besides learning the nuances of every product and the marketing behind them, young people could be taught the importance and responsibilities associated with being a salesperson. Like the athlete who trains long hours to prepare for the moment of action, salespeople can be groomed to do the right thing.

Misuse of Position

What are you doing that might ***influence*** people in an unfair or abusive manner. For example, do you represent yourself as an ***expert*** when you are not? Do you claim to have special ***knowledge*** when you don't? The point is, when you ***disguise*** your actual position you deceive clients with the intention of influencing their purchasing decisions. It is certainly unethical and may be illegal.

Ethics Are Not Laws

Many planners believe that ethics and the law are the same. It is important to realize that ***ethics are not laws***, ***yet they can be guided by laws***. Proof of this exists in the fact that you can be unethical yet still operate within limits of the law. A perfect example of this is the insurance client who fears he has physical problem yet he is allowed to withhold disclosing it on an application. He has no duty to disclose his "fears" of a medical condition. It's legal, but not too ethical.

Laws in the United States are abundant, growing in numbers every day. The courts attempt to legislate protections from those without values or with values in opposition to what most of us would consider right and wrong. We have more laws than any one lawyer can ever know. And more and more lawyers seem to be necessary to handle the litigation that results from what seems to be a trend in "making others pay".

THE CFP BOARD CODE OF ETHICS[3]

The *Code Of Ethics* consists of two parts: Part I – Principles and Part II – Rules. The Principles are statements expressing in general terms the ethical and professional ideals that CFP Board designees are expected to display in their professional activities. As such, the Principles are aspirational in character but are intended to provide a source of guidance for CFP Board designees. The comments following each Principle further explain the meaning of the Principle. The Rules in Part II provide practical guidelines derived from the tenets embodied in the Principles. As such, the Rules describe the standards of ethical and professionally responsible conduct expected of CFP Board designees in particular situations. This *Code Of Ethics* does not undertake to define standards of professional conduct of CFP Board designees for purposes of civil liability. Due to the nature of a CFP Board designee's particular field of endeavor, certain Rules may not be applicable to that CFP Board designee's activities. For example, a CFP Board designee who is engaged solely in the sale of securities as a registered representative is not subject to the written disclosure requirements of Rule 402 (applicable to CFP Board designees engaged in personal financial planning) although he or she may have disclosure responsibilities under Rule 401. A CFP Board designee is obligated to determine what responsibilities he or she has in each professional relationship including, for example, duties that arise in particular circumstances from a position of trust or confidence that a CFP Board designee may have. The CFP Board designee is obligated to meet those responsibilities.

The *Code Of Ethics* is structured so that the presentation of the Rules parallels the presentation of the Principles. For example, the Rules which relate to Principle 1 – Integrity are numbered in the 100 to 199 series, while those Rules relating to Principle 2 – Objectivity are numbered in the 200 to 299 series.

CFP Board requires adherence to this *Code Of Ethics* by all CFP Board designees. Compliance with the *Code Of Ethics*, individually and by the profession as a whole, depends on each CFP Board designee's knowledge of and voluntary compliance with the Principles and applicable Rules, on the influence of fellow professionals and public opinion, and on disciplinary proceedings, when necessary, involving CFP Board designees who fail to comply with the applicable provisions of the *Code Of Ethics*.

Part I - Principles

These *Code Of Ethics*' Principles express the profession's recognition of its responsibilities to the public, to clients, to colleagues and to employers. They apply to all CFP Board designees and provide guidance to them in the performance of their professional services.

Principle 1 – Integrity
A CFP Board designee shall offer and provide professional services with integrity.

As discussed in "Composition and Scope," CFP Board designees may be placed by clients in positions of trust and confidence. The ultimate source of such public trust is the CFP Board designee's personal integrity. In deciding what is right and just, a CFP Board

[3] CFP Board Code of Ethics and Professional Responsibility

designee should rely on his or her integrity as the appropriate touchstone. Integrity demands honesty and candor which must not be subordinated to personal gain and advantage. Within the characteristic of integrity, allowance can be made for innocent error and legitimate difference of opinion; but integrity cannot co-exist with deceit or subordination of one's principles. ***Integrity requires*** a CFP Board designee to observe not only the letter but also the spirit of this *Code Of Ethics*.

Principle 2 – Objectivity

A CFP Board designee shall be objective in providing professional services to clients.

Objectivity requires intellectual honesty and impartiality. It is an essential quality for any professional. Regardless of the particular service rendered or the capacity in which a CFP Board designee functions, a CFP Board designee should protect the integrity of his or her work, maintain objectivity, and avoid subordination of his or her judgment that would be in violation of this *Code Of Ethics*.

Principle 3 – Competence

A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the CFP Board designee is engaged.

One is ***competent*** only when he or she has attained and maintained an adequate level of knowledge and skill, and applies that knowledge effectively in providing services to clients. Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation or client referral is appropriate. A CFP Board designee, by virtue of having earned the CFP® certification, is deemed to be qualified to practice financial planning. However, in addition to assimilating the common body of knowledge required and acquiring the necessary experience for certification, a CFP Board designee shall make a continuing commitment to learning and professional improvement.

Principle 4 – Fairness

A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients, principals, partners and employers, and shall disclose conflict(s) of interest in providing such services.

Fairness requires impartiality, intellectual honesty and disclosure of conflict(s) of interest. It involves a subordination of one's own feelings, prejudices and desires so as to achieve a proper balance of conflicting interests. Fairness is treating others in the same fashion that you would want to be treated and is an essential trait of any professional.

Principle 5 – Confidentiality

A CFP Board designee shall not disclose any confidential client information without the specific consent of the client unless in response to proper legal process, to defend against charges of wrongdoing by the CFP Board designee or in connection with a civil dispute between the CFP Board designee and client.

A client, by seeking the services of a CFP Board designee, may be interested in creating a relationship of personal trust and confidence with the CFP Board designee. This type of relationship can only be built upon the understanding that information supplied to the CFP Board designee will be confidential. In order to provide the contemplated services effectively and to protect the client's privacy, the CFP Board designee shall safeguard the confidentiality of such information.

Principle 6 – Professionalism
A CFP Board designee's conduct in all matters shall reflect credit upon the profession.

Because of the importance of the professional services rendered by CFP Board designees, there are ***attendant responsibilities*** to behave with dignity and courtesy to all those who use those services, fellow professionals, and those in related professions. A CFP Board designee also has an obligation to cooperate with fellow CFP Board designees to enhance and maintain the profession's public image and to work jointly with other CFP Board designees to improve the quality of services. It is only through the combined efforts of all CFP Board designees, in cooperation with other professionals, that this vision can be realized.

Principle 7 – Diligence
A CFP Board designee shall act diligently in providing professional services.

Diligence is the provision of services in a reasonably prompt and thorough manner. Diligence also includes proper planning for, and supervision of, the rendering of professional services.

Part II - Rules

As stated in Part I – Principles, the Principles apply to all CFP Board designees. However, due to the nature of a CFP Board designee's particular field of endeavor, certain Rules may not be applicable to that CFP Board designee's activities. The universe of activities engaged in by a CFP Board designee is indeed diverse and a particular CFP Board designee may be performing all, some or none of the typical services provided by financial planning professionals. As a result, in considering the following Rules, a CFP Board designee must first recognize what specific services he or she is rendering and then determine whether or not a specific Rule is applicable to those services. To assist the CFP Board designee in making these determinations, this *Standards of Professional Conduct* includes a series of definitions of terminology used throughout the *Code of Ethics*. Based upon these definitions, a CFP Board designee should be able to determine which services he or she provides and, therefore, which Rules are applicable to those services.

Rule 101: Rules that Relate to the Principle of Integrity

A CFP Board designee shall not solicit clients through false or misleading communications or advertisements:

A. ***Misleading Advertising****:* A CFP Board designee shall not make a false or misleading communication about the size, scope or areas of competence of the CFP Board designee's practice or of any organization with which the CFP Board designee is associated; and
B. ***Promotional Activities****:* In promotional activities, a CFP Board designee shall not make materially false or misleading communications to the public or create unjustified expectations regarding matters relating to financial planning or the professional activities and competence of the CFP Board designee. The term "promotional activities" includes, but is not limited to, speeches, interviews, books and/or printed publications, seminars, radio and television shows, and video cassettes; and

C. *Representation of Authority:* A CFP Board designee shall not give the impression that a CFP Board designee is representing the views of CFP Board or any other group unless the CFP Board designee has been authorized to do so. Personal opinions shall be clearly identified as such.

Rule 102
In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity.

Rule 103
*A CFP Board designee has the following responsibilities regarding **funds and/or other property of clients**:*

A. In exercising custody of, or discretionary authority over, client funds or other property, a CFP Board designee shall act only in accordance with the authority set forth in the governing legal instrument (e.g., special power of attorney, trust, letters testamentary, etc.); and
B. A CFP Board designee shall identify and ***keep complete records*** of all funds or other property of a client in the custody, or under the discretionary authority, of the CFP Board designee; and
C. Upon receiving funds or other property of a client, a CFP Board designee shall promptly or as otherwise permitted by law or provided by agreement with the client, deliver to the client or third party any funds or other property which the client or third party is entitled to receive and, upon request by the client, render a full accounting regarding such funds or other property; and
D. A CFP Board designee ***shall not commingle*** client funds or other property with a CFP Board designee's personal funds and/or other property or the funds and/or other property of a CFP Board designee's firm. Commingling one or more clients' funds or other property together is permitted, subject to compliance with applicable legal requirements and provided accurate records are maintained for each client's funds or other property; and
E. A CFP Board designee who takes custody of all or any part of a client's assets for investment purposes, shall do so with the ***care required of a fiduciary***.

Rule 201 - Rules that Relate to the Principle of Objectivity
A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.

Rule 202
A financial planning practitioner shall act in the interest of the client.

Rule 301 - Rules that Relate to the Principle of Competence
*A CFP Board designee shall **keep informed** of developments in the field of financial planning and participate in continuing education throughout the CFP Board designee's professional career in order to improve professional competence in all areas in which the CFP Board designee is engaged. As a distinct part of this requirement, a CFP Board designee shall satisfy all minimum continuing education requirements established for CFP Board designees by CFP Board.*

Rule 302
*A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the **counsel of qualified individuals** and/or refer clients to such parties.*

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Rule 401 Rules that Relate to the Principle of Fairness

In rendering professional services, a CFP Board designee shall disclose to the client:

a. Material information relevant to the professional relationship, including, conflict(s) of interest, the CFP Board designee's business affiliation, address, telephone number, credentials, qualifications, licenses, compensation structure and any agency relationships, and the scope of the CFP Board designee's authority in that capacity; and
b. The information required by all laws applicable to the relationship in a manner complying with such laws.

Rule 402

A CFP Board designee in a financial planning engagement shall make timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing:

a. Disclose conflict(s) of interest and sources of compensation; and
b. Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee.
c. As a guideline, a CFP Board designee who provides a client or prospective client with the following written disclosures, using Form ADV, a CFP Board Disclosure Form or an equivalent document, will be considered to be in compliance with this Rule:
    - The ***basic philosophy*** of the CFP Board designee (or firm) in working with clients. This includes the philosophy, theory and/or principles of financial planning which will be utilized by the CFP Board designee; and
    - ***Résumés*** of principals and employees of a firm who are expected to provide financial planning services to the client and a description of those services. Such disclosures shall include educational background, professional/employment history, professional designations and licenses held; and
    - A statement that in reasonable detail discloses (as applicable) conflict(s) of interest and source(s) of, and any ***contingencies*** or other aspects material to, the CFP Board designee's compensation; and
    - A statement describing ***material agency or employment relationships*** a CFP Board designee (or firm) has with third parties and the nature of compensation resulting from such relationships; and
    - A statement informing the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee.

Rule 403

Upon request by a client or prospective client, the CFP Board designee in a financial planning engagement shall communicate in reasonable detail the requested compensation information related to the financial planning engagement, including compensation derived from implementation. The disclosure may express compensation as an approximate dollar amount or percentage or as a range of dollar amounts or percentages. The disclosure shall be made at a time and to the extent that the requested compensation information can be reasonably ascertained. Any estimates shall be clearly identified as such and based on reasonable assumptions. If a CFP Board designee becomes aware that a compensation disclosure provided pursuant to this rule has become significantly inaccurate, he/she shall provide the client with corrected information in a timely manner.

Rule 404

The disclosures required of a CFP Board designee in a financial planning engagement described under

Rule 402 shall be offered at least annually for current clients, and provided if requested.

Rule 405

A CFP Board designee's compensation shall be fair and reasonable.

Rule 406

A CFP Board designee who is an employee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with this Code of Ethics.

Rule 407

A CFP Board designee shall:

a. Advise his/her employer of outside affiliations which reasonably may compromise service to an employer;
b. Provide timely notice to his/her employer and clients about change of CFP® certification status; and
c. Provide timely notice to clients, unless precluded by contractual obligations, about change of employment.

Rule 408

A CFP Board designee shall inform his/her employer, partners or co-owners of compensation or other benefit arrangements in connection with his or her services to clients, which are in addition to compensation from the employer, partners or co-owners for such services.

Rule 409

*If a CFP Board designee enters into a **personal business transaction** with a client, separate from regular professional services provided to that client, the transaction shall be on terms which are fair and reasonable to the client and the CFP Board designee shall disclose, in writing, the risks of the transaction, conflict(s) of interest of the CFP Board designee, and other relevant information, if any, necessary to make the transaction fair to the client.*

Rule 501 - Rules that Relate to the Principle of Confidentiality

*A CFP Board designee shall not reveal — or use for his or her own benefit — without the client's consent, any **personally identifiable information** relating to the client relationship or the affairs of the client, except and to the extent disclosure or use is reasonably necessary:*

A. To establish an advisory or brokerage account, to effect a transaction for the client, or as otherwise impliedly authorized in order to carry out the client engagement; or
B. To comply with legal requirements or legal process; or
C. To defend the CFP Board designee against charges of wrongdoing; or
D. In connection with a civil dispute between the CFP Board designee and the client.

For purposes of this rule, the proscribed use of client information is improper whether or not it actually causes harm to the client.

Rule 502

A CFP Board designee shall maintain the same standards of confidentiality to employers as to clients.

Rule 503

A CFP Board designee doing business as a partner or principal of a financial services firm owes the CFP Board designee's partners or co-owners a responsibility to act in good faith. This includes, but is not limited to, adherence to reasonable expectations of confidentiality both while in business together *and thereafter.*

Rule 601: Rules that Relate to the Principle of Professionalism

A CFP Board designee shall use the marks in compliance with the rules and regulations of CFP Board, as established and amended from time to time.

Rule 602

A CFP Board designee shall show respect for other financial planning professionals, and related occupational groups, by engaging in fair and honorable competitive practices. Collegiality among CFP Board designees shall not, however, impede enforcement of this Code of Ethics.

Rule 603

A CFP Board designee who has knowledge, which is not required to be kept confidential under this Code of Ethics, that another CFP Board designee has committed a violation of this Code of Ethics which raises substantial questions as to the designee's honesty, trustworthiness or fitness as a CFP Board designee in other respects, shall promptly inform CFP Board. This rule does not require disclosure of information or reporting based on knowledge gained as a consultant or expert witness in anticipation of, or related to, litigation or other dispute resolution mechanisms. For purposes of this rule, ***knowledge means no substantial doubt****.*

Rule 604

A CFP Board designee who has knowledge, which is not required under this Code of Ethics to be kept confidential, and which raises a substantial question of unprofessional, fraudulent or illegal conduct by a CFP Board designee or other financial professional, shall promptly inform the appropriate regulatory and/or professional disciplinary body. This rule does not require disclosure or reporting of information gained as a consultant or expert witness in anticipation of, or related to, litigation or other dispute resolution mechanisms. For purposes of this Rule, ***knowledge means no substantial doubt****.*

Rule 605

A CFP Board designee who has reason to suspect illegal conduct within the CFP Board designee's organization shall make timely disclosure of the available evidence to the CFP Board designee's immediate supervisor and/or partners or co-owners. If the CFP Board designee is convinced that illegal conduct exists within the CFP Board designee's organization, and that appropriate measures are not taken to remedy the situation, the CFP Board designee shall, where appropriate, alert the appropriate regulatory authorities, including CFP Board, in a timely manner.

Rule 606

In all professional activities a CFP Board designee shall perform services in accordance with:

A. Applicable laws, rules and regulations of governmental agencies and other applicable authorities; and
B. Applicable rules, regulations and other established policies of CFP Board.

Rule 607

A CFP Board designee shall not engage in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.

Rule 608

The Investment Advisers Act of 1940 requires registration of investment advisers with the U.S. Securities and Exchange Commission and similar state statutes may require registration with state securities agencies. CFP Board designees shall disclose to clients their firms' status as registered investment advisers. Under present standards of acceptable business conduct, it is proper to use *registered investment adviser if the CFP Board designee is registered individually. If the CFP Board designee is registered through his or her firm, then the CFP Board designee is not a registered investment adviser but a person associated with an investment adviser. The firm is the registered investment adviser. Moreover, RIA or R.I.A. following a CFP Board designee's name in advertising, letterhead stationery, and business cards may be misleading and is not permitted either by this Code of Ethics or by SEC regulations.*

Rule 609
*A CFP Board designee shall not practice any **other profession** or offer to provide such services unless the CFP Board designee is qualified to practice in those fields and is licensed as required by state law.*

Rule 610
A CFP Board designee shall return the client's original records in a timely manner after their return has been requested by a client.

Rule 611
A CFP Board designee shall not bring or threaten to bring a disciplinary proceeding under this Code of Ethics, or report or threaten to report information to CFP Board pursuant to Rules 603 and/or 604, or make or threaten to make use of this Code of Ethics for no substantial purpose other than to harass, maliciously injure, embarrass and/or unfairly burden another CFP Board designee.

Rule 612
A CFP Board designee shall comply with all applicable renewal requirements established by CFP Board including, but not limited to, payment of the biennial CFP Board designee fee as well as signing and returning the Terms and Conditions of Certification in connection with the certification renewal process.

Rule 701: Rules that Relate to the Principle of Diligence
A CFP Board designee shall provide services diligently.

Rule 702
*A financial planning practitioner shall enter into an **engagement** only after securing sufficient information to satisfy the CFP Board designee that:*

A. The relationship is warranted by the individual's needs and objectives; and
B. The CFP Board designee has the ability to either provide requisite competent services or to involve other professionals who can provide such services.

Rule 703
*A financial planning practitioner shall make and/or implement only recommendations which are **suitable** for the client.*

Rule 704
*Consistent with the nature and scope of the engagement, a CFP Board designee shall make a **reasonable investigation** regarding the financial products recommended to clients. Such an investigation may be made by the CFP Board designee or by others provided the CFP Board designee acts reasonably in relying upon such investigation.*

Rule 705
A CFP Board designee shall properly supervise subordinates with regard to their delivery of financial planning services, and shall not accept or condone conduct in violation of this Code of Ethics.

SPECIAL ISSUES

Loans To Clients [4]

Background

The Board of Professional Review (the "BOPR") has generally viewed loans between CFP Board designees and their clients unfavorably and, in the majority of cases, to be a violation of the *Code Of Ethics and Professional Responsibility (Code Of Ethics)*. Since the *Code Of Ethics* does not have a rule that specifically prohibits such transactions, however, the BOPR has addressed the issue under various rules, depending upon the facts and circumstances of the case being examined.

Due to an increase in the number of disciplinary cases that involve the issue of loans between a CFP Board designee and his or her client, the BOPR is issuing this advisory opinion to clarify its position and to serve as a guide to both CFP Board designees and their clients.

Issue

Whether a loan between a CFP Board designee and his or her client(s) violates the Code Of Ethics.

Analysis

Cases involving a loan between a CFP Board designee and a client involve an investigation of whether that CFP Board designee has violated the *Code Of Ethics*. The BOPR has evaluated these cases under a number of rules, including, but not limited to, Rules 201, 202, 401, 402, 606, 607 and 703. To determine which, if any, rules have been violated, the BOPR considers:

- Whether the designee is a financial planning practitioner (as defined by the *Code Of Ethics*).
- Whether the client is a family member or a financial institution. The degree to which the CFP Board designee is related to the client is relevant. (The rationale for considering the type of relationship is discussed later in this opinion.)
- Whether the terms and conditions of the loan are fair and reasonable to the client.

While any and/or all of the rules mentioned above, and others, may apply in a particular case, this advisory opinion focuses on two rules which are implicated in the majority of "loan" cases and are, therefore, most frequently cited by the BOPR: Rules 202 and 607. Rule 202Rule 202 of the *Code Of Ethics* requires financial planning practitioners to act in the best interest of their clients. Accordingly, this rule applies to CFP Board designees who are acting as financial planning practitioners, defined in the *Code Of Ethics* as: "[A] person who is capable and qualified to offer objective, integrated and comprehensive financial advice to or for the benefit of clients to help them achieve their financial objectives and who engages in financial planning using the financial planning process in working with clients."

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[4] CFP.net/learn -- Code of Ethics / Advisory 2001-1

Borrowing from a Client

In cases involving a loan between a financial planning practitioner and a client, where the client is the lender and the practitioner is the borrower, the BOPR presumes that the practitioner is not acting in the best interest of the client.

BOPR Recognizes Exceptions

There are two ***exceptions*** to this presumption:

1. When the client is a family member; or
2. When the client is a financial institution acting in its normal course of business activity.

The BOPR recognizes that borrowing and/or lending of funds between family members is a common, generally accepted, practice. Likewise, financial institutions are in the business of borrowing and lending funds and, as such, often provide loans to individuals, regardless of whether they are CFP Board designees. In both instances, loans between these groups can fall outside the scope of the planner-client relationship.

In either of the two situations described above, while the BOPR does not presume that the planner's borrowing of funds is a violation of Rule 202, it may still find that the transaction was not in the client's best interests if the financial planning practitioner is unable to establish that:

- The terms and conditions of the loan were clearly and objectively disclosed to the client, taking into consideration the client's level of sophistication;
- The terms and conditions of the transaction were fair and reasonable under the circumstances; and
- The client fully understood (a) the terms and conditions of the transaction and (b) the impact of the transaction on his/her financial situation.

Lending to a Client

In the more rare case where a financial planning practitioner lends funds to a client, the BOPR will presume that the practitioner is not acting in the best interest of the client, as a client who borrows funds from his or her planner is likely to be inhibited from ending the planner-client relationship, regardless of whether the client's financial planning needs are being met. Even if the financial planning practitioner can demonstrate that a particular loan to a client did not inhibit the client from ending the relationship, the transaction will still be presumed to be a violation of Rule 202 if (a) the loan was used as an enticement for the client to make a financial decision, including, but not limited to, purchasing a financial product, or (b) the loan had a below market interest rate and could be considered a form of rebate.

The ***exception*** to this presumption is when the client is a family member. Even if the client is a family member, however, the BOPR may still find that the transaction was not in the client's best interest if the financial planning practitioner is unable to establish that (a) the terms and conditions of the loan were clearly and objectively disclosed to the client, taking into consideration the client's level of sophistication, (b) the terms and conditions of the transaction were fair and reasonable under the circumstances, and (c)

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the client fully understood the terms and conditions of the transaction and the impact the transaction may have on his/her financial situation.

Rule 607 prohibits a CFP Board designee from engaging “in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.”

As defined in the *Code Of Ethics*, CFP Board designees include individuals who are currently certified, candidates for certification, and individuals who have any entitlement, either direct or indirect, to use the CFP certification marks. Accordingly, this rule has been interpreted to apply to all CFP Board designees regardless of whether they are practitioners, including candidates for certification, and individuals who have the right to renew their CFP® certification without re-taking CFP Board’s CFP® certification

Examination

Whether the Client is the Borrower or Lender, the BOPR interprets Rule 607 broadly, finding conduct which gives the “appearance of impropriety” to be a violation of the rule. Accordingly, the BOPR has taken the position that most loans between a CFP Board designee and a client give the appearance of impropriety and, therefore, reflect negatively on the integrity of the designee, the CFP marks and the financial planning profession.

BOPR Recognizes Exceptions; the same two exceptions discussed under Rule 202 (i.e., loans between a planner and a family member or loans between a planner and a financial institution) apply under Rule 607 when the planner is the borrower. In cases where the client is the borrower, only the family member exception applies. Even if one of the exceptions applies, the BOPR may still find that the transaction violates Rule 607 if the CFP Board designee fails to establish that:

- The terms and conditions of the loan were clearly and objectively disclosed to the client;
- The terms and conditions of the transaction were fair and reasonable under the circumstances; and
- The client fully understood (a) the terms and conditions of the transaction and (b) the impact of the transaction on his/her financial situation.

Summary

The BOPR urges all CFP Board designees to avoid the practice of borrowing from or lending to clients. This advisory opinion focuses on the two most frequently cited rules (Rules 202 and 607) in cases involving loans between CFP Board designees and their clients. CFP Board designees should remember, however, that the BOPR may find such transactions to be in violation of other rules in the *Code Of Ethics*, as well.

Fee-Only [5]

The Board of Professional Review ("BOPR") views misrepresentation of compensation arrangements to be a violation of the *Code of Ethics and Professional Responsibility (Code of Ethics)*. The *Code of Ethics* defines the term "fee-only" as denoting "a method of compensation in which compensation is received solely from a client with neither the personal financial planning practitioner nor any related party receiving compensation which is contingent upon the purchase or sale of any financial product."

BOPR Advisory Opinions 97-1 and 97-2 allowed for a designee to use the term "fee-only" to describe the compensation received from a specific client, even if other methods of compensation were used with other clients, and could offer "fee-only" services to a client, even if the designee also received commissions from the same client or other clients for other services. In light of recent regulatory trends regarding the misrepresentation of methods of compensation, media focus on the issue, and the perceptions of the general public, the BOPR has redefined the appropriate use of the term "fee-only."

The purpose of this Advisory Opinion is to reduce confusion on the part of CFP Board designees, their clients, and the public, and to maintain consistency with other organizations' use of the term "fee-only." Thus, the Board of Governors withdrew Advisory Opinions 97-1 and 97-2 in January 2002 and the *Code of Ethics* definition can no longer be considered an accurate reflection of the BOPR's position on this issue.

Issue

When may a CFP Board designee use the term "fee-only" to describe the designee as an individual, the designee's practice or the designee's services?

Analysis

A ***fee only arrangement*** exists when the CFP Board designee is compensated solely by the client, or another party operating exclusively on behalf of the client, for professional services provided. The BOPR has defined types of compensation arrangements. The following qualify as fees:

- *Hourly, fixed or flat fees;*
- *Percentage fees*, which are based on some aspect of the client's financial profile, such as assets under management or earned income; and
- *Performance-based fees*, which are tied to the profitability of the client's invested assets.

In order for a CFP Board designee to describe his or her compensation as "fee-only", all compensation from all clients must be derived solely from fees. Minimal exceptions may be allowed provided the compensation is inconsequential and independent of the purchase of any product or service. Likewise, when using terms including, but not limited to, "fee-only services" and "fee-only firm," the same requirements apply.

[5] CFP.net/learn -- Advisory 2003-1

Cases involving misrepresentation of compensation arrangements or failure to disclose compensation arrangements warrant investigation of whether that CFP Board designee has violated the Code of Ethics. The rules implicated in this analysis include, but are not limited to, Rules 101(a) and (b), 102, 201, 202, 401, 402, 606, 607 and 702. The BOPR must consider whether the CFP Board designee is a financial planning practitioner (as defined by the Code of Ethics) in determining which, if any, rules have been violated. While any and/or all of the rules mentioned above may apply in a particular case, this advisory opinion focuses on three rules that would most often be implicated in a case involving misrepresentation of and/or failure to disclose compensation arrangements: Rules 101(a) and (b), 401 and 402.

Rule 401 of the Code of Ethics requires CFP Board designees to disclose to the client material information relative to the professional relationship, including compensation structure. The BOPR urges that disclosures under Rule 401 be clear, straightforward and unambiguous so as to be easily understood by all parties. In cases involving CFP Board designees who represent themselves as “fee-only” to a client but accept compensation not defined as fees by the BOPR from that relationship or other client relationships, the BOPR presumes that the CFP Board designee has failed to disclose material information relative to the professional relationship.

Rule 402 requires CFP Board designees in a financial planning engagement to make timely written disclosure of all material information relative to the professional relationship, in all circumstances and prior to the relationship, including sources of compensation. Adherence to the provisions of Rule 402 by CFP Board designees in financial planning engagements allows the public to make informed decisions about whether to use the professional services of the CFP Board designee.

Rule 402(a) is violated when the CFP Board designee in a financial planning engagement, in the disclosure provided to the client, represents himself or herself as “fee-only” when, in fact, that designee accepts compensation not defined as fees by the BOPR in that relationship or other client relationships.

Rule 101(a) and (b) prohibit CFP Board designees from soliciting clients through false or misleading advertisements and/or promotional activities. The use of the term “fee-only” must be used carefully and only when the CFP Board designee derives all compensation from all clients solely from fees. The BOPR presumes advertisements and/or promotional activities to be false or misleading when they contain the term “fee-only” and the CFP Board designee advertising or promoting his or her services accepts compensation not defined as fees from that client relationship or any other client relationships.

Summary

The public regards compensation structure as important information when choosing a financial planning professional. The Code of Ethics requires CFP Board designees to act with integrity and fairness toward the public in all activities. The appropriate use of the term “fee-only” in all public discourse provides a key opportunity for CFP Board designees to demonstrate professionalism by avoiding casual use of the term. The BOPR advises CFP Board designees to avoid using the term “fee-only” except when all compensation from all clients is derived solely from fees. CFP Board designees should also avoid the use of other terms designed to induce the public into a distorted belief that the designee receives “fee-only” compensation when in fact the designee receives commissions, referral compensation, or any other form of compensation not defined as fees by the BOPR.

COMPLAINTS & DISCIPLINE

Complaints [6]

A grievance filed against a designee must be considered very carefully since it could negatively affect a certificant's career, reputation and ability to earn a living. Thus, it takes more than a claim of misconduct to justify disciplinary action. Proof of misconduct must be established by a preponderance of the evidence.

A grievance should relate to unethical conduct -- a violation of CFP Board's Code of Ethics and Professional Responsibility -- that can be proven by evidence. An ***honest disagreement*** about how a matter should or should not have been handled would not normally constitute unethical conduct. An ***error in judgment*** is not necessarily unethical conduct. CERTIFIED FINANCIAL PLANNER™ professionals, as any other professionals, may not always give the perfect response to a given set of circumstances. For instance, ***disagreements about fees*** do not necessarily constitute unethical conduct. An ***unexpected decline in security values*** or the length of time it may take to respond to a client with a completed plan do not necessarily constitute unethical conduct.

Discipline [7]

The disciplinary procedures of CFP Board have been devised to ensure a fair and reasonable process for a CERTIFIED FINANCIAL PLANNER™ professional against whom allegations of Code of Ethics violations are brought.

Request for Investigation

Upon receipt of a written complaint, staff counsel reviews the allegations to determine if further investigation is warranted.

Investigation

If staff counsel determines to proceed with an ***investigation*** a CERTIFIED FINANCIAL PLANNER™ professional is given written notice of the investigation, which contains the general nature of the allegations. The CERTIFIED FINANCIAL PLANNER™ professional is given 30 days within which to file a written response. If no response is received within the allotted 30 days a formal complaint is issued and the case is presented to a hearing panel.

Probable Cause Determination

CFP Board Staff Counsel determines if there is probable cause to believe grounds for discipline exist. If so, staff will issue a formal complaint against the CERTIFIED FINANCIAL PLANNER™ professional and a notice of hearing. The complaint contains the specific allegations of misconduct and the potential Code of Ethics and/or Practice

[6] CFP.net/learn -- Complaint Procedures
[7] CFP.net/learn -- Discipline Procedures

Standards violations. The CERTIFIED FINANCIAL PLANNER™ professional has 20 days from the date of receipt of the complaint to file a written answer. If no answer is received, the allegations in the complaint are deemed admitted and the CERTIFIED FINANCIAL PLANNER™ professional's right to use the CFP certification marks is administratively revoked.

Hearing Panel

When a formal complaint is filed a hearing takes place before a panel of a minimum of three individuals. At least one member of every hearing panel is a member of the Board of Professional Review and at least two members must be CERTIFIED FINANCIAL PLANNER™ professionals. The respondent is entitled to appear in person or telephonically, to be represented by counsel at the hearing, to cross-examine witnesses and to present evidence on his or her behalf.

Board of Professional Review

The hearing panel submits its findings for review to the full Board of Professional Review which, after considering all the facts and recommendations, renders a final decision.

Board of Appeals

If a CERTIFIED FINANCIAL PLANNER™ professional is aggrieved by the decision of the Board of Professional Review a CERTIFIED FINANCIAL PLANNER™ professional has the right to petition the decision to the Board of Appeals. The Board of Appeals is composed of up to four members of the Board of Governors, at least two of whom are first year members of the Board. Members of the Board of Appeals may not be members of the Board of Professional Review.

Forms of Discipline

If grounds for discipline have been established, the Board of Professional Review may impose any of the forms of discipline below. All disciplinary actions, except private written censure, may be publicly disseminated.

- A private written censure
- A public letter of admonition
- Suspension of the right to use the CFP marks for a specified period of time, not to exceed five years
- Permanent revocation of the right to use the CFP marks.

Grounds for Discipline

Misconduct by a CERTIFIED FINANCIAL PLANNER™ professional, including the following acts or omissions, constitutes grounds for discipline, whether or not the misconduct occurred in the course of a client relationship:

- Any act or omission which violates the provisions of CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)
- Any act or omission which violates the criminal laws of any state or of the U.S.

- Any act which is the proper basis for suspension of a professional licensee
- Any act or omission which violates CFP Board's Disciplinary Rules & Procedures
- Failure to respond to a request by the Board of Professional Review without good cause
- Obstruction of the Board of Professional Review's performance of its duties
- Any false or misleading statement made to CFP Board

This list is not exclusive, and there may be other acts or omissions amounting to unprofessional conduct, which may also constitute grounds for discipline.

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DISCLOSURES [8]

Following are two sample disclosure forms for use by CFP® certificants in complying with CFP Board's *Code Of Ethics and Professional Responsibility* disclosure requirements. The first form (Form FPE) may be used when providing personal financial planning services. The second form (Form OPS) is for use when providing other professional services.

These forms provide for certain disclosures to clients (or potential clients) as required by CFP Board's *Code of Ethics*, with corresponding Rules in the *Code of Ethics* referrenced in parantheses. The client acknowledgments at the end of each disclosure form are not required by CFP Board's *Code of Ethics*, but CFP certificants may wish to use them for their own purposes. Please note in Part II, section E of Form FPE, a CFP certificant shall not hold out as a fee-only financial planning practitioner if the CFP certificant receives commissions or other forms of economic benefit form related parties. (Refer also to Advisory Opinion 2003-1.) Also note that the disclosure of Part II, section B of Form OPS, is not required if the services contemplated by the client relationship have been completed. CFP certificants may use these forms, SEC Form ADV Part II, or a form of their own design or choosing as long as the required *Code of Ethics* disclosures are included in whatever form is used by the CFP certificant.

Compliance with the client disclosure requirements of the *Code of Ethics* is accomplished only when all material information relevant to the professional relationship (which includes everything required, pertinent and appropriate to the given client relationship) has been disclosed to the client or prospective client. Such disclosure should include, if material, (1) information about the financial condition of the CFP certificant and/or his or her firm which is reasonably likely to impair the ability of the CFP certificant to meet contractual commitments to the client and (2) any legal or disciplinary event relative to the CFP certificant that is material to a client's or potential client's evaluation of the CFP certificant's integrity or ability to meet contractual commitments to the client. ***Mere completion*** of a suggested disclosure form does not, in and of itself, constitute full compliance with the *Code of Ethics* disclosure requirements.

[8] CFP Board Code of Ethics and Professional Responsibility, page21-31

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CFP® CERTIFICANT DISCLOSURE FORM (FORM FPE)

For Use In Financial Planning Engagements

This disclosure form gives information about the CFP® certificant(s) and his/her/their business. This information has not been reviewed, approved or verified by CFP Board or by any governmental or self-regulatory authority. CFP Board does not warrant the specific qualifications of individuals certified to use its marks, nor does it warrant the correctness of advice or opinions provided.

PART I. GENERAL INFORMATION

(Code reference - Rule 401)

A. Business affiliation:

B. Address:

C. Telephone number:

D. Information required by all laws applicable to the relationship (e.g., if the CFP® certificant is a registered investment adviser, the disclosure document required by laws applicable to such registration):

PART II. MATERIAL INFORMATION RELEVANT TO THE PROFESSIONAL RELATIONSHIP

(Written disclosures required to be provided prior to the engagement)
(Code reference – Rule 402)

A. Basic philosophy of the CFP certificant (or firm) in working with clients:

B. Philosophy, theory and/or principles of financial planning which will be utilized:

C. Attached to this disclosure form, or summarized in the space provided below, are résumés of principals and employees of the CFP certificant's firm who are expected to provide financial planning services:

   1. Educational background:

   2. Professional/employment history:

3. Professional certifications and licenses held:

D. Description of the financial planning services to be provided by the CFP certificant:

E. Conflict(s) of interest and source(s) of compensation:

1. Conflict(s) of interest:

2. Source(s) of compensation:

3. Contingencies or other aspects material to the certificant's compensation:

F. Agency or employment relationships:

1. Material agency or employment relationships with third parties:

2. Compensation resulting from such agency or employment relationships:

G. Other material information relevant to the professional relationship:

PART III. ADDITIONAL NOTIFICATION

A. As a client or prospective client, you have the right to ask me, as a CFP certificant, at any time for information about my compensation related to the services I provide you. I will communicate the requested information in reasonable detail as it relates to our financial planning engagement, including compensation derived from implementation. This disclosure of compensation:

1. May be expressed as an approximate dollar amount or percentage or as a range of dollar amounts or percentages;

2. Shall be made at a time and to the extent that the requested information can be reasonably ascertained;

3. Will be based on reasonable assumptions, with estimates clearly identified, and;
4. Will be updated in a timely manner if actual compensation significantly differs from any estimates.

(Code reference - Rules 402 and 403)

B. As a CFP certificant's personal financial planning client, you have the right to receive annually my current SEC Form ADV Part II or the current revision of the disclosure you received when our relationship began. (Code reference - Rule 404)

I hereby acknowledge receipt of this required disclosure.

______________________ /_________ _______________________/_________

Client's Signature Date Client's Signature Date

Home

CFP® Certificant Disclosure Form (Form OPS)
FOR USE WHEN PROVIDING OTHER PROFESSIONAL SERVICES

This disclosure form gives information about the CFP® certificant(s) and his/her/their business. This information has not been reviewed, approved or verified by CFP Board or by any governmental or self-regulatory authority. CFP Board does not warrant the specific qualifications of individuals certified to use its marks, nor does it warrant the correctness of advice or opinions provided.

PART I. Material Information Relevant to the Professional Relationship
(Disclosures required to be provided at the time of entering into a client relationship)
(Code reference - Rule 401)

A. Material information relevant to the professional relationship:

B. Conflict(s)of interest:

C. Information required by all laws applicable to the relationship (e.g., if the CFP certificant is a registered investment adviser, the disclosure document required by laws applicable to such registration):

PART II. SUBSEQUENT DISCLOSURES
(Disclosures required to be provided subsequent to entering into a client relationship)

A. Changes in any of the following information since entering into a client relationship:
(Code reference - Rule 401)

1. Business affiliation:

2. Address:

3. Telephone number:

4. Credentials:

5. Qualifications:

6. Licenses:

7. Compensation structure:

8. Agency relationships:

9. Scope of the CFP certificant's authority in any agency relationship:

I hereby acknowledge receipt of this required disclosure.

____________________ /________ ____________________/________

Client's Signature Date Client's Signature Date

PRACTICE STANDARDS [9]

Financial Planning Practice Standards are developed and promulgated by Certified Financial Planner Board of Standards Inc. (CFP Board) for the ultimate benefit of consumers of financial planning services.

These *Practice Standards* are intended to:

- Assure that the practice of financial planning by CERTIFIED FINANCIAL PLANNER™ professionals is based on established norms of practice;
- Advance professionalism in financial planning; and
- Enhance the value of the financial planning process.

History of Practice Standards

CFP Board is a professional regulatory organization founded in 1985 to benefit the public by establishing and enforcing education, examination, experience and ethics requirements for CFP® professionals. Through its certification process, CFP Board established fundamental criteria necessary for competency in the financial planning profession. Through its *Code of Ethics and Professional Responsibility (Code of Ethics)*, CFP Board has identified the ethics standards to which financial planning professionals should adhere.

In 1995, CFP Board established its Board of Practice Standards composed exclusively of CFP practitioners, to draft standards of practice for financial planning. The Board of Practice Standards drafted and revised the standards considering input from CFP certificants, consumers, regulators and other organizations. CFP Board's Board of Governors adopted the revised standards.

Description of Practice Standards

A ***Practice Standard*** establishes the level of professional practice that is expected of CFP Board designees engaged in financial planning.

Practice Standards apply to CFP Board designees in performing the tasks of financial planning regardless of the person's title, job position, type of employment or method of compensation. ***Compliance*** with the Practice Standards is mandatory for CFP Board designees, but all financial planning professionals are encouraged to use the *Practice Standards* when performing financial planning tasks or activities addressed by a *Practice Standard*.

Conduct inconsistent with a *Practice Standard* in and of itself is neither intended to give rise to a cause of action nor to create any presumption that a legal duty has been breached. The *Practice Standards* are designed to provide CFP Board designees a framework for the professional practice of financial planning. They are not designed to be a basis for legal liability.

[9] CFP.net/learn -- Practice Standards

Practice Standards are not intended to prescribe the services to be provided or step-by-step procedures for providing any particular service. Such procedures may be provided in practice aids developed by various financial planning organizations and other sources.

Establishing and Defining the Relationship with the Client

100-1: Defining the Scope of the Engagement

The financial planning practitioner and the client shall ***mutually define*** *the scope of the engagement before any financial planning service is provided.*

Explanation of this Practice Standard

Prior to providing any financial planning service, the financial planning practitioner and the client shall mutually define the scope of the engagement. The process of "mutually-defining" is essential in determining what activities may be necessary to proceed with the engagement.

This process is ***accomplished*** in financial planning engagements by:

- Identifying the service(s) to be provided;
- Disclosing the practitioner's material conflict(s) of interest;
- Disclosing the practitioner's compensation arrangement(s);
- Determining the client's and the practitioner's responsibilities;
- Establishing the duration of the engagement; and
- Providing any additional information necessary to define or limit the scope.

The scope of the engagement may include one or more financial planning subject areas. It is acceptable to mutually define engagements in which the scope is limited to specific activities. Mutually defining the scope of the engagement serves to establish realistic expectations for both the client and the practitioner.

This *Practice Standard* does not require the scope of the engagement to be in writing. However, as noted in the "Relationship" section, which follows, there may be certain disclosures that are required to be in writing.

As the relationship proceeds, the scope may change by mutual agreement.
This *Practice Standard* shall not be considered alone, but in conjunction with all other *Practice Standards*.

Effective Date -- Original version, January 1, 1999. Updated version, January 1, 2002.
Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 4 –

Fairness and Rules 402; and Principle 7 – Diligence and Rule 702.

Principle 4 states "A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients…."Although, as stated earlier, there is no requirement that the scope of the engagement be in writing, Rule 402 in the Code of

Ethics requires a financial planning practitioner to make “timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing: (a) Disclose conflict(s) of interest and sources of compensation; and (b) Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee.”

Principle 7 states “A CFP Board designee shall act diligently in providing professional services.” Rule 702 requires that financial planning practitioners enter into an engagement only after obtaining sufficient information to satisfy that “the relationship is warranted by the individual’s needs and objectives; and the CFP Board designee has the ability to either provide requisite competent services or to involve other professionals who can provide such services.”

Anticipated Impact of this Practice Standard

Upon the Public

The public is served when the relationship is based upon a mutual understanding of the engagement. Clarity of the scope of the engagement enhances the likelihood of achieving client expectations.

Upon the Financial Planning Profession

The profession benefits when clients are satisfied. This is more likely to take place when clients have expectations of the process, which are both realistic and clear, before services are provided.

Upon the Financial Planning Practitioner

A mutually defined scope of the engagement provides a framework for the financial planning process by focusing both the client and the practitioner on the agreed upon tasks. This enhances the potential for positive results.

Gathering Client Data

200-1: Determining a Client’s Personal and Financial Goals, Needs and Priorities

The financial planning practitioner and the client shall mutually define the client’s personal and financial goals, needs and priorities that are relevant to the scope of the engagement before any recommendation is made and/or implemented.

Explanation of this Practice Standard

Prior to making recommendations to the client, the financial planning practitioner and the client shall mutually define the client’s personal and financial goals, needs and priorities. In order to arrive at such a definition, the practitioner will need to explore the client's values, attitudes, expectations, and time horizons as they affect the client’s goals, needs and priorities. The process of “***mutually-defining***” is essential in determining what activities may be necessary to proceed with the client engagement. Personal values and attitudes shape the client's goals and objectives and the priority placed on them. Accordingly, these goals and objectives must be consistent with the client's values and attitudes in order for the client to make the commitment necessary to accomplish them. Goals and objectives provide focus, purpose, vision and direction for the financial planning process. It is important to determine clear, and measurable objectives that are relevant to the scope of the engagement. The role of the practitioner is to facilitate the goal-setting process in order to clarify, with the client, goals and objectives. When appropriate, the practitioner shall try to assist clients in recognizing the implications of unrealistic goals and objectives.

This *Practice Standard* addresses only the tasks of determining the client's personal and financial goals, needs and priorities; assessing the client's values, attitudes and expectations; and determining the client's time horizons. These areas are subjective and the practitioner's interpretation is limited by what the client reveals.

This *Practice Standard* shall not be considered alone, but in conjunction with all other Practice Standards.

Effective Date -- Original version, January 1, 1999. Updated version, January 1, 2002. Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 7 – Diligence, and Rules 701 through 703. Rule 701 states that "A CFP Board designee shall provide services diligently." Rule 702 requires a financial planning practitioner to "enter into an engagement only after securing sufficient information to satisfy the CFP Board designee that ... the relationship is warranted by the individual's needs and objectives...." In addition, Rule 703 requires a financial planning practitioner to "make and/or implement only recommendations which are suitable for the client."

Anticipated Impact of this Practice Standard

Upon the Public

The public is served when the relationship is based upon mutually defined goals, needs and priorities. This Practice Standard reinforces the practice of putting the client's interests first which is intended to increase the likelihood of achieving the client's goals and objectives.

Upon the Financial Planning Profession

Compliance with this Practice Standard emphasizes to the public that the client's goals, needs and priorities are the focus of the financial planning process. This encourages the public to seek out the services of a financial planning practitioner who uses such an approach.

Upon the Financial Planning Practitioner

The client's goals, needs and priorities help determine the direction of the financial planning process. This focuses the practitioner on the specific tasks that need to be accomplished. Ultimately, this will facilitate the development of appropriate recommendations.

200-2: Obtaining Quantitative Information and Documents

The financial planning practitioner shall obtain sufficient quantitative information and documents about a client relevant to the scope of the engagement before any recommendation is made and/or implemented.

Explanation of this Practice Standard

Prior to making recommendations to the client and depending on the scope of the engagement, the financial planning practitioner shall determine what quantitative information and documents are sufficient and relevant.

The practitioner shall obtain ***sufficient and relevant*** quantitative information and documents pertaining to the client's financial resources, obligations and personal situation. This information may be obtained directly from the client or other sources such as interview(s), questionnaire(s), client records and documents.

The practitioner shall communicate to the client a reliance on the completeness and accuracy of the information provided and that incomplete or inaccurate information will impact conclusions and recommendations.

If the practitioner is ***unable to obtain*** sufficient and relevant quantitative information and documents to form a basis for recommendations, the practitioner shall either:

- Restrict the scope of the engagement to those matters for which sufficient and relevant information is available; or
- Terminate the engagement.

The practitioner shall communicate to the client any limitations on the scope of the engagement, as well as the fact that this limitation could affect the conclusions and recommendations.

This *Practice Standard* shall not be considered alone, but in conjunction with all other *Practice Standards*.

Effective Date -- Original version, January 1, 1999. Updated version, January 1, 2002. Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to *CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 7 – Diligence and Rules 701 through 703. Rule 701 states "A CFP Board designee shall provide services diligently." Rule 702 requires a financial planning practitioner to "enter into an engagement only after securing sufficient information to satisfy the CFP Board designee that ... the relationship is warranted by the individual's needs and objectives...." In addition, Rule 703 requires a financial planning practitioner to "make and/or implement only recommendations which are suitable for the client."

Anticipated Impact of this Practice Standard

Upon the Public

The public is served when financial planning recommendations are based upon sufficient and relevant quantitative information and documents. This Practice Standard is intended to increase the likelihood of achieving the client's goals and objectives.

Upon the Financial Planning Profession

The financial planning process requires that recommendations be made based on sufficient and relevant quantitative data. Therefore, compliance with this Practice Standard encourages the public to seek financial planning practitioners who use the financial planning process.

Upon the Financial Planning Practitioner

Sufficient and relevant quantitative information and documents provide the foundation for analysis. Ultimately, this will facilitate the development of appropriate recommendations.

Analyzing and Evaluating the Client's Financial Status

300-1: Analyzing and Evaluating the Client's Information

A financial planning practitioner shall analyze the information to gain an understanding of the client's financial situation and then evaluate to what extent the client's goals, needs and priorities can be met by the client's resources and current course of action.

Explanation of this Practice Standard

Prior to making recommendations to a client, it is necessary for the financial planning practitioner to ***assess*** the client's financial situation and to determine the likelihood of reaching the stated objectives by continuing present activities.

The practitioner will utilize client-specified, mutually agreed upon, and/or other reasonable assumptions. Both personal and economic assumptions must be considered in this step of the process. These assumptions may include, but are not limited to, the following:

- Personal assumptions, such as: retirement age(s), life expectancy(ies), income needs, risk factors, time horizon and special needs; and
- Economic assumptions, such as: inflation rates, tax rates and investment returns.

Analysis and evaluation are critical to the financial planning process. These activities form the foundation for determining strengths and weaknesses of the client's financial situation and current course of action. These activities may also identify other issues that should be addressed. As a result, it may be appropriate to amend the scope of the engagement and/or to obtain additional information.

Effective DateOriginal version, January 1, 2000. Updated version, January 1, 2002. Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility*This *Practice Standard* relates to *CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 2 -

Objectivity and Rules 201 and 202; Principle 3 - Competence and Rule 302, and Principle 7 - Diligence and Rule 701.
Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 201 states "A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services" and Rule 202 states "A financial planning practitioner shall act in the interest of the client."

Principle 3 states "A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged." Rule 302 states "A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties."

Under Principle 7, Rule 701 states "A CFP Board designee shall provide services diligently."

Anticipated Impact of this Practice Standard

Upon the Public

The public is served when objective analysis and evaluation by a financial planning practitioner results in the client's heightened awareness of specific financial planning issues. This Practice Standard is intended to increase the likelihood of achieving the client's goals and objectives.

Upon the Financial Planning Profession

Objective analysis and evaluation enhances the public's recognition of and appreciation for the financial planning process and increases the confidence in financial planning practitioners who provide this service.

Upon the Financial Planning Practitioner

Analysis and evaluation helps the practitioner establish the foundation from which recommendations can be made that are specific to the client's financial planning goals, needs and priorities.

Developing and Presenting the Financial Planning Recommendation(s)

The 400 Series

"Developing and Presenting the Financial Planning Recommendation(s)," represents the very heart of the financial planning process. It is at this point that the financial planning practitioner, using both science and art, formulates the recommendations designed to achieve the client's goals, needs and priorities. Experienced financial planning practitioners may view this process as one action or task. However, in reality, it is a series of distinct but interrelated tasks.

These three *Practice Standards* emphasize the distinction among the several tasks which are part of this process. These *Practice Standards* can be described as, “What is Possible?,” “What is Recommended?” and “How is it Presented?” The first two *Practice Standards* involve the creative thought, the analysis, and the professional judgment of the practitioner, which are often performed outside the presence of the client. First, the practitioner identifies and considers the various alternatives, including continuing the present course of action (*Practice Standard* 400-1). Second, the practitioner develops the recommendation(s) from among the selected alternatives (*Practice Standard* 400-2).

Once the practitioner has determined what to recommend, the final task is to communicate the recommendation(s) to the client (*Practice Standard* 400-3).

The three *Practice Standards* that comprise the 400 series should not be considered alone, but in conjunction with all other *Practice Standards*.

400-1: Identifying and Evaluating Financial Planning Alternative(s)

The financial planning practitioner shall consider sufficient and relevant alternatives to the client’s current course of action in an effort to reasonably meet the client’s goals, needs and priorities.

Explanation of this Practice Standard

After analyzing the client’s current situation (*Practice Standard* 300-1) and prior to developing and presenting the recommendation(s) (*Practice Standards* 400-2 and 400-3) the financial planning practitioner shall identify alternative actions. The practitioner shall evaluate the effectiveness of such actions in reasonably meeting the client’s goals, needs and priorities.

This ***evaluation*** may involve, but is not limited to, considering multiple assumptions, conducting research or consulting with other professionals. This process may result in a single alternative, multiple alternatives or no alternative to the client’s current course of action.

In considering alternative actions, the practitioner shall recognize and, as appropriate, take into account his or her legal and/or regulatory limitations and level of competency in properly addressing each of the client’s financial planning issues.

More than one alternative may reasonably meet the client’s goals, needs and priorities. Alternatives identified by the practitioner may differ from those of other practitioners or advisers, illustrating the subjective nature of exercising professional judgment.

Effective Date -- Original version, January 1, 2001. Updated version, January 1, 2002.
Relationship of this *Practice Standard* to CFP Board’s *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to CFP Board’s *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics’* Principle 2 – Objectivity and Rules 201 and 202; Principle 3 – Competence and Rule 302; Principle 6 – Professionalism and Rule 609; and Principle 7 – Diligence and Rules 701 and 703.

Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 201 states "A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services." Rule 202 states "A financial planning practitioner shall act in the interest of the client."

Principle 3 states "A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged." Rule 302 states "A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties."

Principle 6 states "A CFP Board designee's conduct in all matters shall reflect credit upon the profession." Rule 609 states "A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified … and is licensed as required by state law."

Principle 7 states "A CFP Board designee shall act diligently in providing professional services." Rule 701 states "A CFP Board designee shall provide services diligently." Rule 703 states "A financial planner practitioner shall make and/or implement only recommendations which are suitable for the client."

400-2: Developing the Financial Planning Recommendation(s)

The financial planning practitioner shall develop the recommendation(s) based on the selected alternative(s) and the current course of action in an effort to reasonably meet the client's goals, needs and priorities.

Explanation of this Practice Standard

After identifying and evaluating the alternative(s) and the client's current course of action, the practitioner shall develop the recommendation(s) ***expected to reasonably meet*** the client's goals, needs and priorities. A recommendation may be an independent action or a combination of actions which may need to be implemented collectively. The recommendation(s) shall be consistent with and will be directly affected by the following:

- Mutually defined scope of the engagement;
- Mutually defined client goals, needs and priorities;
- Quantitative data provided by the client;
- Personal and economic assumptions;
- Practitioner's analysis and evaluation of client's current situation; and
- Alternative(s) selected by the practitioner.

A recommendation may be to continue the current course of action. If a change is recommended, it may be specific and/or detailed or provide a general direction. In some instances, it may be necessary for the practitioner to recommend that the client modify a goal.

The recommendations developed by the practitioner may differ from those of other practitioners or advisers, yet each may reasonably meet the client's goals, needs and priorities.

Effective date -- Original version, January 1, 2001. Updated version, January 1, 2002. Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to *CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 2 – Objectivity and Rules 201 and 202; Principle 3 – Competence and Rule 302; Principle 6 – Professionalism and Rule 609; and Principle 7 – Diligence and Rules 701, 703 and 704.

Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 201 states "A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services." Rule 202 states "A financial planning practitioner shall act in the interest of the client."

Principle 3 states "A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged." Rule 302 states "A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties."

Principle 6 states "A CFP Board designee's conduct in all matters shall reflect credit upon the profession." Rule 609 states "A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified … and is licensed as required by state law."

Principle 7 states "A CFP Board designee shall act diligently in providing professional services." Rule 701 states "A CFP Board designee shall provide services diligently." Rule 703 states "A financial planner practitioner shall make and/or implement only recommendations which are suitable for the client." Rule 704 states "… a CFP Board designee shall make a reasonable investigation regarding the financial products recommended to clients. Such an investigation may be made by the CFP Board designee or by others provided the CFP Board designee acts reasonably in relying upon such investigation."

400-3: Presenting the Financial Planning Recommendation(s)

The financial planning practitioner shall communicate the recommendation(s) in a manner and to an extent reasonably necessary to assist the client in making an informed decision.

Explanation of this Practice Standard

When presenting a recommendation, the practitioner shall make a reasonable effort to assist the client in understanding the client's current situation, the recommendation itself, and its impact on the ability to meet the client's goals, needs and priorities. In doing so, the practitioner shall avoid presenting the practitioner's opinion as fact.

The practitioner shall ***communicate*** the factors critical to the client's understanding of the recommendations. These factors may include but are not limited to material:

- Personal and economic assumptions;
- Interdependence of recommendations;
- Advantages and disadvantages;
- Risks; and/or
- Time sensitivity.

The practitioner should indicate that even though the recommendations may meet the client's goals, needs and priorities, changes in personal and economic conditions could alter the intended outcome. Changes may include, but are not limited to: legislative, family status, career, investment performance and/or health.

If there are conflicts of interest that have not been previously disclosed, such conflicts and how they may impact the recommendations should be addressed at this time. Presenting recommendations provides the practitioner an opportunity to further assess whether the recommendations meet client expectations, whether the client is willing to act on the recommendations, and whether modifications are necessary.

Effective Date -- Original version, January 1, 2001. Updated version, January 1, 2002. Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to *CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 1 – Integrity and Rule 102; Principle 2 – Objectivity and Rule 201; and Principle 6 – Professionalism and Rule 607.

Principle 1 states "A CFP Board designee shall offer and provide professional services with integrity." Rule 102 states "… a CFP Board designee shall not … knowingly make a false or misleading statement to a client…."

Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 201 states "A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services."

Principle 6 states "A CFP Board designee's conduct in all matters shall reflect credit upon the profession." Rule 607 states "A CFP Board designee shall not engage in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee…."

Anticipated Impact of these Practice Standards

Upon the Public

The public is served when strategies and objective recommendations are developed and are communicated clearly to specifically meet each client's individual financial planning goals, needs and priorities.

Upon the Financial Planning Profession
A commitment to a systematic process for the development and presentation of the financial planning recommendations advances the financial planning profession. Development of customized strategies and recommendations enhances the public's perception of the objectivity and value of the financial planning process. The public will seek out those professionals who embrace these *Practice Standards*.

Upon the Financial Planning Practitioner

Customizing strategies and recommendations forms a foundation to communicate meaningful and responsive solutions. This increases the likelihood that a client will accept the recommendations and act upon them. These actions will contribute to client satisfaction.

Implementing the Financial Planning Recommendation(s):

500-1: Agreeing on Implementation Responsibilities

The financial planning practitioner and the client shall mutually agree on the implementation responsibilities consistent with the scope of the engagement.

Explanation of this Practice Standard

The client is responsible for accepting or rejecting recommendations and for retaining and/or delegating implementation responsibilities. The financial planning practitioner and the client shall mutually agree on the services, if any, to be provided by the practitioner. The scope of the engagement, as originally defined, may need to be modified.
The ***practitioner's responsibilities*** may include, but are not limited to the following:

- Identifying activities necessary for implementation;
- Determining division of activities between the practitioner and the client;
- Referring to other professionals;
- Coordinating with other professionals;
- Sharing of information as authorized; and
- Selecting and securing products and/or services.

If there are conflicts of interest, sources of compensation or material relationships with other professionals or advisers that have not been previously disclosed, such conflicts, sources or relationships shall be disclosed at this time.

When referring the client to other professionals or advisers, the financial planning practitioner shall indicate the basis on which the practitioner believes the other professional or adviser may be qualified.

If the practitioner is engaged by the client to provide only implementation activities, the scope of the engagement shall be mutually defined, orally or in writing, in accordance with Practice Standard 100-1. This scope may include such matters as the extent to which the practitioner will rely on information, analysis or recommendations provided by others.

Effective Date -- January 1, 2002.
Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to *CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 3 – Competence and Rule 302; Principle 4 – Fairness and Rules 402; Principle 6 – Professionalism and Rules 606 and 609; and Principle 7 – Diligence and Rule 701.

Principle 3 states "A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged." Rule 302 states "A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties."

Principle 4 states "A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients…."Although, as stated earlier, there is no requirement that the scope of the engagement be in writing, Rule 402 in the Code of Ethics requires a financial planning practitioner to make "timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing: (a) Disclose conflict(s) of interest and sources of compensation; and (b) Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee."

Principle 6 states "A CFP Board designee's conduct in all matters shall reflect credit upon the profession." Rule 606 states "… a CFP Board designee shall perform services in accordance with: (a) Applicable laws, rules, and regulations of governmental agencies and other applicable authorities…." Rule 609 states "A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified … and is licensed as required by state law."
Under Principle 7, Rule 701 states "A CFP Board designee shall provide services diligently."

500-2: Selecting Products and Services for Implementation

The financial planning practitioner shall select appropriate products and services that are consistent with the client's goals, needs and priorities.

Explanation of this Practice Standard

The financial planning practitioner ***shall investigate*** products or services that ***reasonably address*** the client's needs. The products or services selected to implement the recommendation(s) must be suitable to the client's financial situation and consistent with the client's goals, needs and priorities.

The financial planning practitioner uses professional judgment in selecting the products and services that are in the client's interest. ***Professional judgment*** incorporates both qualitative and quantitative information.

Products and services selected by the practitioner may differ from those of other practitioners or advisers.

More than one product or service may exist that can reasonably meet the client's goals, needs and priorities.

The practitioner shall make all disclosures required by applicable regulations.

Effective Date -- January 1, 2002.
Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility --* This *Practice Standard* relates to *CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 2 – Objectivity and Rule 202; Principle 4 – Fairness and Rules 402 and 409; Principle 6 – Professionalism and Rule 606; and Principle 7 – Diligence and Rules 701, 703 and 704.

Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 202 states "A financial planning practitioner shall act in the interest of the client."

Principle 4 states "A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients … and shall disclose conflict(s) of interest in providing such services." Rule 402 states "A CFP Board designee in a financial planning engagement shall make timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing: (a) Disclose conflict(s) of interest and sources of compensation; and (b) Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee." Rule 409 states "If a CFP Board designee enters into a personal business transaction with a client, separate from regular professional services provided to that client ... the CFP Board designee shall disclose, in writing, the risks of the transaction, conflict(s) of interest of the CFP Board designee, and other relevant information ... necessary to make the transaction fair to the client."

Principle 6 states "A CFP Board designee's conduct in all matters shall reflect credit upon the profession." Rule 606 states "In all professional activities a CFP Board designee shall perform services in accordance with: (a) Applicable laws, rules and regulations of govern-mental agencies and other applicable authorities; and (b) Applicable rules, regulations and other established policies of CFP Board."

Principle 7 states "A CFP Board designee shall act diligently in providing professional services." Rule 701 states "A CFP Board designee shall provide services diligently." Rule 703 states "A financial planning practitioner shall make and/or implement only recommendations which are suitable for the client." Rule 704 states "… a CFP Board designee shall make a reasonable investigation regarding the financial products recommended to clients."

Anticipated Impact of these Practice Standards

Upon the Public

The public is served when the appropriate products and services are used to implement recommendations; thus increasing the likelihood that the client's goals will be achieved.

Upon the Financial Planning Profession

Over time, implementing recommendations using appropriate products and services for the client increases the credibility of the profession in the eyes of the public.

Upon the Financial Planning Practitioner

It is for the long-term benefit of the practitioner to put the interest of the client before that of others in the selection of products and services.

Monitoring

600-1: Defining Monitoring Responsibilities

The financial planning practitioner and client shall mutually define monitoring responsibilities.

Explanation of this Practice Standard

The ***purpose*** of this *Practice Standard* is to clarify the role, if any, of the practitioner in the monitoring process. By clarifying this responsibility, the client's expectations are more likely to be in alignment with the level of monitoring services which the practitioner intends to provide.

If engaged for monitoring services, the practitioner shall make a reasonable effort to define and communicate to the client those monitoring activities the practitioner is able and willing to provide. By ***explaining*** what is to be monitored, the frequency of monitoring and the communication method, the client is more likely to understand the monitoring service to be provided by the practitioner.

The monitoring process may reveal the need to reinitiate steps of the financial planning process. The current scope of the engagement may need to be modified.

Effective Date -- January 1, 2002.
Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility* -- This *Practice Standard* relates to *CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 7 – Diligence and Rule 702.

Principle 7 states "A CFP Board designee shall act diligently in providing professional services." Rule 702 requires that financial planning practitioners enter into an engagement only after obtaining sufficient information to satisfy that "the relationship is warranted by the individual's goals and objectives; and the CFP Board designee has the ability to either provide requisite competent services or to involve other professionals who can provide such services."

Anticipated Impact of this Practice Standard

Upon the Public

The public is served when the practitioner and client have similar perceptions and a mutual understanding about the responsibilities for monitoring the recommendation(s).

Upon the Financial Planning Profession

The profession benefits when clients are satisfied. Clients are more likely to be satisfied when expectations of the monitoring process are both realistic and clear. This *Practice Standard* promotes awareness that financial planning is a dynamic process rather than a single action.

Upon the Financial Planning Practitioner

A mutually defined agreement of the monitoring responsibilities increases the potential for client satisfaction and clarifies the practitioner’s responsibilities.

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