

Ethics, Professionalism, and Practice Standards

Learning Objectives

An understanding of the material in this chapter should enable the student to

- 3-1. Describe the role of ethics in society.
- 3-2. Explain the relationship between law and ethics.
- 3-3. Identify the common themes and sentiments found in almost all ethics codes applicable to financial advisors.
- 3-4. Summarize the content of the codes of ethics of the Certified Financial Planner Board of Standards, Inc. and The American College.
- 3-5. Explain what these codes mean in terms of daily professional practice.
- 3-6. Describe the qualities that define a professional.
- 3-7. Identify the hallmarks of professional behavior for financial advisors.
- 3-8. Explain why financial planning professionals are subject to an increased risk of legal liability in their business dealings with clients.
- 3-9. Explain the nature and significance of the Certified Financial Planner Board's practice standards for financial planning practitioners.

Financial professionals have frequently made the news with stories about their breaches of ethical behavior, which has resulted in the public losing confidence in the financial services industry. Ethical expectations and trust hold business, the economy, and society together and, to the extent that people act unethically, these systems falter. With this in mind, this chapter provides insight into the related concepts of ethics, professionalism, and practice standards as they pertain to the relatively new and still emerging financial planning profession.

THE ROLE OF ETHICS

Most of our conscious encounters with ethics occur as a result of negative media headlines: a public official is caught accepting a bribe; physicians are

accused of performing unnecessary surgery; and salespeople intentionally mislead the public to increase sales. The media's emphasis on unethical behavior paints a grim picture: Some (most?) people are indeed behaving badly. This makes the value of ethics all the more compelling. Ethical behavior can and should be viewed as a worthwhile goal that is essential to the success and well being of every individual and society as a whole.

In its most abstract form, ethics is just one of several branches of philosophy. Ethics is determining moral standards and determining which actions we take are in accordance with these standards.

Deciding "how we ought to live" is the foundation of ethics. If we approach it conscientiously, the results will appear in daily conduct. Each person takes his or her morality to work each day. Regardless of how clear our own personal standards may be, on the job we soon discover that colleagues, competitors, and clients are governed by what appears to be a different vision of "how we ought to live." Sometimes the vision is considerably different. In the midst of all these differences, ethics forms the common bond that drives our efforts. It is the glue that holds our entire economic and free enterprise system together.

Without ethical behavior business deals would collapse, working conditions would be intolerable, and trust would be nonexistent. In business activities, people act based on the trust that their associates will behave ethically. In financial planning, ethics is the foundation for mutual trust in the advisor-client relationship. Consequently ethics must be understood as a powerful element in the financial planning environment.

Example:

A financial advisor and a client make a verbal agreement to meet again after the advisor has had a chance to analyze the client's needs. The advisor trusts that the client will come to the meeting and listen to his or her recommendations, while the client trusts that the advisor will keep personal information confidential.

Ethical conduct builds trust. People act in ways that demonstrate a trust in the fundamental assumptions of fair treatment, honest communication, accurate representation of intentions, and the avoidance of deception. Certainly there are unethical people whom we have learned not to trust and many situations in which it is wise to be cautious. But in situations where there is little trust, it is more difficult to negotiate contracts and to conduct business. Business diminishes and disintegrates without trust. The behavior of untrustworthy individuals and organizations is too unpredictable to risk involvement. When a person lies (deceives, cheats, or steals), it is difficult to restore trust in that individual.

Ethics is not an exercise in public relations. Ethical conduct is not about creating a good image, nor is it a luxury that a company may indulge in after it meets the critical bottom line. Ethics is about how people conduct business every hour of every day. It is about prompt response to client complaints and

honest feedback to subordinates, peers, and superiors. Ethical behavior is being honest with ourselves and others. It involves the quality of work to which individuals put their names. It is giving clients all the information they need to make decisions that are in their own best interests.

The concept of ethics represents a set of fundamental assumptions that underlie nearly all relationships and transactions within society. These are assumptions about the way we treat people: what our rights and the rights of others are, where our individual rights end and the rights of others begin, how individual and public property ought to be treated, and what constitutes fair and equitable treatment of all people.

Discussing ethical conflicts is one important way that people can express their moral values to those with whom they live and work. If trust in ethical behavior facilitates and underlies all economic transactions, then people must be sure to build ethical behavior into their business decisions and operations. Only if they integrate an awareness of ethics into their daily work routines will they create a working environment that is founded on strong ethical principles.

What about competitive business practices? Is not business fundamentally about trying to gain the advantage over competitors? Does ethical behavior put an advisor at a competitive disadvantage?

A financial advisor can be ethical, competitive, and tough about goals all at the same time. Business is not just about competition. It is also about cooperation. It is about meeting the needs of customers. It is about making deals that work for the good of as many people as possible. If a business focused entirely on competing with rivals and neglected its customers, the business would quickly fail.

Honest competition is healthy, contributing to a stronger economy, higher quality service, and a better selection of products. However, competition is not the fundamental purpose of business, and some of its aspects are destructive.

Ethical behavior implies doing what is right, and that is sufficient justification to behave ethically. Furthermore, in business there are two pragmatic reasons that also justify ethical behavior. The first reason is that ethical expectations and trust serve to hold business, the economy, and society together. To the extent that people act unethically, these systems fail. The outcome may be that our own business systems falter as a result of distrust, deception, or a lack of client confidence. Adherence to ethical business practices adds a cornerstone to the foundation of any business organization.

The second reason that warrants ethical behavior in business practices is that individual actions create the work environment in which people spend most of their waking hours. People are constantly creating their own working environment by how they treat others, by statements they make, by attitudes they hold, and by the practices they condone. Ethical behavior in business profoundly improves the quality of life at work.

THE RELATIONSHIP BETWEEN LAW AND ETHICS

Each person is the major contributor in shaping his or her environment. A person's initiation of or reactions to ethical challenges determine the character of all of his or her relationships. If people lie, cheat, and steal, they are then living in a lying, cheating, and stealing environment of their own creation. An ethical environment is the only possible one in which society can progress economically, physically, morally, and spiritually. This is the ethical responsibility: to actively create an environment in which everyone can survive. The fulfillment of this responsibility requires people to assess the ethical implications of all their actions, the long-term costs, and the alternatives as well as to listen to others who are affected by those actions.

The practical result of this process is the development of frames of reference that we use to make decisions. Societal units such as nations develop laws that represent a framework based on what the governing unit considers to be minimal standards of conduct. Penalties are established, often severe, to discourage people from violating laws. Frequently, industries and/or specific business organizations develop their own standards of behavior that are more demanding than the law. These standards, known as codes of ethical conduct, statements of values, rules of conduct, and so on, become the benchmark against which the organization's ethical conduct is measured. It follows that we as individuals often have our own codes of ethical conduct. One of the early studies on business ethics done by Raymond Baumhart found that the number one influence on a business executive's ethical decision making was a personal code of behavior.¹⁹

Law and ethics are both standards of conduct that govern a nation, the morality of an organization, and the moral actions of individuals. Those desiring to be a part of society have more or less voluntarily accepted those standards.

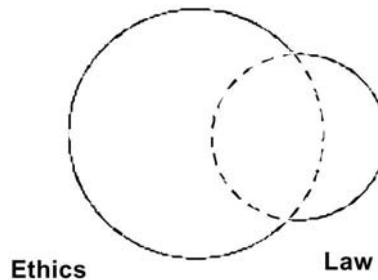
There are other ways to examine the relationship between law and ethics. *Figure 3-1, Relationship Between Law and Ethics* shows that law and ethics overlap, but each has its own domain as well. The dotted lines at the intersection of law and ethics represent their mutable boundaries. Laws are largely ethical standards that society has codified in order to insist on and enforce certain behaviors. They are the minimum moral requirements that we have agreed to demand for society as a whole. Laws that are unjust, excessive, or intrusive may be ignored or struck down.

Figure 3-1, Relationship Between Law and Ethics helps us focus on a common misunderstanding. The term compliance is often used as if it were synonymous with ethics. Compliance means obedience to the law. A "compliance" emphasis may even undermine ethics because it is targeted only at meeting legal requirements rather than addressing the causes of ethical misconduct. Compliance requires an action to be legal, compliant, and ethical.

19. Raymond Baumhart, "How Ethical Are Businessmen?" Harvard Business Review, July-August 1961, p. 7.

Lynn Sharp Paine states that "legal compliance is unlikely to unleash moral imagination or commitment. The law does not generally seek to inspire human excellence or distinction. Those managers who define ethics as legal compliance are implicitly endorsing a code of moral mediocrity for their organizations."²⁰ This is because the law simply sets minimum requirements for behavior; it does not set optimum standards for professional behavior. Nevertheless, because what is legal is usually an expression of the ethical, no matter how minimal, one needs to follow the law to be ethical.

Figure 3–1 Relationship Between Law and Ethics



"You cannot legislate morality" is a popular saying. But morality, or the definition of right and wrong behavior, is precisely the focus of the American legal system. Laws regarding stealing, killing, invading another's privacy, defrauding, and misrepresenting intentions all reflect ethical rules. If these are violated, a penalty is imposed on the violator. So society does, in fact and out of necessity, legislate the most important aspects of morality.

It is true, however, that society cannot legislate all morality. Laws cannot be made to cover every situation that arises. Laws cannot mandate decent treatment and concern for other human beings, although that is certainly an ethical issue. If an attempt were made to define and mandate all moral behavior, it would be impossible to enforce. Furthermore, citizens in democratic countries generally prefer fewer laws and greater personal freedom. With a significant increase in laws governing individual behavior, courts and prisons would be even more crowded. We want a certain amount of personal independence to resolve our ethical dilemmas. But we also need to adhere to some common moral standards since our decisions about such dilemmas inevitably affect others. We are all expected to adhere to a shared morality.

The law is relatively clear-cut. Lawyers, police officers, and court officials are all employed to provide guidance on how to follow the law. Although lawyers do not always agree and the body of law is always evolving, there is a concrete and accessible legal system. Ethical rules, however, are not as clear-cut. An ethical problem is not as easily defined as a legal problem.

There is no concrete body of ethical standards that serves as recourse in ethical dilemmas. Nonetheless, there are commonly accepted rules and

20. Lynn Sharp Paine, "Managing for Organizational Integrity," Harvard Business Review, March-April 1994, p. 111.

standards of behavior regarding the basic norms that govern moral life. These include such rules as

- Do not kill.
- Do not cause pain.
- Do not harm.
- Do not cheat.
- Do not deceive.
- Keep your promises.

Some of these are laws, while others are not. They are all commonly held expectations about life in our society, reflecting our values of individual rights and obligations to others. These values and the resulting moral rules extend into the realm of business because business operates within the larger realm of society as a whole. With this in mind, let us discuss several codes of ethics that have been written specifically for advisors in the financial services industry.

ETHICS CODES FOR FINANCIAL ADVISORS

Financial advisors take the law as a starting point in guiding their actions. Because law is primarily a codification of ethical principles, ethical issues that are deemed sufficiently important become laws. Industries and/or specific professions develop their own codes of ethical conduct because there are areas of behavior that the law does not address. In the financial services industry, several codes of ethics have been developed to provide financial advisors with ethical rules and working guidelines that go beyond the law. Because these codes are more demanding than the law, they have become the benchmark against which an advisor's ethical conduct is measured.

Financial advisors are fortunate in that they have a variety of organizations dedicated to their professional needs. These organizations are aware of the increasing ethical pressures on their members. In response, they have drafted professional pledges and codes of conduct. Among the pledges and codes applicable to financial advisors are the following:

- The American College Code of Ethics
- CFP Board's Code of Ethics and Professional Responsibility
- Society of Financial Service Professionals' Code of Ethics
- The Financial Planning Association Code of Ethics
- LUTCF Pledge
- NAIFA Code of Ethics
- The Million Dollar Round Table Code of Ethics

Copies of these pledges and/or codes are available from the respective organizations. Some of them can even be obtained from Internet websites.

In addition to the pledges and/or codes listed above, the Securities and Exchange Commission (SEC) adopted a new rule under the Investment Advisers Act of 1940 that requires registered investment advisers to adopt codes of ethics. The rule requires an adviser's code of ethics to set forth standards

of conduct and to demand compliance with federal securities laws. While the codes adopted by each adviser must contain certain minimum standards, advisers are left with substantial flexibility to design individualized codes that would best fit the structure, size, and nature of their advisory businesses.

Most codes applicable to financial advisers share seven common themes and sentiments:

- They call on advisers to look out for the best interests of clients.
- They ask advisers to conduct themselves with fairness, objectivity, honesty, and integrity.
- They require advisers to protect the confidential information of clients.
- They require advisers to present enough information to clients to allow them to make informed decisions.
- They require advisers to continue the learning process throughout their careers.
- They ask advisers to conduct themselves in such a way as to bring honor to themselves and to their profession.
- They specify that advisers should comply with the law.

Knowledge of the codes and their common themes can enable the advisor to better deal with the complexities of today's marketplace. They can provide a barometer of what is expected of the advisor by his or her profession and by the public. They are not a substitute for the law. They are meant to act as a supplement. Besides, they often go beyond the law in providing guidelines for ethical behavior, guidelines that, in turn, translate into sound business practices.

The American College Code of Ethics

A holder of an American College designation must comply with The American College's Code of Ethics. This code was adopted in June 1984 and consists of two parts: a professional pledge and eight canons. The pledge reads as follows:

In all my professional relationships, I pledge myself to the following rule of ethical conduct: I shall, in light of all conditions surrounding those I serve, which I shall make every conscientious effort to ascertain and understand, render that service which, in the same circumstances, I would apply to myself.

The eight canons are

1. Conduct yourself at all times with honor and dignity.
2. Avoid practices that would bring dishonor upon your profession or The American College.
3. Publicize your achievement in ways that enhance the integrity of your profession.
4. Continue your studies throughout your working life so as to maintain a high level of professional competence.
5. Do your utmost to attain a distinguished record of professional service.

6. Support the established institutions and organizations concerned with the integrity of your profession.
7. Participate in building your profession by encouraging and providing appropriate assistance to qualified persons pursuing professional studies.
8. Comply with all laws and regulations, particularly as they relate to professional and business activities.

Violations of the code are subject to disciplinary sanctions that include the temporary or permanent suspension of the designation. Enforcement of the code is through specified procedures.

CFP Board's Code of Ethics and Professional Responsibility

CFP Board's Standards of Professional Conduct: Code of Ethics and Professional Responsibility, downloaded from the Certified Financial Planner Board of Standards website at <http://www.cfp.net/Downloads/2008Standards.pdf>, July 2007. (This section is taken from the CFP Board's website at www.CFP.net and preserves the original language as much as possible. For complete coverage of the CFP Board's Code of Ethics and Professional Responsibility, go online to the CFP Board's website. Used with the permission of the CFP Board. All rights reserved.)

As part of the CFP® certification process and the terms and conditions imposed upon certificants and registrants, CFP Board maintains professional standards necessary for competency in the financial planning profession. Through its *Code of Ethics and Professional Responsibility (Code of Ethics)*, CFP Board identifies the ethical principles certificants and registrants should meet in all of their professional activities. Through its *Rules of Conduct*, CFP Board establishes binding professional norms that protect the public and advance professionalism. CFP Board's *Financial Planning Practice Standards (Practice Standards)* describe the best practices expected of certificants engaged in financial planning and refer to those sections of the *Rules of Conduct* that provide ethical guidance. Through its *Disciplinary Rules and Procedures (Disciplinary Rules)*, CFP Board enforces its *Rules of Conduct* and establishes a process for applying the Principles of the *Code of Ethics* to actual professional activities.

Code of Ethics

CFP® Board adopted the Code of Ethics to establish the highest principles and standards. These Principles are general statements expressing the ethical and professional ideals certificants and registrants are expected to display in their professional activities. As such, the Principles are aspirational in character and provide a source of guidance for certificants and registrants. The Principles form the basis of CFP® Board's *Rules of Conduct*, *Practice Standards* and *Disciplinary Rules*, and these documents together reflect CFP®

Board's recognition of certificants' and registrants' responsibilities to the public, clients, colleagues and employers.

Rules of Conduct

The *Rules of Conduct* establish the high standards expected of certificants and describe the level of professionalism required of certificants. The *Rules of Conduct* are binding on all certificants, regardless of their title, position, type of employment or method of compensation, and they govern all those who have the right to use the CFP® marks, whether or not those marks are actually used. The universe of activities engaged in by a certificant is diverse, and a certificant may perform all, some or none of the typical services provided by financial planning professionals. Some Rules may not be applicable to a certificant's specific activity. As a result, when considering the *Rules of Conduct*, the certificant must determine whether a specific Rule is applicable to those services. A certificant will be deemed to be in compliance with these Rules if that certificant can demonstrate that his or her employer completed the required action.

Violations of the *Rules of Conduct* may subject a certificant or registrant to discipline. Because CFP® Board is a certifying and standards-setting body for those individuals who have met and continue to meet CFP® Board's initial and ongoing certification requirements, discipline extends to the rights of registrants and certificants to use the CFP® marks. Thus, the Rules are not designed to be a basis for legal liability to any third party.

Practice Standards

The *Practice Standards* describe best practices of financial planning professionals providing professional services related to the six elements of the financial planning process. Each Standard is a statement relating to an element of the financial planning process, followed by an explanation of the Standard and its relationship to the *Code of Ethics* and *Rules of Conduct*. CFP® Board developed the *Practice Standards* to advance professionalism in financial planning and enhance the value of the financial planning process, for the ultimate benefit of consumers of financial planning services.

Disciplinary Rules

The *Disciplinary Rules* describe the procedures followed by CFP® Board in enforcing the *Rules of Conduct*. The *Disciplinary Rules* provide a fair process pursuant to which certificants are given notice of potential violations and an opportunity to be heard by a panel of other professionals.

Part I—Principles**CFP Board designees**

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. (CFP Board designees denotes current certificants, candidates for certification, and individuals who have any entitlement, direct or indirect, to the CFP certification marks.)

Principle 1 — Integrity

Provide professional services with integrity.

Integrity demands honesty and candor which must not be subordinated to personal gain and advantage. Certificants are placed in positions of trust by clients, and the ultimate source of that trust is the certificant's personal integrity. Allowance can be made for innocent error and legitimate differences of opinion, but integrity cannot coexist with deceit or subordination of one's principles.

Principle 2 — Objectivity

Provide professional services objectively.

Objectivity requires intellectual honesty and impartiality. Regardless of the particular service rendered or the capacity in which a certificant functions, certificants should protect the integrity of their work, maintain objectivity and avoid subordination of their judgment.

Principle 3 — Competence

Maintain the knowledge and skill necessary to provide professional services competently.

Competence means attaining and maintaining an adequate level of knowledge and skill, and application of that knowledge and skill in providing services to clients. Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation with other professionals is appropriate or referral to other professionals necessary. Certificants make a continuing commitment to learning and professional improvement.

Principle 4 — Fairness

Be fair and reasonable in all professional relationships. Disclose conflicts of interest.

Fairness requires impartiality, intellectual honesty and disclosure of material conflicts 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.

Principle 5 — Confidentiality

Protect the confidentiality of all client information.

Confidentiality means ensuring that information is accessible only to those authorized to have access. A relationship of trust and confidence with the client can only be built upon the understanding that the client's information will remain confidential.

Principle 6 — Professionalism

Act in a manner that demonstrates exemplary professional conduct.

Professionalism requires behaving with dignity and courtesy to clients, fellow professionals, and others in business-related activities. Certificants cooperate with fellow certificants to enhance and maintain the profession's public image and improve the quality of services.

Principle 7 — Diligence

Provide professional services diligently.

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

Part II—Rules of Conduct

The Rules of Conduct establish the high standards expected of certificants and describe the level of professionalism required of certificants. The Rules of Conduct are binding on all certificants, regardless of their title, position, type of employment or method of compensation, and they govern all those who have the right to use the CFP® marks, whether or not those marks are actually used. The universe of activities engaged in by a certificant is diverse, and a certificant may perform all, some or none of the typical services provided by financial planning professionals. Some Rules may not be applicable to a certificant's specific activity. As a result, when considering the Rules of Conduct, the certificant must determine whether a specific Rule is applicable to those services. A certificant will be deemed to be in compliance with these Rules if that certificant can demonstrate that his or her employer completed the required action.

1. Defining the Relationship With the Prospective Client or Client

- 1.1 The certificant and the prospective client or client shall mutually agree upon the services to be provided by the certificant.
- 1.2 If the certificant's services include financial planning or material elements of the financial planning process, prior to entering into an agreement, the certificant shall provide written information and/or discuss with the prospective client or client the following:
 - a. The obligations and responsibilities of each party under the agreement with respect to:

- i. Defining goals, needs and objectives,
 - ii. Gathering and providing appropriate data,
 - iii. Examining the result of the current course of action without changes,
 - iv. The formulation of any recommended actions,
 - v. Implementation responsibilities, and
 - vi. Monitoring responsibilities.
- b. Compensation that any party to the agreement or any legal affiliate to a party to the agreement will or could receive under the terms of the agreement; and factors or terms that determine costs, how decisions benefit the certificant and the relative benefit to the certificant.
 - c. Terms under which the agreement permits the certificant to offer proprietary products.
 - d. Terms under which the certificant will use other entities to meet any of the agreement's obligations.

If the certificant provides the above information in writing, the certificant shall encourage the prospective client or client to review the information and offer to answer any questions that the prospective client or client may have.

- 1.3 If the services include financial planning or material elements of the financial planning process, the certificant or the certificant's employer shall enter into a written agreement governing the financial planning services ("Agreement"). The Agreement shall specify:
 - a. The parties to the Agreement,
 - b. The date of the Agreement and its duration,
 - c. How and on what terms each party can terminate the Agreement, and
 - d. The services to be provided as part of the Agreement.

The Agreement may consist of multiple written documents. Written documentation that includes the elements above and is used by a certificant or certificant's employer in compliance with state and/or federal law, or the rules or regulations of any applicable self-regulatory organization, such as a Form ADV or other disclosure, shall satisfy the requirements of this Rule.

- 1.4 A certificant shall at all times place the interest of the client ahead of his or her own. When the certificant provides financial planning or material elements of the financial planning process, the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.

2. Information Disclosed to Prospective Clients and Clients

- 2.1 A certificant shall not communicate, directly or indirectly, to clients or prospective clients any false or misleading information directly or indirectly related to the certificant's professional qualifications or services. A certificant shall not mislead any parties about the potential benefits of the certificant's service. A certificant shall not fail to disclose or otherwise omit facts where that disclosure is necessary to avoid misleading clients.
- 2.2 A certificant shall disclose to a prospective client or client the following information:
- a. An accurate and understandable description of the compensation arrangements being offered. This description must include:
 - i. Information related to costs and compensation to the certificant and/or the certificant's employer, and
 - ii. Terms under which the certificant and/or the certificant's employer may receive any other sources of compensation, and if so, what the sources of these payments are and on what they are based.
 - b. A general summary of likely conflicts of interest between the client and the certificant, the certificant's employer or any affiliates or third parties, including, but not limited to, information about any familial, contractual or agency relationship of the certificant or the certificant's employer that has a potential to materially affect the relationship.
 - c. Any information about the certificant or the certificant's employer that could reasonably be expected to materially affect the client's decision to engage the certificant that the client might reasonably want to know in establishing the scope and nature of the relationship, including but not limited to information about the certificant's areas of expertise.
 - d. Contact information for the certificant and, if applicable, the certificant's employer.
 - e. If the services include financial planning or material elements of the financial planning process, these disclosures must be in writing. The written disclosures may consist of multiple written documents. Written disclosures used by a certificant or certificant's employer that includes the elements listed above, and are used in compliance with state or federal laws, or the rules or requirements of any applicable self-regulatory organization, such as a Form ADV or other disclosure documents, shall satisfy the requirements of this Rule.

The certificant shall timely disclose to the client any material changes to the above information.

3. Prospective Client and Client Information and Property

- 3.1 A certificant shall treat information as confidential except as required in response to proper legal process; as necessitated by obligations to a certificant's employer or partners; to defend against charges of wrongdoing; in connection with a civil dispute; or as needed to perform the services.
- 3.2 A certificant shall take prudent steps to protect the security of information and property, including the security of stored information, whether physically or electronically, that is within the certificant's control.
- 3.3 A certificant shall obtain the information necessary to fulfill his or her obligations. If a certificant cannot obtain the necessary information, the certificant shall inform the prospective client or client of any and all material deficiencies.
- 3.4 A certificant shall clearly identify the assets, if any, over which the certificant will take custody, exercise investment discretion, or exercise supervision.
- 3.5 A certificant 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 certificant.
- 3.6 A certificant shall not borrow money from a client. Exceptions to this Rule include:
 - a. The client is a member of the certificant's immediate family, or
 - b. The client is an institution in the business of lending money and the borrowing is unrelated to the professional services performed by the certificant.
- 3.7 A certificant shall not lend money to a client. Exceptions to this Rule include:
 - a. The client is a member of the certificant's immediate family, or
 - b. The certificant is an employee of an institution in the business of lending money and the money lent is that of the institution, not the certificant.
- 3.8 A certificant shall not commingle a client's property with the property of the certificant or the certificant's employer, unless the commingling is permitted by law or is explicitly authorized and defined in a written agreement between the parties.
- 3.9 A certificant shall not commingle a client's property with other clients' property unless the commingling is permitted by law or the certificant has both explicit written authorization to do so from each client involved and sufficient record keeping to track each client's assets accurately.
- 3.10 A certificant shall return a client's property to the client upon request as soon as practicable or consistent with a time frame specified in an agreement with the client.

4. Obligations to Prospective Clients and Clients

- 4.1 A certificant shall treat prospective clients and clients fairly and provide professional services with integrity and objectivity.
- 4.2 A certificant shall offer advice only in those areas in which he or she is competent to do so and shall maintain competence in all areas in which he or she is engaged to provide professional services.
- 4.3 A certificant shall be in compliance with applicable regulatory requirements governing professional services provided to the client.
- 4.4 A certificant shall exercise reasonable and prudent professional judgment in providing professional services to clients.
- 4.5 In addition to the requirements of Rule 1.4, a certificant shall make and/or implement only recommendations that are suitable for the client.
- 4.6 A certificant shall provide reasonable and prudent professional supervision or direction to any subordinate or third party to whom the certificant assigns responsibility for any client services.
- 4.7 A certificant shall advise his or her current clients of any certification suspension or revocation he or she receives from CFP Board.

5. Obligations to Employers

- 5.1 A certificant who is an employee/agent shall perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board's *Code of Ethics*.
- 5.2 A certificant who is an employee/agent shall advise his or her current employer/principal of any certification suspension or revocation he or she receives from CFP Board.

6. Obligations to CFP Board

- 6.1 A certificant shall abide by the terms of all agreements with CFP Board, including, but not limited to, using the CFP® marks properly and cooperating fully with CFP Board's trademark and professional review operations and requirements.
- 6.2 A certificant shall meet all CFP Board requirements, including continuing education requirements, to retain the right to use the CFP® marks.
- 6.3 A certificant shall notify CFP Board of changes to contact information, including, but not limited to, e-mail address, telephone number(s) and physical address, within forty-five (45) days.
- 6.4 A certificant shall notify CFP Board in writing of any conviction of a crime, except misdemeanor traffic offenses or traffic ordinance violations unless such offense involves the use of alcohol or drugs, or of any professional suspension

or bar within ten (10) calendar days after the date on which the certificant is notified of the conviction, suspension or bar.

- 6.5 A certificant shall not engage in conduct which reflects adversely on his or her integrity or fitness as a certificant, upon the CFP® marks, or upon the profession.

CFP Board's Financial Planning Practice Standards

Statement of Purpose for Financial Planning Practice Standards

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:

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

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.

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 adopted the revised standards.

Description of Practice Standards

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

The *Practice Standards* apply to certificants 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 certificants whose services include financial planning or material elements of the financial planning process, but all financial planning professionals are encouraged to use the *Practice Standards* when performing financial planning tasks or activities addressed by a *Practice Standard*.

The *Practice Standards* are designed to provide certificants with a framework for the professional practice of financial planning. Similar to the *Rules of Conduct*, the *Practice Standards* are not designed to be a basis for legal liability to any third party.

Format of the Practice Standards

Each *Practice Standard* is a statement regarding an element of the financial planning process. It is followed by an explanation of the Standard, its relationship to the *Code of Ethics* and *Rules of Conduct*, and its expected impact on the public, the profession and the practitioner.

The Explanation accompanying each *Practice Standard* explains and illustrates the meaning and purpose of the *Practice Standard*. The text of each *Practice Standard* is authoritative and directive. The related Explanation is a guide to interpretation and application of the *Practice Standard* based, where indicated, on a standard of reasonableness, a recurring theme throughout the *Practice Standards*. The Explanation is not intended to establish a professional standard or duty beyond what is contained in the *Practice Standard* itself.

Compliance With the Practice Standards

The practice of financial planning consistent with these *Practice Standards* is required for certificants who are financial planning practitioners. The *Practice Standards* are used by CFP Board's Disciplinary and Ethics Commission and Appeals Committee in evaluating the certificant's conduct to determine if the *Rules of Conduct* have been violated, based on the *Disciplinary Rules* established by CFP Board.

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.

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*.

Relationship of This Practice Standard to CFP Board’s Code of Ethics and Rules of Conduct

This *Practice Standard* relates to CFP Board’s *Code of Ethics and Rules of Conduct* through Principle 4—Fairness, Principle 7—Diligence and Rules 1.1, 1.2, 1.3 and 2.2.

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 *Practice Standard* 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*.

Relationship of This Practice Standard to CFP Board's Code of Ethics and Rules of Conduct

This *Practice Standard* relates to *CFP Board's Code of Ethics and Rules of Conduct* through Principle 7—Diligence and Rules 1.2, 3.3, 3.4 and 4.1.

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:

1. Restrict the scope of the engagement to those matters for which sufficient and relevant information is available; or
2. 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*.

Relationship of This Practice Standard to CFP Board's Code of Ethics and Rules of Conduct

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 7—Diligence and Rules 3.3, 4.4 and 4.5.

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.

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.

Relationship of This Practice Standard to CFP Board’s Code of Ethics and Rules of Conduct

This *Practice Standard* relates to *CFP Board’s Code of Ethics and Rules of Conduct* through Principle 2—Objectivity, Principle 3—Competence, Principle 7—Diligence and Rules 1.4, 4.1, 4.4 and 4.5.

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.

Preface to the 400 Series

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.

Relationship of This Practice Standard to CFP Board's Code of Ethics and Rules of Conduct

This *Practice Standard* relates to *CFP Board's Code of Ethics and Rules of Conduct* through Principle 2—Objectivity, Principle 3—Competence, Principle 6—Professionalism, Principle 7—Diligence and Rules 1.4, 4.1 and 4.5.

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.

Relationship of This Practice Standard to CFP Board's Code of Ethics and Rules of Conduct

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 2—Objectivity, Principle 3—Competence, Principle 6—Professionalism, Principle 7—Diligence and Rules 1.4, 4.1 and 4.5.

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.

Relationship of This Practice Standard to CFP Board's Code of Ethics and Rules of Conduct

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 1—Integrity, Principle 2—Objectivity, Principle 6—Professionalism and Rules 2.1, 4.1, 4.4 and 4.5.

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.

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 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.

Relationship of This Practice Standard to CFP Board’s Code of Ethics and Rules of Conduct

This *Practice Standard* relates to *CFP Board’s Code of Ethics and Rules of Conduct* through Principle 3—Competence, Principle 4—Fairness, Principle 6—Professionalism, Principle 7—Diligence and Rules 1.2, 2.2, 4.1 and 4.4.

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.

Relationship of This Practice Standard to CFP Board's Code of Ethics and Rules of Conduct

This *Practice Standard* relates to *CFP Board's Code of Ethics and Rules of Conduct* through Principle 2—Objectivity, Principle 4—Fairness, Principle 6—Professionalism, Principle 7—Diligence and Rules 1.2, 1.4, 2.2, 4.1, 4.4 and 4.5.

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. In the selection of products and services, putting the interest of the client first benefits the practitioner over the long-term.

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.

Relationship of This Practice Standard to CFP Board's Code of Ethics and Rules of Conduct

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 7—Diligence and Rules 3.3, 4.4 and 4.5.

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.

Relationship of the CFP Practice Standards to the CFP Code of Ethics

Table 3-1

Relationship of the CFP Practice Standards to the CFP Code of Ethics

Financial Planning Process	Related Practice Standards	Related Code of Ethics	
		Principle	Rule
Step 1: Establishing and defining the advisor-client relationship	100-1: Defining the scope of the engagement	4 – Fairness 7 – Diligence	1.1, 1.2, 1.3, and 2.2
Step 2: Determining goals and gathering data	200-1: Determining a client's personal and financial goals, needs, and priorities	7 – Diligence	3.3, 4.4, and 4.5
	200-2: Obtaining quantitative information and documents	7 – Diligence	3.3, 4.4, and 4.5
Step 3: Analyzing and evaluating the data	300-1: Analyzing and evaluating the client's information	2 – Objectivity 3 – Competence 7 – Diligence	1.4, 4.1, 4.4, and 4.5
Step 4: Developing and presenting a plan	400-1: Identifying and evaluating financial planning alternative(s)	2 – Objectivity 3 – Competence 6 – Professionalism 7 – Diligence	1.4, 4.1, and 4.5
	400-2: Developing the financial planning recommendation(s)	2 – Objectivity 3 – Competence 6 – Professionalism 7 – Diligence	1.4, 4.1, and 4.5
	400-3: Presenting the financial planning recommendation(s)	1 – Integrity 2 – Objectivity 6 – Professionalism	2.1, 4.1, 4.4, and 4.5
Step 5: Implementing the plan	500-1: Agreeing on implementation responsibilities	3 – Competence 4 – Fairness 6 – Professionalism 7 – Diligence	1.2, 2.2, 4.1, and 4.4
	500-2: Selecting products and services for implementation	2 – Objectivity 4 – Fairness 6 – Professionalism 7 – Diligence	1.2, 1.4, 2.2, 4.1, 4.4, and 4.5
Step 6: Monitoring the plan	600-1: Defining monitoring responsibilities	7 – Diligence	1.2, 3.3, 3.4, and 4.1

Source: Jeffery V. Hicks, an American College student, contributed an earlier version of this table.

CASE STUDIES IN ETHICS

Integrity Case: “An Issue of Suitability”

Example: You sell an annuity, which is a good product but may not be the best product for your client.

Integrity demands honesty and candor which must not be subordinated to personal gain and advantage. Clients place certificant in positions of trust, and the ultimate source of that trust is the certificant's personal integrity. Allowance can be made for innocent error and legitimate differences of opinion, but integrity cannot coexist with deceit or subordination of one's principles.

The certificant in this scenario acts in a way that violates the principle of integrity. To act with integrity requires two things according to the CFP® Board of Standards: The first is that the certificant should act with honesty and candor and that these qualities should not be subordinated to personal gain. Clearly, the agent in the scenario was not candid with her clients about either the negative implications of purchasing this product, nor was she candid about the fact that this was not the best product (or even a suitable product) for a client in their specific situation. Moreover, it is evident that the agent's lack of candor was motivated by a desire for personal gain and advantage. It is plain that, in this situation, the certificant's ethical principles were subordinated by her desire for financial gain.

Secondly, acting with integrity requires the certificant to reinforce their client relationship by acting in ways that justify the client's trust and confidence. It is evident in this scenario that the agent is not as concerned with earning and maintaining her clients' trust and esteem as she is in personally benefiting from their relationship. Even worse, she is angling to benefit at the expense of her clients.

The CFP® Board states that “allowance can be made for innocent error and legitimate differences of opinion,” but in this case it is obvious the certificant's actions (which also constitute a violation of Rule 1.4) violate both the letter and the spirit of the principle of integrity.

Objectivity Case: “The Rash Investor”

Example: You expedite a mutual fund sale for a client that she has requested, but you think may not be appropriate.

Objectivity requires intellectual honesty and impartiality. Regardless of the particular service rendered or the capacity in which a certificant functions, certificants should protect the integrity of their work, maintain objectivity, and avoid subordination of their judgment.

The principle of objectivity requires that the certificant execute professional services with intellectual honesty and impartiality. The certificant should protect the integrity of his or her work, maintain objectivity and avoid subordination of his or her judgment. To be objective means the certificant is not influenced by personal feelings or opinions in considering and representing facts to his or her client or in make recommendations.

In this scenario, the certificant struggled over whether to implement a strategy that she did not believe was in the best interest of her client. In the end, she makes a decision that could be interpreted as elevating her personal interest in maintaining the client relationship (perhaps at any cost) over her obligation to do her best for her client. When a certificant chooses to be motivated by subjective feelings, desires and preferences rather than the reasoned strategy and approach agreed upon with her client in the initial series of meetings, the certificant fails to act objectively. Indeed, it could be argued that the certificant has an obligation to keep the client focused on objectives when his or her emotions might tempt him or her to deviate from a carefully considered financial plan.

Competence Case: “The Incompetent Employee”

Example: Jeff is an administrative assistant of an advisor working in your firm. Jeff does not work directly with you or your clients, but for a close colleague. You overhear Jeff on the phone with a client stating that the “S&P 500 is an index comprised primarily of small company technology stocks and is excessively risky”.

Competence means attaining and maintaining an adequate level of knowledge and skill, and application of that knowledge and skill in providing services to clients. Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation with other professionals

is appropriate or referral to other professionals necessary. Certificants make a continuing commitment to learning and professional improvement.

The principle of competence, as described by the CFP® Board of Standards, has three aspects. The first is that CFP® certificant is required to attain and maintain an adequate level of expertise and to apply that knowledge and skill in providing service to clients. It is evident that Jeff, the agent in the scenario, failed to develop the skills and experience necessary to serve the best interests of this particular client.

The second requires the CFP® certificant to recognize when he or she is outside of his or her area of competence and acknowledge that consultation with other professionals is required. One of the ethical problems in the scenario is not that Jeff did not understand the implications of the strategy that he was recommending. Given the complexity and evolving character of financial products, markets, and terminology, it would be nearly impossible to know all that is required. Jeff was aware of his lack of knowledge and chose not to seek the help he clearly needed to work with this client. Further, this help was readily available.

The third requirement of the principle of competence is a continuing commitment to learning and professional improvement. Even though it is not possible for one agent to know everything that can be known about financial services industry, it is still incumbent upon the certificant to try and grow one's knowledge as much as possible. We can hope that Jeff, having seen the consequences of acting outside of his competency both for him and his employer, will recommit himself to a program of continuing education to avoid these problems in the future.

Fairness Case: “Cheaper Rates”

Example: You lower the fees for all new clients without a corresponding rate decrease for existing clients.

Fairness requires impartiality, intellectual honesty, and disclosure of material conflicts 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.

As written by the CFP® Board, the principle of fairness has three primary components; the first is that fairness requires “impartiality, intellectual honesty and a disclosure of conflicts of interest.” The certificant faces a conflict of interest between acting in a way that promotes his own good or the good of his clients. Clearly, there is nothing ethically problematic with a certificant looking out for his or her own best interest. Indeed, one of the most popular interpretations of fairness requires people to treat others as they would like to be treated. The “Golden Rule” is guided by the assumption that we all want

and seek good things for ourselves. However, the conflict arises when the certificant refuses to disclose that conflict of interest. Quite simply, the CFP code prohibits certificants from acting in their own interests and refusing to disclose this to their clients.

The second requirement of the principle of fairness requires the certificant to “subordinate one’s own feelings, prejudices and desires so as to achieve a proper balance of conflicting interests.” The agent in the scenario, far from subordinating his own feelings (fears and anxieties), is acting upon them to the exclusion of other concerns, such as what he may owe his clients and the potential reputation loss he will suffer if his actions were detected. The agent is fearful of losing his business and anxious about whether he will be able to bring in new clients. These are all valid concerns, and the principle of fairness does not demand that he rid himself of these worries (which would likely be impossible), but merely that he work to establish a harmony between his own interests and his duties and obligations to his clients. Notice that the principle does not demand that the certificant subordinate his feelings to the best interest of the client, but in order to achieve a proper balance.

Finally, the principle of fairness requires the certificant to “treat others in the same fashion that you would want to be treated.” This is perhaps the clearest specification, since most people would not want others to receive a discount from which they themselves were excluded, particularly when it appears that their higher price will subsidize the discount enjoyed by others. While it is perfectly appropriate to have a tiered pricing scale, these differences need to be justified by an appeal to a relevant distinction in the parties that are treated differently. In this case, the distinguishing factor has nothing to do with the clients themselves (such as the amount of time and resources dedicated to serving their needs), but rather the relationship that each has with the certificant. Given that this could be perceived as a rather arbitrary difference, it should give the certificant pause before he decides to engage in this action.

Confidentiality Case: “Dealing with Dementia”

Example:

You inform the children of an elderly, seemingly troubled client that he plans to leave them out of his estate. Your client, Charlie, has shown signs that he may be suffering from memory loss. Charlie has also recently begun attending a new church where he has decided to leave the bulk of his estate.

Confidentiality means ensuring that information is accessible only to those authorized to have access. A relationship of trust and confidence with the client can only be built upon the understanding that the client’s information will remain confidential.

The Principle of Confidentiality has two aspects; the first explains what the principle of confidentiality requires and the second explains why confidentiality is important. This scenario is designed to challenge ideas as to when it would be appropriate to reveal confidential information. Charlie's case requires the certificant to weigh the value of confidentiality with the value of acting in Charlie's best interest. The situation is complicated by the fact that Charlie's children are also your clients, setting up a conflict in which trying to promote the best interests of one of your clients may require you to thwart, albeit unintentionally, the advantage of other clients.

The agent has to ask himself, "When, if ever, is it permissible to violate confidentiality?" The thoughtful agent will also question whether Charlie's best interest is clear. Isn't possible that Charlie has just "thrown off the traces" at the end of his life and decided to reevaluate his priorities and relationships? Is it morally permissible for you to prevent Charlie from disposing his wealth in any way he sees fit? Would you have the same worries if he were 40 years younger? The careful agent will realize that dementia may not be the only explanation for his actions.

Also, concerning the relationship that agent has with Charlie's children: this was a conflict of interest waiting to happen. The morally sensitive agent will recognize that it is not appropriate to violate confidentiality to ameliorate a situation occasioned by his own lack of due diligence. The agent should have had a plan in place that each of his clients felt comfortable with in order to avoid this situation.

Professionalism Case: The Whistle-blower that Wasn't

Example: You learn about possible market conduct violations of one of the producers affiliated with your office, but you do not reveal the information to your manager.

Professionalism requires behaving with dignity and courtesy to clients, fellow professionals, and others in business related activities. Certificants cooperate with fellow certificants to enhance and maintain the profession's public image and improve its quality of service.

The principle of professionalism demands that the certificant consider not only the interests of his or her clients and (if applicable) employer, but also the impact of an action on the profession. Like physicians and lawyers, financial services professionals depend on the trust and confidence of the public in order to serve it effectively. If the community holds members of the financial services profession in low esteem, it makes the task of building trust with each prospective client even more difficult and time consuming.

The importance of building and earning the trust and confidence of the public requires members of any professional group not only to report

wrongdoing, but also work to improve the quality of service experienced by all people who work with its practitioners. The dilemma experienced by the agent in this scenario was between acting in self-interest versus acting to maintain the dignity and integrity of the industry. Certain criterion should be met before one “blows the whistle”, but in this case the principle of professionalism demands informing his superior despite the warnings of his friend and coworker. All that is required at this time is to tell the truth up the chain of command (as opposed to going outside of the organization). Possible market conduct violations certainly seems to warrant some sort of response.

Diligence Case: “The Busy Client”

Example:

Your client is travelling to Argentina at the end of the month. The client meets with you to buy a life insurance policy before the trip. You place life insurance for the client, but hold the policy delivery receipt for 90 days until the client returns from the trip.

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

The principle of diligence demands an agent do their utmost to avoid an ethical dilemma in the first place. Many ethical quandaries can be avoided through careful anticipation and management. This scenario is an excellent example of this point. While even the most careful agents can find themselves in a bind that no amount of planning could have prevented, in this case it is reasonable to ask, “Why was the agent waiting until the last minute?” If the agent knew about all of the changes in his client’s life, why didn’t he contact the client sooner or follow up more diligently? Whatever the reason for the agent’s lack of diligence, it is certainly not permissible (morally or legally) to violate company policies..

PRACTICAL APPLICATION OF ETHICS CODES

What do ethics codes mean in terms of daily professional practice? The American College pledge says, "I shall . . . render that service which I would apply to myself." The CFP code calls for the practitioner to act "in the interest of the client." Though not identical, each code mandates a variation of the Golden Rule: "Do unto others as you would have them do unto you."

To offer a client the same thorough attention to detail that a financial advisor would apply to himself or herself is no small requirement. Think about the kind of service an advisor would give to himself or herself and to close relatives

or friends. The advisor would make absolutely certain to understand all the apparent and hidden costs. The advisor would want to know how much it would cost now and whether the cost over the life of the product or service would be fixed or variable. The advisor would want to know the potential risks of the product or service. The advisor would want to know the potential benefits of the product or service in the short term as well as in the long term. And finally, the advisor would want to know exactly how to maximize those benefits or what actions to take to reduce the potential harms. In other words, the advisor would not purchase a product or service without making use of as much information about the product or service as he or she was able to responsibly acquire.

One of the benefits of being in the financial services business is having access to information that the general public does not have. Some clients have a particularly strong interest in knowing all the details about a product and/or service while others are not interested in details. Nevertheless, the advisor-client relationship requires the advisor to make this information available to clients to help them make better-informed decisions.

The American College's professional pledge says that financial advisors shall render that service to clients which in the same circumstances, they would expect to receive themselves. In keeping with this charge, it is the advisor's responsibility to present the information to clients in a way that allows them to understand it and use it in their decision making. Of course, a financial advisor cannot force a client to listen, but it is definitely the advisor's responsibility to provide the client with the needed information and to present it in a manner that he or she can understand. However, the advisor may first have to explain to the client why he or she needs the information to make a decision.

The American College's pledge also stipulates that the financial advisor shall take into account the conditions surrounding the client and that the advisor "shall make every conscientious effort to ascertain and understand" such conditions. This means that the financial advisor cannot simply sell a product or service and be a professional. To be a professional, the financial advisor must use the financial planning process to determine whether the problem his or her product or service solves is, in fact, the client's problem and if so, whether it is the most appropriate product or service for solving the client's problem. Such an approach requires the advisor to gather as much information as possible from the client about his or her financial goals and current financial situation in order to put together a plan to solve the client's problem and best meet his or her goals.

The sale of financial products or services by advisors who consider themselves professionals is client-focused. *Client-focused selling* is a sales philosophy that rejects high pressure, hard sell methods and supports the counselor model of an advisor, which is deeply embedded within the financial planning process. Client-focused selling emphasizes helping clients by providing solutions to their financial problems and helping them achieve their goals. Advisors who embrace the financial planning process are, in reality, practicing client-focused selling. They approach clients with a willingness to listen carefully because clients can best provide the information regarding their

client-focused selling

own financial goals. Since clients often believe they know which products or services best fit those goals, advisors should keep clients focused on articulating their goals so they can assist them in finding the best products and/or services for achieving them.

Because client-focused selling is a major component of the financial planning process, the financial planning process is a sound approach for building good advisor-client relationships and selling financial products and services. It is also an ethical requirement because of the nature of the advisor-client relationship. Many financial advisors perform a dual role that can lead to conflicts of interest if they are not careful. This dual role finds them as agents for their financial services companies while they are simultaneously serving their clients in an agent-like capacity. As agents for their companies, financial advisors must accurately represent their companies' products and/or services to clients. Most advisors deal primarily with one company and feel that their obligation to that company is to look to its products and/or services first to meet their clients' needs. They will only approach another company if appropriate products and/or services are not available from their company.

This traditional approach benefits clients in several ways. First, the advisor is able to gain in-depth knowledge of the products and/or services of one company, which would be nearly impossible if he or she tried to cover all the products and services on the market. This knowledge enables the advisor to serve his or her clients better. Second, it saves the advisor extensive research time to be able to work from a body of familiar products and/or services. Of course, in some instances this could be detrimental to clients who need more extensive research to find just the right product or service. Therefore, it is important that the advisor honestly inform clients of his or her primary relationship with a particular company. Clients should understand that the particular company's products and/or services are the ones that the advisor will research and present in most cases. It is deceptive and clearly unethical for the advisor to fail to disclose his or her primary company relationship.

The financial advisor's role in serving clients often requires him or her to act like an agent. Clients typically trust their advisor with confidential information. Consequently courts have held that when an advisor induces reliance on his or her professional expertise, he or she incurs liability for decisions made on the basis of that professional expertise. When the advisor's actions in effect say to clients, "I am your agent," the advisor takes on certain responsibilities and liabilities associated with being an agent for those clients.

Many financial services educators and experts stress the importance of selling financial products and/or services solely on the basis of client need. Selling on any other basis, such as the needs and interests of the financial advisor or the company, makes no sense in the long term and is contrary to client-focused selling. The advisor may be persuasive enough to sell a product or service fairly quickly in order to meet a bonus deadline, or the company may promote a particular product by paying higher commission rates. However, unless a product or service really meets the needs of a client over the long term, the client will not continue to financially support the product or service, which

ends up being costly for the company. Clients who feel they were sold products and/or services that did not meet their needs are unlikely to remain as clients in the long term. A client will not refer friends and/or relatives to an advisor if the client does not believe in the advisor's ability to listen carefully and respond. So while the short-term sales of a product or service may look good, the long-term financial position of the advisor and the company are hurt when a client ends up with a product or service that does not meet his or her needs.

In summary, it is both ethically required and financially wise for the advisor to thoroughly understand his or her clients' needs and act to fulfill those needs. The financial planning process provides the best methodology for the advisor to do this. The codes of both The American College and the Certified Financial Planner Board of Standards reinforce using this methodology.

To take actions that would enhance public regard for the profession is to act in ways that are commonly regarded as highly professional. As shown in the next section, being a professional requires adherence to a code of ethics. However, there is more to being a professional than just adherence to an ethics code. Just what makes a professional is the next topic for discussion.

CHARACTERISTICS OF A PROFESSIONAL

The adjective "professional" is loosely attached to many careers and is used in significantly different ways. An example would be the professional athlete who is highly skilled; but what makes the athlete a professional is the fact that he or she gets paid. Amateur athletes, regardless of how talented they are, are not professional because they are not compensated.

Today, there is much discussion about the professional politician. This is a person who has chosen politics as a career. Frequently, the term is used in a derisive way to describe a politician who is more interested in manipulating the system for personal gain than developing public policy.

There are a few occupations that are widely viewed as professions. Included on most lists are doctors, lawyers, and clergy. Similar status is often given to pharmacists, engineers, and architects. Still others could be added to the list.

What do people mean when they say, "She is a real professional" or "His behavior was completely unprofessional"? What is commonly understood as professional conduct?

In the first example, the positive connotation includes such characteristics as job proficiency, reliability, dedication, thoroughness, dependability, a commitment to providing good service, and an awareness that one's quality of performance affects the reputations of others.

In contrast, the term unprofessional suggests shoddy or careless performance; a lack of concern for customers or clients; disregard for the

reputation of a larger group of people; and a narrow, selfish concern for one's own well-being.

professional

Burke A. Christensen, former general counsel and vice president of the Society of Financial Service Professionals, suggests that "a *professional* is a person engaged in a field that requires (1) specialized knowledge not generally understood by the public, (2) a threshold entrance requirement, (3) a sense of altruism, and (4) a code of ethics."²¹

Of these requirements, numbers one and four are immediately evident in the financial planning field. Certainly financial advisors doing financial planning have a specialized knowledge not generally understood by their clients. Moreover, if they have earned one or more of the professional designations available to practitioners in the field and have joined one or more of the membership organizations for financial planning practitioners, they must adhere to one or more of the codes of ethics that were discussed previously in this chapter.

The earning of a professional designation or a degree in an appropriate subject matter represents a kind of threshold entrance requirement even though there are many successful people working in the field who have not earned either. In addition to a professional designation or degree, continuing education in the major planning areas that make up the financial planning profession is an important aspect of meeting clients' needs. These areas are increasingly competitive and complex. Federal and state regulations are constantly evolving. Understanding these changes is essential to providing sound advice to clients. The truly professional financial advisor must in some way meet both an entrance requirement of foundational education and a requirement of continuous professional education. Another type of threshold entrance requirement is a licensing examination. To provide some types of financial planning services, the advisor must be licensed by the state.

altruism

Requirement number three, a sense of *altruism*, is a characteristic that facilitates adherence to the code of ethics. Altruism is defined as an unselfish regard for the welfare of others and thus requires the professional to adhere to ethical standards unselfishly and to take others' needs and views into account. It facilitates the achievement of the characteristics commonly expected of a professional: competence, reliability, and high ethical standards.

At first glance altruism seems to contradict the underlying premise of a free enterprise economy in which individuals are allowed to operate their businesses in a competitive environment where success is measured by the financial rewards they receive. However, altruism does not require the professional to act entirely without self-regard. Altruism does not supplant the professional's own welfare—it balances it. It requires the professional to recognize that the well being of others is equally as important as his or her own in contributing to success. While receiving the financial rewards of success requires hard work, it cannot be achieved at the expense or exclusion of others. An unselfish

21. Burke A. Christensen, *Journal of the American Society of CLU & ChFC*, January 1990, p. 21.

regard for the welfare of others contributes to the professional's success. Demonstration of concern for others often wins great trust and confidence in the professional, which will translate into more business and greater success.

However, the worst kind of hypocrisy is to feign altruism in order to create the image of trustworthiness and reliability. The image of altruism is quite different from deeply felt altruism, and the false image will inevitably be uncovered to reveal the underlying motivations. Such deception is not worth the personal and professional cost.

Characteristics Defining a Professional

- specialized knowledge not generally understood by the public
 - threshold entrance requirement
 - sense of altruism
 - code of ethics
-

One important question facing professionals is: What environment do we want to create and work in? This is quite different from the question, How do we want to be perceived? The former question is about daily choices and our expectations of others. The latter question is about image.

FOCUS ON ETHICS: Professionalism Begins With Ethics

Writing with the financial services industry in mind, Dr. Ronald C. Horn, CPCU, CLU, Williams Professor of Insurance Studies at Baylor University, developed a list of characteristics that he considered necessary for a particular occupation to be considered a profession.²² First on Horn's list was a commitment to high ethical standards. The complete list follows:

- a commitment to high ethical standards
- a prevailing attitude of altruism
- mandatory educational preparation and training
- mandatory continuing education
- a formal association or society
- independence
- public recognition as a profession

Compare this list with Christensen's four characteristics of a professional discussed previously. Both lists emphasize that ethical standards are a critical component of a professional.

Financial planning professionals are understandably concerned about their image in American society. But working merely to improve their image is the wrong approach to changing it. The critical issues are how these professionals are conducting themselves and how they are behaving toward their clients, not

22. Ronald C. Horn, *On Professions, Professionals, and Professional Ethics* (Malvern, PA: American Institute for Property and Liability Underwriters, Inc., 1978), p. 40.

how members of the public think they are doing. Professional respect and credibility will follow professional behavior. Adherence to the highest ethical standards as elaborated here will contribute significantly to the achievement of professional behavior and, subsequently, to respect.

Behaving Professionally

Clients may or may not be familiar with the aforementioned characteristics of being a professional. Nevertheless, they typically do have an idea of whether their financial advisors are behaving professionally. To make this determination, they implicitly evaluate their advisors according to how well they stack up against the hallmarks of professional behavior. These hallmarks applied to a financial advisor are embodied in the following questions.

1. *Does the advisor listen to the client?* Good fact finding depends on getting the client to reveal both financial and personal information. The advisor should not do all the talking. He or she must stop and listen in order to get to know the client's needs and aspirations. Obtaining this information permits the advisor to custom design a financial plan geared to the client's specific needs.
2. *Does the advisor answer the client's questions?* Sometimes a client will ask a question to which the answer is not immediately clear. The advisor should not ignore the question or gloss over it. If the advisor needs to research an answer, he or she should say so. The client will respect the advisor for being honest. Sometimes clients should ask obvious questions but frequently they do not. In this case, the advisor should probe clients for information and, if necessary, the advisor should ask them if they have any questions. This will provide the advisor with feedback on whether or not the clients understand their needs and the role of the advisor's products and/or services in fulfilling those needs.
3. *Is the advisor gathering information sufficient to provide good advice?* The answer will be "yes" if the advisor is conducting a thorough fact-find. The point is the advisor should be sure that he or she has enough facts before making any recommendations.
4. *Has the advisor educated the client about the advisor's products and/or services?* Some clients understand the intricacies of financial products and/or services, but many do not. The advisor should take the time to educate clients on basics and the range of available products and/or services. This way, clients will understand what they purchased and why they purchased it.
5. *Has the advisor taken the client's ability to deal with risk into consideration in making recommendations?* We know that different clients regard risk differently. Many clients will reject a proposal that makes them feel uneasy because it is outside their financial comfort zone. It is good ethics and good business for the advisor to find out where clients stand in this regard before making recommendations.

6. *Has the advisor told the client about the advisor's educational background and affiliations in financial planning so the client can determine whether the advisor is knowledgeable?* Many clients are individuals whom the advisor has known for only a short time. Many are unfamiliar with the advisor's background but will want to know more before entrusting him or her with financial or other highly confidential information. Some clients will ask questions in this regard while others will not and instead move on to another topic. To avoid this possibility, the advisor should provide clients with appropriate information regarding his or her background.
7. *Does the advisor provide the client with a sense of a continuing advisory relationship or is the advisor seeking a one-time sale?* Both during and after the planning process, the advisor should maintain contact with the client. He or she should explain the role of the financial planning process and its reliance on monitoring in the form of periodic reviews. If the advisor periodically reviews the client's situation, the client will view the advisor as a professional with whom a business relationship has been established.
8. *Does the advisor handle money matters properly?* The advisor should never ask the client to make a check payable to anyone other than the specific financial services company. In simpler terms, the advisor should never ask the client to make out a check to the advisor for financial products and/or services. This invites commingling of funds and represents a violation of most state laws. The advisor should keep records of what monies he or she has collected from the client, and he or she should provide the client with proper receipts. Also, the advisor should not leave client checks in his or her briefcase for very long just because the necessary paperwork is a hassle.
9. *Does the advisor refer to other experts or is the advisor intimidated by them?* Financial advisors are not accountants, attorneys, or trust officers. Nor is every financial advisor an expert in all the major planning areas. Clients understand this. If necessary, the advisor should refer the client to a specialist. Better yet, the advisor should become part of a team of specialists. If the advisor manages the team, the advisor will be responsible for coordinating the efforts of the team and for contributing expertise in his or her own field of specialization.
10. *Does the advisor seem up-to-date?* Many clients can sense when an advisor seems out-of-touch with current issues. It is all well and good, for example, to obtain a professional designation or a specialized degree, but these credentials are meaningless if the advisor's knowledge becomes outdated and irrelevant.

The Hallmarks of Professional Behavior

- Does the advisor listen to the client?
 - Does the advisor answer client questions?
 - Is the advisor gathering information sufficient to provide good advice?
 - Has the advisor educated the client about the advisor's products and/or services?
 - Has the advisor taken the client's ability to deal with risk into consideration in making recommendations?
 - Has the advisor told the client about the advisor's educational background and affiliations in financial planning so the client can determine whether the advisor is knowledgeable?
 - Does the advisor provide the client with a sense of steady service or is the advisor meeting with the client seeking a one-time sale?
 - Does the advisor handle money matters properly?
 - Does the advisor refer to other experts or is the advisor intimidated by them?
 - Does the advisor seem up-to-date?
-

Many designation or certification programs require financial advisors to complete a specified number of continuing education (CE) hours in order to maintain their status. CE should not be viewed as a burden. Advisors should look at CE requirements as an opportunity to maintain and enhance their skills. The more an advisor knows, the better able he or she will be to provide clients with timely and up-to-date financial advice.

Increased Risk of Legal Liability

Professional status confers additional responsibility in the eyes of the law. Professionals are held to higher standards in the execution of their business duties. They are expected to have expertise and to act responsibly with it. They are expected to have knowledge of the law and to comply with its dictates. They are expected to place the interests of clients above their own. Under the law of torts, professionals have historically been held by the courts to higher standards of expertise and behavior than nonprofessionals.

This high expectation places many financial advisors in situations of greater legal liability than previously. Lawsuits can damage their reputations, not to mention the considerable time and emotional energy spent defending them. If an advisor is accused of unethical and/or illegal behavior and cannot adequately support his or her innocence, then no matter how innocent the advisor is, the court may find in favor of the disgruntled client.

CHAPTER THREE REVIEW

Key Terms and Concepts

CFP Board designees

client-focused selling

professional

altruism

Review Questions

The answers to the review questions are in the supplement. Self-test questions and the answers to them are also in the supplement and on The American College Online.

- 3-1. Explain why "ethics is the glue that holds an entire economic and free enterprise system together." [3-1]
- 3-2. Describe a number of similarities and differences between law and ethics.[3-2]
- 3-3. Describe seven common themes and sentiments that are found in most codes of ethics applicable to financial advisors. [3-3]
- 3-4. Identify the seven Principles in the Code of Ethics and Professional Responsibility of the Certified Financial Planner Board of Standards. [3-4]
- 3-5. What famous rule does The American College's professional pledge require its designation holders to follow? [3-4]
- 3-6. What are the characteristics that define a professional? [3-6]
- 3-7. Identify the hallmarks of professional behavior. [3-7]
- 3-8. Why are professionals subject to a higher risk of legal liability than nonprofessionals? [3-8]
- 3-9. What is the intended outcome of the CFP Board's Financial Planning Practice Standards? [3-9]

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