

FINANCIAL PLANNER'S ETHICAL DOMINANCE :

*Achieving all you can through the understanding
and application of Ethical Excellence*

Participant Handout

Just Do It.....Right!

REVISED 2018 EDITION

Includes all new Learning Objectives & Other Important Info

EFFECTIVE DATE: January 1, 2018

Pages 1-106 will be discussed only in the two-hour ethics class.

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*Mr. Rattiner is the only instructor for this program. He has over 29 years
experience and was part of the team that developed the initial Code of Ethics*

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CERTIFIED FINANCIAL PLANNER™

CFP®

Certified Financial Planner Board of Standards Inc. owns these certification marks in the U.S., which it awards to individuals who successfully complete CFP Board's initial and ongoing certification requirements.

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SECTION I.

PROGRAM OBJECTIVES

Script:

EXECUTIVE SUMMARY OF PROGRAM OBJECTIVE

Financial Planner's Ethical Dominance® is an approach to learning the *Standards of Professional Conduct* which we all must adhere to, is a practical, fun-filled way we can grasp the true meaning of the CFP Board's *Learning Objectives, Rules of Conduct, Financial Planning Practice Standards, Disciplinary Rules and Procedures, and Candidate Fitness Standards*, which many of you have not had any formal training in. This session incorporates all the new learning objectives for CFP Board Ethics CE Program Sponsor requirements and Instructor and Author Eligibility Requirements mandated by CFP Board effective January 1, 2016 and incorporates everything prior to that date. **These Learning Objectives, which we will go into significant detail throughout this program, consist of five new venues that deal with subject matter dealing with fiduciary considerations, materiality elements of providing financial planning services, compensation disclosure concerns, and communicating potential conflict of interest concerns prior to client engagements.** These **new learning objectives** will be demonstrated **and referred to** throughout the entire program. After this two-hour session, you will have a strong idea of the do's and don't of working with your clients ethically.

PURPOSE

Financial Planner's Ethical Dominance® is offered by the Financial Planning Institute, LLC., for the purpose of satisfying CFP Board's required biennial ethics education. This workshop will cover CFP Board's Learning Objectives pertaining to the Ethics CE Program, *Code of Ethics and Professional Responsibility, Rules of Conduct, Financial Planning Practice Standards, Disciplinary Rules and Procedures, and Candidate Fitness Standards* and other elements of ethical behavior.

The material in this course is designed to help CFP Board Certificants better understand the Code of Ethics and how best to abide by its word and spirit. This course includes 14 sections as described on the Table of Contents on page 2.

Within each section, the course will consist of presented information by a narrator, an interactive discussion on practical examples, and 56 mini-case study questions and three in-depth case situations incorporated into a high energy, fast-paced and fun-filled game. The new Learning Objectives will also be infiltrated throughout the contest questions of the program. All portions are intended to provide practical application of the *Code of Ethics*.

Each program attendee who meets the entire course requirements will earn two continuing education credits that meet CFP Board's *Code of Ethics and Professional Responsibility* requirements.

CFP Board Disclaimer & Copyright notice.

- **Disclaimer: “CFP Board’s Code of Ethics and Professional Responsibility, Rules of Conduct, Financial Planning Practice Standards, Fitness Standards for Candidates and Registrants and Anonymous Case Histories are the property of CFP Board and may not be resold, republished or copied without the prior consent of CFP Board.”**
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PROGRAM SET-UP

Script:

The program is set up as a review of the *Code of Ethics and Professional Responsibility* for all players with mini-case study questions scattered throughout the *Code* intertwined after each section of the rules and practice standards.

The Learning Objectives will be introduced to the group (beginning on page 6), then the narrator will (exactly as per the script) discuss recent changes to the Code and Terminology of the Code. Following will be the principles and then the rules. However, during the rules, attendees will get ready to begin answering questions (explained below).

The *Financial Planning Practice Standards, Disciplinary Rules and Procedures, and Candidate Fitness Standards* sections will then be discussed, again, with attendees gearing up to answer questions.

The questions will be set up in a game format called “Financial Planner’s Ethical Dominance” whereby each attendee **will be answering questions against his or her peers**. The three CFP® professionals who answer the most questions at the end of the session will be hailed as the champs of Financial Planner’s Ethical Dominance!

The program has been timed to equal two hours.

REQUIREMENTS FOR CREDIT: NO EXCEPTIONS!

Script:

Attendance:

1. Full-time attendance is required. **Attendance of each participant will be recorded at the beginning and end of the program.**
2. No Partial Credit. **Anyone who finds it necessary to leave the program early, or who misses the beginning of the program will not receive credit.**
3. Attendance Sheets/Scans **Will Be** monitored into and out of the session.
4. **Attendance sheets will only be available from 15 minutes before until 10 minutes after the presentation has begun.** At that point they will be picked up and no one else will be permitted to sign in.
5. Attendance sheets/scans will be available approximately five minutes before the program is scheduled to end. **Early sign-out will not be permitted.** Sign-in and sign-out will not be done at the same time.
6. Attendance sheets will be maintained by Financial Planning Institute, LLC. for two years from the date of the workshop.
7. **Credit will not be given for “seat time.”** Any participant who shows indifference to the program and who fails to participate will not receive credit. This is at the discretion of the moderator.

DESCRIPTION OF “ETHICS” - The Basics:
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To help you understand the concept of ethics, let's define what the term is about.

Ethic

NOUN: **1a.** A set of principles of right conduct. **b.** A theory or a system of moral values: *“An ethic of service is at war with a craving for gain”* (Gregg Easterbrook).
2. ethics (*used with a sing. verb*) The study of the general nature of morals and of the specific moral choices to be made by a person; moral philosophy.
3. ethics (*used with a sing. or pl. verb*) The rules or standards governing the conduct of a person or the members of a profession: *medical ethics*.

Ethical

ADJECTIVE: **1.** Of, relating to, or dealing with ethics.
2. Being in accordance with the accepted principles of right and wrong that

govern the conduct of a profession.

CFP Board certificants-current certificants, candidates and individuals who have been certified in the past and retain the right to reinstate their certification without passing the certification examination are required to adhere to the *Code of Ethics*.

<p>SECTION II. CFP BOARD - 2016 NEWBIES & LEARNING OBJECTIVES</p>

2016 What's New

In 2016, CFP Board continued to upgrade the bar for CFP® Certificants presenting a CFP Board Ethics CE Program by introducing new Learning Objectives for CFP Board Ethics CE Programs, and reinforcing existing Instructor and Author Eligibility Requirements for CFP Board Ethics CE Programs.

CFP Board Update	Effective Date
Learning Objectives for CFP Board Ethics CE Programs	1/1/16
Instructor and Author Eligibility Requirements for CFP Board Ethics CE Programs	1/1/16

2016 New Learning Objectives for CFP Board Ethics CE Providers

Effective January 2016, CFP Board Ethics CE programs registered with CFP Board now must be designed to accomplish the following required learning objectives (LO). CFP Board will evaluate the learning objectives every two years to ensure relevance and consistency with CFP Board's ethical standards.

Let's start out by defining each learning objective and provide practical examples and application to each. These new Learning Objectives will also be discussed in an interactive format during our "game" portion of the program. These learning objectives will find their way into all the responses of the questions asked of the attendees.

LO #1: Define and discuss a financial planning engagement, material elements of financial planning process and the financial planning process

The CFP® professional must know from the start of the relationship the type of engagement being offered. Work-related activities must be determined in advance of any services to be offered. Within that assessment, the CFP® professional should be aware of activities that involve material elements of financial planning.

Professionals cannot perform any type of service without first understanding the definitions of what they are expected to provide to clients. A CFP® professional providing financial planning services should follow the definitions of financial planning, the financial planning process, and financial planning subject areas spelled out in the Terminology Section of the Code.

“Personal financial planning” or **“financial planning”** denotes the process of determining whether and how an individual can meet life goals through the proper management of financial resources. Financial planning integrates the financial planning process with the financial planning subject areas. In determining whether the certificant is providing financial planning or material elements of the financial planning process, issues that may be considered include but are not limited to:

- The client’s understanding and intent in engaging the certificant.
- The degree to which multiple financial planning subject areas are involved.
- The comprehensiveness of the data gathering.
- The breadth and depth of the recommendations.

Financial planning may occur even if the elements are not provided to a client simultaneously, are delivered over a period of time, or are delivered as distinct subject areas. It is not necessary to provide a written financial plan to engage in financial planning.

“Personal financial planning process” or **“financial planning process”** denotes the process which typically includes, but is not limited to, some or all of these six elements:

- Establishing and defining the client-certificant relationship,
- Gathering client data including goals,
- Analyzing and evaluating the client’s current financial status,
- Developing and presenting recommendations and/or alternatives,
- Implementing the recommendations, and
- Monitoring the recommendations.

“Personal financial planning subject areas” or **“financial planning subject areas”** denotes the basic subject fields covered in the financial planning process which typically include, but are not limited to:

- Financial statement preparation and analysis (including cash flow analysis/planning and budgeting),
- Investment planning (including portfolio design, i.e., asset allocation and portfolio management),
- Income tax planning,
- Education planning,
- Risk management,
- Retirement planning, and
- Estate planning.

Among the subsets in evaluating this *Learning Objective* include the Definition of Services and Activities Provided under Financial Planning; Specific Service or Activity; Distinction between Financial Planning Services and Other Services; Needs Analysis and Suitability Issues; Number of Elements Performed During a Client Engagement; Financial Planning Service Performed by Broker or CFP® Professional; Minimum Number of Financial Planning Subject Areas, and Third Party Implementation

The CFP® professional must know from the start of the relationship the type of engagement being offered. Work-related activities must be determined in advance of any services to be offered. CFP Board has two options Under Option 1, within that assessment, the CFP® professional should be aware of activities that involve material elements of financial planning. An example will be provided in the following pages.

Option 2: CFP Board’s Disciplinary and Ethics Commission provides guidelines to help CFP® professionals determine when their activities are considered financial planning or material elements of financial planning. They provide a partial list. The best way to ensure that errors in judgment are not made in this area is to discuss these matters with senior firm personnel or peers. It is better to iron out any potential wrinkles before they occur.

The primary factors on which CFP Board relies for determining whether "material elements" exist are:

1. The client’s understanding and intent in engaging the CFP® professional
2. The degree to which multiple financial planning subject areas are involved
3. The comprehensiveness of data gathering
4. The breadth and depth of recommendations

One of the most important understandings that must exist between client and CFP® professional is to ensure that expectations are met. This involves the client understanding what is being received during the process of the engagement and what the recently hired planner will provide. Is the engagement a full comprehensive one in which all subject areas of financial planning will be covered or is it a modular engagement whereby one or a few areas will be covered. These concepts should be covered in an engagement letter.

There are many subsets in evaluating this Learning Objective. We will break them down into seven discussion items.

Discussion Item #1: Definition of Services and Activities Provided under Financial Planning

Under CFP Board’s definition of “financial planning,” as found in the Standards, CFP® professionals are able to determine when they are providing services using the material elements of financial planning by considering, among other things, the degree to which multiple financial planning subject areas are involved. While it is more likely for financial planning to exist when multiple subject areas are involved, in some circumstances a financial planning engagement may exist even when a single subject area is involved.

CFP® professionals should consider whether the client’s understanding and intent in engaging the CFP® professional would give the client reason to believe the services provided are financial planning. CFP® professionals should also consider the comprehensiveness of their data gathering with a client and the breadth and depth of their recommendations to a client.

Financial planning often does not occur in neat boxes but is a process that progresses and evolves over the course of a financial planner’s relationship with a client. For example, answering a question of a specific nature – such as “How much money do I need to set aside each month to send my two-year-old to Notre Dame in sixteen years?” – would probably not be considered financial planning. However, answering a broader question that involves multiple aspects of a client’s situation – such as “How much do I need to save so I’ll have a secure retirement?” – would likely rise to the level of financial planning because of the expansiveness of the financial considerations involved.

Discussion Item #2: Number of Elements Performed During a Client Engagement

Another common practice question that arises is whether the number of elements that a CFP® professional is involved which constitute “material elements of financial planning”? A CFP® professional who integrates the financial planning process with two or more subject areas will, in most cases, be providing financial planning or material elements of financial planning.

Under the definition of “financial planning” (Learning Objective #1), the Standards provide guidance CFP® professionals may use to determine whether they are providing financial planning. The factors are:

1. The client's understanding and intent in engaging the CFP® professional
2. The degree to which multiple financial planning subject areas are involved
3. The comprehensiveness of data gathering
4. The breadth and depth of recommendations

The criteria above focus on the integration of the six steps with two or more financial planning subject areas.

Discussion Item #3: Financial Planning Service Performed by Broker or CFP® Professional

A broker who is a CFP® professional and employs all six steps of the financial planning process to recommend a brokerage transaction only would probably not be considered to be providing financial planning services in view of the fact that a single subject area is involved. However, a CFP® professional could inadvertently provide financial planning services by acting in a way that the client reasonably believes that the CFP® professional is providing financial planning. To avoid such situations, the Standards require a CFP® professional to mutually agree upon the services to be provided with each client.

Although a CFP® professional who is providing services other than financial planning is not required to describe the scope of the engagement in writing, it is recommended as a best practice to do so.

An activity that may be considered to involve material elements of financial planning includes conducting detailed data-gathering regarding multiple aspects of a client's financial situation. This activity may rise to the level of material elements of financial planning if the CFP® professional's activities include one or more of the following:

1. Employing multiple financial planning subject areas to analyze a client's financial situation
2. Gathering information about a client's entire financial situation, including goals
3. Recommending a broad financial plan requiring a depth of technical knowledge to execute the plan
4. Mutually defining the scope of the engagement with a client where the client understands and intends to engage the CFP® professional in financial planning

Given the in-depth process used in this example, CFP Board would likely consider the CFP® professional in the above-mentioned activity to be providing financial planning or material elements of financial planning.

Discussion Item #4: Minimum Number of Financial Planning Subject Areas

Another common question discussed is where there is a minimum number of financial planning subject areas necessary in reaching the level of “material elements of financial planning”? Applying the financial planning process to a single subject area is not likely to be considered financial planning or material elements of financial planning. CFP® professionals who integrate the financial planning process and two or more subject areas may be providing financial planning or material elements of financial planning.

Under the definition of “financial planning,” the Standards note that one of the factors CFP Board considers in determining whether a financial planning relationship exists is the degree to which multiple financial planning subject areas are involved.

When a CFP® professional’s recommendations involve multiple subject areas and the CFP® professional integrates those subject areas with the steps of the financial planning process, the CFP® professional may be providing material elements of financial planning. It does not matter if these recommendations occur during one meeting with the client, or over several meetings over a period of time.

It is unacceptable for a CFP® professional to employ one product, service module, or subject area at a time in an attempt to avoid having the client relationship be considered financial planning or material elements of financial planning.

Discussion Item #5: Third Party Implementation

Is implementation of financial planning recommendations prepared by a third party considered financial planning or material elements of financial planning? The facts and circumstances of each situation are a key factor in CFP Board’s determination of whether the CFP® professional has engaged in financial planning or material elements of financial planning. The most significant factor that CFP Board will consider in determining whether activities such as implementation rise to the level of financial planning is the client’s understanding and intent in engaging the CFP® professional. If a CFP® professional implements recommendations made by a third party, the degree of specificity in the recommendations is another factor that CFP Board will consider in determining whether the implementation activities constitute financial planning.

If the recommendations are less specific and require the CFP® professional to provide wider-ranging recommendations as part of the implementation process, the CFP® professional’s implementation activities may rise to the level of financial planning. This would be the case if, for example, a client’s tax advisor recommends additional tax-deferred savings and the CFP® professional assists the client to determine the type of deferred savings, the amount to be saved, an investment approach and specific investment vehicles. By contrast, if the client limits the engagement with the CFP® professional to implementation activities only, the engagement may not rise to the level of financial planning. This would be the case if, for example, the recommendations set out an investment strategy with specific amounts allocated to specific asset classes and the CFP® professional’s actions are limited to executing transactions based on the recommendations identified in the financial plan.

To reduce the possibility of misunderstanding between a CFP® professional and his/her client, CFP Board recommends that all CFP® professionals carefully describe to their clients the services to be provided, particularly where the scope of the engagement is limited. Documenting the scope of the engagement in an agreement or other document can help prevent misunderstanding. (We will cover this in Learning Objective #4)

CFP Board encourages CFP® professionals who are unsure whether a particular service or client relationship rises to the level of financial planning to embrace CFP Board's fiduciary standard and provide services in ways they believe are in the best interest of the client.

With an understanding of the eight discussion items just covered in this Learning Objective, examples of activities that CFP Board would likely consider to be material elements of financial planning include:

1. Conducting detailed data-gathering regarding multiple aspects of a client's financial situation
2. Analyzing a client's data and making recommendations across multiple financial planning subject areas
3. Providing investment advisory services as defined by the applicable State or Federal regulators

Activities that CFP Board would not likely consider to be material elements of financial planning include:

1. Opening an account or completing an application
2. Fact-finding to meet regulatory requirements for suitability such as the "Know Your Customer" rules
3. Solely providing brokerage and/or insurance products or services
4. Engaging in activity solely related to the sale of a specific product
5. Acting as a mortgage broker without providing any other financial services
6. Completing tax returns without providing any other financial services
7. Teaching a financial class or continuing education program

The above are examples and should not be considered an all-inclusive list. These guidelines are designed to be helpful to CFP® professionals in reviewing their activities and determining whether they are providing material elements of financial planning. *CFP*

Board's Disciplinary and Ethics Commission also relies on these guidelines when reviewing allegations of misconduct by CFP® professionals.

CFP Board understands that employers of CFP® professionals who provide services other than financial planning may require CFP® professionals to have their clients sign a document or disclaimer stating that the CFP® professional is not providing financial planning services. Regardless of any document or disclaimer signed by a client, CFP Board reserves the right to make an independent determination of whether the CFP® professional's services rise to the level of financial planning based on CFP Board's *Rules of Conduct*. If CFP Board determines that the CFP® professional provided financial planning and the terms required under Rule 1.3 were omitted or a written agreement was not provided, CFP Board may enforce Rule 1.3 against the CFP® professional. Similarly, Rules 1.2 and 2.2 may be enforced if CFP Board determines that the CFP® professional provided financial planning without the written disclosures required by the *Rules of Conduct*.

LO #2: Analyze specific fact patterns to determine if a financial planning relationship exists.

The CFP® professional should be able to recognize whether a financial planning relationship exists. The CFP® professional must know from the start of the relationship the type of engagement being offered. Work-related activities must be determined in advance of any services to be offered. If the relationship changes during the process, the CFP® professional needs to re-assess the situation and determine whether a financial planning relationship then exists. Within that assessment, the CFP® professional should be aware of activities that involve material elements of financial planning in determining whether a financial planning relationship exists.

Example #1

Mrs. Garrett, a referral from an existing client, sets up a meeting with Mr. Ralph Winston, CFP®. At the meeting, Mrs. Garrett states that the purpose of her visit is to help her develop an education planning strategy for her son, James. In doing so, she states that her objective is to fund 4 years at a private university at an annual budget of \$60,000. During the meeting she states that she is truly concerned because whatever amounts are earmarked and funded towards this education objective will directly impact her ability to currently save for retirement and her plans to purchase a vacation home. She also stated that funding this educational need is of paramount importance and everything else is secondary and can be put on hold, if necessary, in accomplishing this feat. As a result of Mrs. Garrett's priority for funding education, Mr. Winston collected financial information pertaining solely to this education objective.

Did Mr. Ralph Winston enter into a financial planning engagement with Mrs. Garrett?

Answer: No, because Mrs. Garrett visited Mr. Winston for the sole purpose of developing an education funding strategy. No additional areas were addressed by Mr. Winston.

Mr. Winston should have made sure to include in the engagement letter that he is specifically working on the educational funding areas as requested by the client.

Mr. Winston probably should have collected additional information as it relates to retirement planning, the future vacation home purchase, and other areas of potential interest during the data gathering process since it is more likely that a comprehensive plan, or certainly a multi-purpose plan should have been performed.

Example #2

In her work as a CPA, Jennifer Boylston, CFP® was asked by her client, Ken Fitzpatrick, age 52, about strategies that he can employ to help him reduce his taxes this year. Ms. Boylston was engaged solely to provide tax preparation services for Mr. Fitzpatrick. After the tax return was completed, Ms. Boylston recommended that Mr. Fitzpatrick contribute the maximum amount to his IRA since even though he exceeded the income threshold, he was not covered by a qualified plan and thus could receive a tax deduction. Upon hearing that advice, Mr. Fitzpatrick opened up an IRA for the past year for the maximum amount allowable.

Did Jennifer Boylston cross the line and enter into a financial planning engagement with Mr. Fitzpatrick?

Answer: No, because Jennifer Boylston was engaged to do tax preparation only, and telling her client to purchase an IRA still engages her solely on one specific task and one segment of the financial planning arena, which is not actively performing financial planning services.

Example#3

Beth Davis interviewed Daniel Smith, CFP® over the phone to see how he can help with her budgeting and cash flow concerns. Ms. Davis decided to hire him based on their conversation. Mr. Smith sent her an engagement letter emphasizing his help only with her cash management concerns which she signed and sent back including a payment representing half of the quoted fee.

When Ms. Davis arrived to the office, she brought with her only the last 12 months worth of checking account and charge account statements and future purchases she plans to make.

During her office visit with Mr. Smith, he helped Ms. Davis with her cash flow management including budgeting. Mr. Smith then asked her a series of questions regarding her retirement, insurance, investments, and income tax concerns. After struggling with her answers, Ms. Davis determined that she needs help in all of these areas of which Mr. Smith obliged and said he would complete that segment next.

Based on the change of events, did Daniel Smith enter into a financial planning engagement?

Answer: Yes, since the original client concern of the client was expanded to include multiple areas of financial planning, he will need to have her sign a revised engagement letter and adjust his engagement to reflect a true financial planning engagement.

LO #3: Differentiate between the standards of care set forth in Rules 1.4 and 4.5 of the *Rules of Conduct*, and apply each standard of care to specific factual situations.

Rule 1.4 and 4.5 relate only to client engagements that rise to the level of financial planning or material elements of financial planning are as follows:

Rule 1.4 sets the baseline duty of care CFP® professionals owe at all times to clients: “place the interest of the client ahead of his or her own.” That same rule sets forth a heightened duty of care for CFP® professionals who provide to clients financial planning or material elements of financial planning: “the duty of care of a fiduciary as defined by CFP Board.” CFP Board’s definition of fiduciary is: “One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client.”

Always put the client’s interest first and foremost, certainly ahead of your own. The CFP® professional has an obligation to do the right thing. Not only is it essential from a realistic standpoint, the perception displayed by the CFP® professional also makes an impact especially when first meeting and working with the client.

Fiduciary, if nothing else, has become one of the most controversial terms in our industry. Fiduciary is defined by CFP Board as follows:

Care should be taken to determine whether a CFP® certificant should accept appointment as a fiduciary. However, if the CFP® certificant accepts the position as a fiduciary, that individual must fulfill all of the obligations entailed in the appointment until that individual resigns or is relieved from duties.

CFP Board expects CFP® professionals to provide financial planning recommendations involving services and/or products that they reasonably believe to be the best possible options available to their clients. That means that the CFP® professional should put the client's interests first and foremost in all situations.

The certificant should not stand to benefit at the expense of the client. As stated in Rule 1.4, 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. A good rule of thumb is when in doubt, always error in favor of the client.

Rule 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.

Discussion Item #1: Needs Analysis and Suitability Issues

Since many of us are engaged in the practice of conducting a needs analysis or suitability review, a facts and circumstances approach should be used to reach the level of financial planning or material elements of financial planning.

There are a wide variety of activities that are labeled “needs analysis,” and some of those activities may reach the level of financial planning or material elements of financial planning. If a “needs analysis” is focused on gathering detailed information about multiple aspects of a client's financial situation and analyzing that information in light of the client's stated future goals, or if the analysis is used to make wide-ranging recommendations that “needs analysis” is considered financial planning.

In contrast, if a “needs analysis” is focused on a limited component of the client's financial situation, and does not involve other services related to financial planning, that analysis may not rise to the level of financial planning. For instance, if a client hires a CFP® professional solely to purchase life insurance, the CFP® professional will by necessity obtain information about the client sufficient to ensure that any policies recommended meet the client's needs. If the “needs analysis” is focused solely on factors related to the client's life insurance needs, that analysis may not rise to the level of financial planning.

A standard suitability review conducted in association with a transaction – a review that takes into consideration such basic elements as the client's age, net worth and risk tolerance – does not typically reach the level of financial planning or material elements of financial planning.

The facts and circumstances of each situation are a key factor in CFP Board's determination of whether a CFP® professional has engaged in financial planning or material elements of financial planning.

Discussion Item #2: Distinction between Financial Planning Services and Other Services

Another common question evolves as to whether the Standards provide a distinction between financial planning services and other services that don't rise to the level of financial planning? The Standards apply to all CFP® professionals, but certain sections of the Rules of Conduct set forth additional requirements for CFP® professionals who provide financial planning services to clients. When a CFP® professional provides financial planning or material elements of financial planning, the Standards require:

1. A heightened duty of care to the client;
2. Additional disclosures to the client or prospective client, including some that must be made in writing; and
3. A written agreement governing the financial planning services.

Discussion Item #3: Specific Service or Activity

What happens if a CFP® professional is unsure as to whether a specific service or activity rises to the level of financial planning? The CFP Board determines this on a case-by-case basis. CFP Board encourages CFP® professionals who are unsure if a particular service or client relationship rises to the level of financial planning to embrace CFP Board's fiduciary standard and provide services in ways they believe are in the best interest of the client.

It is intentional that the terminology section of CFP Board's Standards does not define "material elements of financial planning." In financial planning relationships, products, services, solutions and strategies represent a means to an end – meeting life goals through proper management of financial resources.

It would be impossible to provide guidelines for every possible situation related to financial planning, but CFP Board wants to assist CFP® professionals in complying with the Standards. To submit a particular situation for CFP Board to consider, or to submit questions about specific aspects of the Standards and their application to specific situations, please submit your question to standards@CFPBoard.org.

LO #4: Apply each *Practice Standard* set forth in the *Financial Planning Practice Standards* to a hypothetical financial planning engagement. (*Full Copy of Practice Standards on pages 102-126 – discussion occurs here*)

Financial Planning Practice Standards are developed and promulgated by Certified Financial 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

Practice Standards correlate to Topic 1 of the CFP Board Curriculum, the personal financial planning process” or “financial planning process”. Much of what revolves around financial planning activities with your clients incorporates all of these items.

I was fortunate to be the first CFP Board staff person assigned to assist with the development of practice standards back in the mid-1990s.

A summary of the Practice Standards are shown below.

Financial Planning Practice Standards	
100 SERIES: Establishing and Defining the Relationship with the Client	
100-1	Defining the Scope of the Engagement
200 SERIES: Gathering Client Data	
200-1	Determining a Client’s Personal and Financial Goals, Needs and Priorities
200-2	Obtaining Quantitative Information and Documents
300 SERIES: Analyzing and Evaluating the Client’s Financial Status	
300-1	Analyzing and Evaluating the Client’s Information
400 SERIES: Developing and Presenting the Financial Planning Recommendation(s)	
Preface to the 400 Series	
400-1	Identifying and Evaluating Financial Planning Alternative(s)
400-2	Developing the Financial Planning Recommendation(s)
400-3	Presenting the Financial Planning Recommendation(s)
500 SERIES: Implementing the Financial Planning Recommendation(s)	
500-1	Agreeing on Implementation Responsibilities
500-2	Selecting Products and Services for Implementation

Practice Standards 100 Series

100 SERIES: ESTABLISHING AND DEFINING THE RELATIONSHIP WITH THE CLIENT

100_1: Defining the Scope of the Engagement

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

Explanation of this Practice Standard

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

This process is accomplished in financial planning engagements by:

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

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

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

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

Interpretations

It important to identify the service(s) to be provided so no one is surprised later with differing expectations as to what the client will receive.

If compensation questions are addressed up front, the client knows what is coming. The client can compare the expected cost with the services to determine whether he or she thinks it's a good value.

This Standards brings to light several questions. Let's discuss the most important ones.

Why is it important to determine the client's and the financial planning practitioner's responsibilities? Financial planning requires the efforts of both parties. The certificant knows what he or she can and will provide, but the client needs to understand his or her part of the process. Try going to a physician and saying – what's wrong with me. The physician will first want to know your symptoms and concerns. You have to play a part in the process for a successful outcome. The same applies to financial planning.

Why is it important to establish the duration of the engagement? Clients may have no idea how long the process may take. How long is a Cricket match? How do you define a game of Mah Jong? If a client has no experience with the financial planning process, failure to meet his or her expectations may create anxiety.

Why is it important to provide any additional information necessary to define or limit the scope? If your client comes in and expects that at the end of the process, you will have single-handedly created a new investment program, insurance plan, income tax strategy, estate plan, and created all of the various legal documents to accomplish all of it, you may have an unhappy client if you are not competent and permitted to provide all of these services.

Just for the record, as you review these *Practice Standards*, keep in mind that the CFP Board expected you to start following them immediately, and two; that these may be revised periodically.

In a nutshell, the establishment of the client – planner relationship sets the expectations of the parties and lays the groundwork for developing the trust required for successful financial planning.

Let's take a look at the relationships of all parties involved.

Financial planning Practitioner

As discussed in the *Code of Ethics*, the CFP® professional, who is a Financial Planning Practitioner, assumes a *fiduciary duty* with respect to all clients. Under common law, the duty of a fiduciary to his or her client is the *highest* duty that is assumed. Essentially, such duty means that the financial planner must act at all times only for the exclusive benefit of the client at all times and must put the interests of the client ahead of the planner's own interests.

It is likely best that, as a part of establishing the client-planner relationship, the financial planner enumerate in writing each task or responsibility that he or she is assuming for the

client. Then, have the client initial by each item when an understanding is reached on that item. Without this writing, the financial planner may miss or improperly understand what is expected of him or her (and the client), likely leading to problems in the future with respect to a particular client or clients.

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.

Client

Like the financial planner, the client should understand what is expected of him or her up-front and as a part of entering into the relationship with the planner. For example, what financial records is the client expected to provide to the planner and when are those records expected to be provided.

The client should also be sure to understand how the financial planner is being paid and, preferably, the amount of this payment as well. Note that a CFP® planner, under the *Code of Ethics* must provide this information, as well as any potential conflicts of interest that currently exist or may arise in the future.

Finally, if the client does not trust the planner (or will not take his or her advice), the client is better off working with another planner.

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.

Other advisors

During the course of a financial planning engagement, the planner may find it necessary to refer the client to other advisors, such as an estate planning attorney or tax accountant. However, if doing so, the planner should be sure to thoroughly explain to the advisor what services he or she is expected to perform and in what time frame. The planner should also be sure to monitor the relationship between his or her client and the other advisor, sometimes going so far as to sit in all meetings between the other advisor and his or her client.

Finally, the planner should emphasize to the other advisor that the referral of a client is just that: the referral is his or her client and, only secondarily, the client of the other advisor. In other words, the planner should be sure to *control* the relationship as much as possible.

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.

Potential Exposure

Let's talk about the significant exposure to the client. Effective CFP® professionals are trusted advisors. This first step is critical in establishing that trust along with determining general expectations as to how the process will benefit the client. If the client enters into the process with a planner who is not trusted, the process will likely result in a failure to implement the recommended plan and result in a dissatisfied client.

Example: Jacque Ebersol has been doing financial planning for over ten years. With many satisfied clients he wanted to find a way to shorten the process. To reach this goal, prior to the first meeting he sent an outline of what a client can expect from him and what the client is expected to do. When Jacque and the client first meet, data gathering is the first order of business and Jacque often has to tell the client to drop off various financial and legal documents. Having worked with hundreds of clients over his career, he is also aware that virtually every client wants certain things, so to save time, he assumes all clients want those same things. Within a few months, Jacque noticed that his newer clients were not implementing their plans, and weren't even returning his phone calls.

What happened?

From the beginning, Jacque had no rapport with his clients. They didn't know what to expect from him and too often had no idea what he expected from them. Additionally, he started treating individual clients as part of a group of clones with certain identical needs and wants. Every client deserves the full attention of the planner, and while some clients may want what practically everyone else wants, they don't want to think of themselves as part of a homogeneous group. Jacque was attempting to shorten the process. Every step is important. With some clients certain steps take more time than with other clients, but eliminating it seldom works.

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.

Practice Standards 200 Series

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 3.3, 4.4 and 4.5.

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:

- (a) Restrict the scope of the engagement to those matters for which sufficient and relevant information is available; or
- (b) 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 Professional Responsibility. 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.

Interpretation: Practice Standard 200-1:

It usually takes a while to gather the necessary information. It’s hard to create a balance sheet – a financial snapshot of a single point in time – if the information you get has current dates that spread out over a year.

The crux of financial planning is in the data gathering and goal-setting step of the process. Adequate data and a clear understanding of the client’s goals are “the roadmap” for the financial plan. This step involves obtaining comprehensive financial and personal quantitative data on the client as well as their goals, needs and priorities (qualitative data). By the time the data gathering is complete, an experienced planner will have a good idea as to the route to each client’s financial success. Assessing the qualitative data tells the planner what motivates the client and why the client will or will not follow the plan.

Here are some examples of both quantitative and qualitative types of data:

Sources of **Quantitative Data:**

- all assets and how titled
- all debt – balance, periodic payments, maturity date and interest rate

- all income and sources
- all outflows and expenses
- all life insurance – type, ownership, insured, death benefit cash values, dividend options, premium, beneficiary and loans
- earmarked income or assets
- will and trust information
- all other insurance information and particulars
- budgeting information
- all tax and retirement plan information
- personal information
- employment benefits

Types of **Qualitative Data**:

- risk tolerance level (difficult to accurately ascertain for most planners)
- wishes for transfer of assets at death
- all income continuation desires for heirs
- retirement plans – age at retirement & income desired
- inflation and before-tax rate of return estimates
- attitudes about providing education for children & estimated costs
- feelings toward charity
- anticipated income increases throughout career
- changes in lifestyle anticipated, particularly during retirement
- other relatives who may become dependent upon them in the future
- financial planning goals and priorities

- interests in activities/hobbies
- major capital expenditures in the future
-
- current and anticipated future health

The primary exposure a client has through this step in the process comes from incomplete or inaccurate information. Most clients have their own field of expertise and do not often understand or remember all of their financial and legal dealings. For example, overstated income expected from a defined benefit pension plan results in inadequate preparation for retirement. Incorrect data about asset ownership can defeat the intent of estate or gift planning documents or plans.

Here are some recommendations for the CFP® professional. Do not shortchange yourself or the client in the gathering of data, qualitative or quantitative. Quantitative tells you where the client is and what it will take to get them to a specific financial goal. Qualitative tells you why they want to reach the goal and what will make them work toward it. Qualitative data will also tell you what they are not likely to do.

Example: Jack and Jill Waterpail have an estate in excess of \$12 million. They also expect their retirement plans to provide more than double what they will need in retirement income in about three years when Jill retires. Since there is no assurance that the estate tax will continue to be at its current level, their CFP® professional has suggested they begin a substantial gifting program to their three married children and seven grandchildren. Even though their estate assets are earning much more than the annual gifts would require, they don't want to follow the planner's advice.

Why not?

Jack and Jill are afraid they will need the money, in case they get sick. Ridiculous? Of course, from a quantitative point of view, but completely logical and appropriate from their qualitative viewpoint. A planner who neglects to adequately assess a client's qualitative information will be dismissed by the client.

Practice Standards 300 Series

ANALYZING AND EVALUATING THE CLIENT'S FINANCIAL STATUS

300_1: Analyzing and Evaluating the Client's Information

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

Explanation of this Practice Standard

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

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

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

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

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.

Interpretation: Practice Standard 300-1: Analyzing and Evaluating the Client's Financial Status

You're sitting down sorting through the financial information with your notes about the clients' hopes, dreams, attitudes, etc. and you realize that something is missing. You flip through your information gathering forms and find what you are looking for.

Analysis of the data and creation of financial statements is the process of organizing the collected data into a useable format. It provides a clear picture of where the client currently stands financially. It also provides the basis for the qualitative recommendations and financial projections. The analysis goes beyond mere financial statistics. It includes any special needs, insurance and risk management, investments, taxation, employee benefits, retirement and/or estate planning.

The primary exposure to the client is that without preparation of financial statements, the planner runs the risk of missing important information. This puts the client's plan at risk. Analyzing and evaluating is the financial diagnosis phase of the process. As in medicine, without a diagnosis there is no way to develop a plan of action. Without a good diagnosis, the plan of action may be inappropriate or even harmful.

Here are some recommendations for the CFP® professional. A planner needs to work diligently to include all relevant facts in his or her analysis. If facts are missing from the gathered data when the analysis is being done, the planner must either contact the client to obtain the information or come to a mutual agreement on any assumptions required, or use reasonable assumptions to complete the process, keeping in mind that those assumptions must be disclosed when presenting the plan. This step cannot be skipped or short-changed. Failure to do an adequate job here leaves open the possibility that strengths and/or weaknesses in the existing plan, if any, will be overlooked.

Example: Planner Penelope Z. Swift has many years of experience and prefers to scan the quantitative data to get an idea where a client is financially and then focus on the qualitative issues. In the case of her client, Taki Swan, she was aware of substantial investments in his portfolio. What she failed to notice was that they were primarily, 90%, in the technology sector and over half of those were in the over the counter penny stock market. She then focused on Taki's desire to remain conservative in his investment portfolio. Her recommendations did nothing to address the lack of diversification and relatively high risk of his current investments. Further she failed to recognize that all of the life insurance he had to protect his family was through his employment, and he planned on leaving his job and starting his own consulting firm. She merely checked to make sure the amount of life insurance he had was adequate to meet his life insurance needs. In this case, Ms Swift failed to do an adequate analysis of Taki's quantitative data to recognize severe conflicts with the qualitative information.

Practice Standards 400 Series

DEVELOPING AND PRESENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

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.

How

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)G THE FINANCIAL PLANNING

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.

Interpretation: The 400 Series *Practice Standards* are based on the fourth step in the financial planning process: ***Developing and Presenting the Financial Planning Recommendation(s)***

There are currently three Practice Standards in the 400 Series. **Why, and what are they based on?**

The first of the 400 series is ***Practice Standard 400-1 - Developing and Presenting the Financial Planning Recommendation(s)***

Identifying and Evaluating Financial Planning Alternatives

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

Practice Standard 400-2

Developing and Presenting the Financial Planning Recommendation(s)

Developing the Financial Planning Recommendation(s)

A 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 achieve the client's goals, needs and priorities.

Practice Standard 400-3

Developing and Presenting the Financial Planning Recommendation(s)

Presenting the Financial Planning Recommendation(s)

A 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.

The development and presentation of the plan is the creation and explanation of recommendations and solutions to problems that spring from the analysis of the data and the client's goals. There is no single correct plan for any one client. Rather, there are always alternative approaches. However, there is also the problem of presenting too many options to a client and having them do nothing for fear they are making the wrong choice. The planner must evaluate the alternatives and choose those that best serve the clients long-term interests and are likely to be accepted by the client. Since good financial plans involve many parts, the planner needs to consider those parts in relation to their importance, urgency, and the desires of the client to establish an order for implementation and a timetable that can be followed in establishing the plan. Once these steps are completed, it is time to present the plan, with its schedule for implementation, to the client.

The other important thing to note is that all of the client's information is now summarized in the plan and it can serve as a starting point for future monitoring of the plan.

The primary exposure to the client is that the client must have confidence in a plan before he or she will "buy-in" to it. A plan that is poorly developed or that doesn't address the clients needs, wants, and desires will fall on deaf ears. Every client believes he or she is unique. The plan they see should reflect the mutually defined scope of the planning engagement; the mutually defined client goals, needs and priorities; the quantitative data provided by the client; the client's personal and economic assumptions; the practitioner's analysis and evaluation of the client's current situation; and any alternative(s) selected by the practitioner.

Here are some recommendations for the CFP® professional. Use an established or personally created checklist to make sure nothing is missed. Most clients will not tell you they are unhappy. You find out when they don't pay their bill or fail to follow any part of the plan. The word "overkill" is aptly used when related to a financial plan. Most of the financial planning software can provide a very thick printout that will cause the client to leap into a frozen state of inertia, doing nothing because there is too much to comprehend. The plan that is presented needs to have easily digested sections. An executive summary in addition to a comprehensive financial plan might be warranted. Each section of the financial plan would have a course of action and due dates to keep the client on track.

An example of key components found in a financial plan might include:

- Financial Statements
- Personal objectives (wants, desires, retirement, charitable giving, family plan, etc.)
- Cash Flow Management
- Insurance recommendations
- Investment recommendations
- Education recommendations
- Income Tax recommendations
- Retirement recommendations

- Estate recommendations

Example: Jerry Jackson just purchased the best financial planning software he could find. It included a 14-page data-gathering questionnaire and allowed him to create phenomenal presentations. He put together a fantastic plan for his new clients, Frank and Fran Friendly. When he sat down with them to go over the plan he was sure they would be as excited as he was. He started on the introduction page that reiterated what his firm was all about and described the entire financial planning process. The rest of the introductory section included neat graphs of the economy, percentages of people who retired financially secure and other useful information. Section Two was the fact-gathering questionnaire, which he quickly reviewed with them over the next 30 minutes. Section Three listed the Friendly's qualitative goals and a discussion as to how they affected different portions of the plan. Next was a section on general retirement and estate planning that Jerry used to emphasize the importance of starting early. Finally at Section Five, Jerry got into the insurance planning section. He had some excellent comparative analysis diagrams and summaries regarding the policy options. He showed an annual income and expense flow chart that spelled out how life insurance proceeds would be distributed. Page 23 of that section showed the breakdown of the life insurance needs analysis. Pages 24 through 27 showed comparisons of various policy combinations that would provide the needed coverage. Section Six began with "the Friendlys fell asleep". Jerry realized that people often use a financial planner because they know they need to deal with these issues, but are not particularly excited about them. They rescheduled the appointment, Jerry moved the unnecessary information to a back up binder that the Friendly's could take or leave and then presented them with a six-page summary with lots of white space that clearly told them what they wanted and needed to know. The plan is now on its way to full implementation.

Practice Standards 500 Series

IMPLEMENTING THE FINANCIAL PLANNING RECOMMENDATION(S):

500_1: Agreeing on Implementation Responsibilities

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

Explanation of this Practice Standard

The client is responsible for accepting or rejecting recommendations and for retaining and/or delegating implementation responsibilities. The financial planning practitioner and the client shall mutually agree on the services, if any, to be provided by the practitioner. The scope of the engagement, as originally defined, may need to be modified.

The practitioner's responsibilities may include, but are not limited to the following:

- Identifying activities necessary for implementation;
- Determining division of activities between the practitioner and the client;
- Referring to other professionals;

- Coordinating with other professionals;
- Sharing of information as authorized; and
- Selecting and securing products and/or services.

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

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

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

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.

Interpretation: *Practice Standard 500-1: Implementing the Financial Planning Recommendation(s)*:

A financial planning practitioner and the client shall mutually agree on the implementation responsibilities consistent with the scope of the e n g a g e m e n t.
Explanation of this Practice Standard

Practice Standard 500-2

Implementing the Financial Planning Recommendation(s)

Interpretation

Implementation is the action step. This is where the CFP® professional works with his or her clients to start the process of making the changes that need to be made for the plan to work. This step includes:

- 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

The main exposure to the client is that a plan that remains on paper has no more value than a plan that is not created. This is the test phase. If the client follows the recommended implementation plan, the planner passes the test. If the client doesn't implement the plan, the planner has failed. The biggest risk to the client is inertia. The

planner needs to help the client take the steps required for implementation. It may require only listing the activities that the client must do or it may require regular coaxing and encouraging. In some cases, the planner may have to schedule appointments with the client's lawyer, accountant, investment advisor and/or insurance agent. Many clients use a financial planner because their self-image includes being financially incompetent. Many use financial planners merely because they don't have the time to delve into each area to determine their best options. These factors will affect the assistance they will require to get the plan implemented.

Here are some recommendations to consider. Work with your client to develop an implementation calendar. Tell the client you will be happy to do as much or as little as they want you to do. Check with them regularly to confirm that the plan is being implemented. Remind them of the reasons they had the plan done.

Example: Planner Gray worked hard to develop a comprehensive financial plan for Dr. Conway. The good doctor told planner Gray that he would get right on the implementation. Eighteen months later when planner Gray met with Dr. Conway for his annual plan review, only a couple of minor parts had been implemented. Dr. Conway explained that he was just too busy, and had put off the meeting for six months because he was embarrassed that he hadn't done more. It isn't because Dr. Conway isn't smart enough to take the steps, or even understand what needed to be done. It just isn't what he wants to be doing. In a case like this, planner Gray needed to be much more involved in keeping Dr. Conway on track to get the plan in place.

Practice Standards 600 Series

MONITORING

600_1: Defining Monitoring Responsibilities

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

Explanation of this Practice Standard

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

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

Interpretation: The monitoring process may reveal the need to reinstate 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 1.2, 3.3, 3.4 and 4.1.

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.

Monitoring of the financial plan consists of periodic contact with each client to determine if any of the factors that were used in the development of their plan have changed. Typically, a regularly scheduled semi-annual or annual appointment is sufficient to keep up-to-date.

There is tremendous exposure to the client if not properly addressed. The client’s personal situation can change. The client can get married, divorced, have children, move, change jobs, etc. In addition the economic scenario could change. Plans developed in the late 70s under high interest and inflation rates would look very different than today’s numbers. In all, things change, and the planner must be on top of the impact to the client’s financial plan.

At the beginning of a financial planning engagement it should be mutually agreed that the relationship does not end with the presentation of a plan, or even the implementation of a plan. Periodic reviews should be agreed to in advance of completing the initial plan. Whether the reviews are every six months, once a year or once each two years, this should be discussed and established up front.

Example: Karen and Stan had a well-developed financial plan. They established education funds for their two children. They were funding their retirement plans and had an emergency fund in place. Their wills and insurance programs were current. Then

Karen found out she was pregnant with their third, and quite unexpected child. Their financial plan needed some modification. Shortly after that good news, Karen's uncle died and left her a piece of income-producing property in another state. The property basically made enough to pay for its taxes with a little left over, but it became another reason that their plan needed a revision. Their neighbor, Carlton, used the same planner and also had a great plan. Then, his job was eliminated and he started his own consulting firm. This one change created several reasons for review and revision of his plan.

LO #5: Identify the information that must be disclosed to the client in writing by a CFP® professional who is engaged in a financial planning relationship or providing material elements of financial planning.

CFP® professionals involved in client engagements that do involve financial planning or material elements of financial planning must make all of the disclosures listed in Rule 2.2, and they must also make those disclosures in writing.

In writing

Rule 2.2 identifies information that must be disclosed by a CFP® professional to all clients and prospective clients, regardless of whether the services to be provided rise to the level of financial planning. When the services do rise to the level of financial planning or material elements of financial planning, section (e) of Rule 2.2 requires that the disclosures be made in writing.

Rule 2.2 states the following: 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 financial planning, 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 items 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 the Securities and Exchange Commission’s 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.

The written disclosures need not be a single newly-created document; the written disclosures may be made through multiple documents or through existing disclosure documents, such as Form ADV, that are used to make disclosures in compliance with state or federal laws, or the rules or requirements of any applicable self-regulatory organization.

Financial Planning Relationships and/or Material Elements of Financial Planning

To determine this relationship, we first must define what a financial planning engagement looks like.

A **“financial planning engagement”** exists when a certificant performs any type of mutually agreed upon financial planning service for a client.

When determining whether a financial planning engagement exists, the entirety of a client relationship should be examined. These questions may guide that determination:

1. Is the CFP® professional involving the steps of the financial planning process in the services provided?
2. How many financial planning subject areas are involved to meet the client’s goals?
3. With respect to the services provided, what did the CFP® professional communicate to the client?

Additional Rule Disclosures

Rule 1.2 outlines additional disclosure obligations to clients or prospective clients for engagements that include financial planning or material elements of financial planning, including the following general areas:

- The obligations and responsibilities of each party
- Any compensation that may be related to the client agreement
- The terms under which proprietary products may be offered
- Any factors that determine costs
- The terms under which other entities will be used to meet any services outlined in the agreement.

Rule 1.2 also notes that if the information above is disclosed in writing, the CFP® professional must encourage the client or prospective client to review the information and offer to answer any questions that the client or prospective client may have.

Rule 1.3 requires that financial planning services be accompanied by a written agreement that identifies:

- The parties to the agreement;
- The date of the agreement and its duration;
- The procedure and terms for terminating the agreement; and
- A description of the services to be provided as part of the agreement.

This written agreement requirement may be satisfied through multiple documents. The written agreement requirement was designed to help ensure that CFP® professionals and their clients define clearly the services involved in a specific business relationship and help reduce disputes based on misunderstandings of those services.

Disclosures –Possible Source Documents

CFP® certificants must provide adequate disclosure in their practices and for their clients. This helps clients gain insight into the many hats the CFP® professional wears and what it means to clients. It is especially true when material considerations could compromise the relationship as well as for clients to ensure that their expectations are being met.

Three forms where disclosures can be provided are:

Form OPS: This form may be used by any CFP® certificant to make required disclosures to prospective clients and clients prior to formalizing a relationship with a client that only involves executing transactions on behalf of or providing investment advisory services to a client.

Form FPD: This form may be used by a CFP® certificant when engaged in financial planning using the financial planning process or providing services using material elements of the financial planning process integrating multiple financial planning subject areas.

Form FPDA: This form may be used by a CFP® certificant when engaged in financial planning using the financial planning process or providing services using material elements of the financial planning process integrating multiple financial planning subject areas. Form FPDA incorporates Form FPD with a sample financial planning client agreement or engagement letter.

A sample of the CFP Board’s disclosure documents can be found at the end of this presentation.

Rule 1.1 states that the certificant and the prospective client or client shall mutually agree upon the services to be provided by the certificant. To accomplish this successfully, the certificant should provide an engagement letter to the client and discuss the items included with the client. Among the items that this engagement letter will alert the client to is what the engagement is all about (will it include financial planning or material elements of the financial planning process), what the certificant will provide to the client, how fees will be determined, the length of the engagement and other open ends that may come up. It also will share what the client will provide to the certificant to help ensure the success of the engagement. Examples would be all necessary documents, and answers to open items. This written agreement will also minimize potential conflicts going forward and allow for the managing of client expectations throughout the engagement.

LO #6: Define the required information that must be disclosed to clients and prospective clients, when that information must be disclosed, and apply each disclosure requirement to specific factual situations (This includes but is not limited to the compensation and conflict-of-interest disclosure requirements set forth in Rule 2.2 of the *Rules of Conduct and Practice Standards 100-1, 400-3, and 500-1*)

Rules 1.2 and 2.2 require CFP® professionals to disclose certain information to clients or prospective clients. The Rules allow for any form of delivery to clients. Under Rule 1.2, if the disclosures are made in writing, the CFP® professional must encourage the prospective client or client to review the information and offer to answer any questions from the client or prospective client. CFP Board believes best practice is to disclose such

items upon request; before any agreement is signed; or prior to any transaction where the client is expected to pay for a service or product. Notifying the client or prospective client that the disclosure information can be found on an employer's Web site probably does not meet the standard of care required under Rule 1.4, which obligates the CFP® professional to place the client's interest ahead of the CFP® professional's interest.

CFP® professionals involved in client engagements that do involve financial planning or material elements of financial planning must make all of the disclosures listed in Rule 2.2, and they must also make those disclosures in writing. The written disclosures need not be a single newly-created document; the written disclosures may be made through multiple documents or through existing disclosure documents, such as Form ADV, that are used to make disclosures in compliance with state or federal laws, or the rules or requirements of any applicable self-regulatory organization.

The When, What and How the CFP Board Requires Disclosure to clients and prospective clients when providing financial planning,

Rules 1.2 and 2.2 of the *Standards* address the timing, content and manner in which disclosures must be made by a CFP® professional to a client or prospective client. If the CFP® professional offers financial planning or material elements of financial planning, the following must be disclosed either orally or in writing prior to entering into a written agreement with a client:

- Contact information for the CFP® professional, and the firm with which the CFP® professional is associated;
- Any information about the CFP® professional or the firm with which the CFP® professional is associated that could materially affect the client's decision to engage the CFP® professional;
- The CFP® professional's and client's obligations and responsibilities under the agreement;
- The compensation that the CFP® professional, the CFP® professional's firm, and/or any third party may earn under the agreement;
- How costs of products and services are determined;
- Whether and how the CFP® professional may benefit from the client's decision;
- If the CFP® professional offers proprietary products and the terms under which such products may be offered;
- Other likely conflicts of interest; and
- Whether the CFP® professional may use other entities to fulfill the obligations of the agreement.

CFP® professionals should note that Rule 4.3 of the *Standards* requires compliance with applicable regulatory requirements governing professional services provided to the client.

Prior to entering into a Financial Planning Agreement, these disclosures are typically made at the first or second meeting with the client. These disclosures can be made as oral or written, however, best practices and the CFP Board would suggest that these disclosures be made in writing.

1.2 If the certificant’s services include financial planning or material elements of financial planning, prior to entering into an agreement, the certificant shall provide written information 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 financial planning, 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 items above and is used by a certificant or certificant’s employer in compliance with state or federal law, or the rules or regulations of any applicable self-

regulatory organization, such as the Securities and Exchange Commission's Form ADV or other disclosure documents, 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 financial planning, the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.

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 financial planning, 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 items 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 the Securities and Exchange Commission's 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.

Example:

Nancy Nielson, CFP® is a very efficient planner. She has a system whereby she assesses her client's financial situation and develops a series of recommendations as quickly as possible.

When meeting with clients, Nancy provides an engagement letter that specified who the parties are, services to be provided, and termination privileges by either party. Nancy does not state the specific length of the engagement, but instead indicates that the engagement will be performed as quickly as possible. She assures her clients it will be a couple of weeks max, but does not get any more specific than that.

Did Nancy commit a violation here?

Yes. While she may have good intentions to quickly finish up the client engagement, she should provide a timetable or range as to when that will be done.

Disclosures required by the current *Standards* different from the disclosure requirements in the former *Standards*.

1. **Disclosures Required for Prospective Clients.** The current Standards expand CFP Board's disclosure requirements by requiring disclosures to be made to prospective clients as well as existing clients, including material information relevant to the CFP® professional's relationship such as compensation and conflicts of interest, as well as information about the CFP® professional's credentials and business affiliations. [See Rules 1.2 and 2.2]
2. **Additional Guidance about Disclosing Conflicts and Compensation.** The current Standards provide additional guidance about the types of conflicts [See Rule 2.2(b)] and the type of compensation disclosure that must be made to clients and prospective clients, including direct and indirect sources of compensation to the CFP® professional and/or the CFP® professional's employer. [See Rule 2.2(a)]
3. **Ongoing Disclosure Obligation.** While the former Standards required CFP® professionals to tell clients on an annual basis that they can request information about compensation and conflicts of interest, the current Standards provide a more proactive requirement, stating that the CFP® professional shall make timely disclosure updates to the client if previously-disclosed information becomes outdated. [See Rule 2.2]

Disclosure of Compensation

On August 7, 2013, CFP Board issued a notice to CFP® professionals regarding the importance of compensation disclosure to clients. The Notice provides an important reminder that CFP® professionals are required to disclose to clients and prospective clients information concerning the CFP® professional's compensation. The purpose of the Notice is to remind CFP® professionals of both the scope of the term compensation and the obligation to make accurate disclosures of compensation methods on all public websites, including on related-party websites, public search engines, and public disclosure forms, including Form ADV, Disclosure of compensation methods must remain accurate throughout each client relationship.

CFP Board does not advocate any particular business model or form of compensation. CFP® professionals provide services under various regulatory environments and consequently, may be required to comply with federal and/or state laws, as well as the rules of a self-regulatory organization. The regulatory environment in which a CFP® professional operates governs how the CFP® professional and his/her employer receives compensation and how that compensation must be disclosed to a client. CFP Board's *Standards* do not allow a CFP® professional to avoid the regulatory requirements imposed by federal and/or state authorities, or a self-regulatory organization.

CFP® professionals must provide an accurate and understandable description of the compensation arrangements, including information related to costs and compensation to the CFP® professional and/or the CFP® professional's employer. This disclosure requirement allows the client to make an informed decision. The *Standards* do not require disclosure of specific dollar amounts or percentages of compensation to a client unless the client specifically asks for this information. If the client asks a CFP® professional the amount he/she will earn from a specific transaction or service, the CFP® professional must provide this information, to the extent it can be determined. [See Rule 2.2] If the cost to the client is not known until a series of decisions or actions occur, a CFP® professional must make that information available to the client as it is determined.

What is Compensation?

Rule 2.2a.ii requires disclosure of expenses the client will incur, including firm or adviser expenses passed on to the client as an additional charge. Examples that must be disclosed include but are not limited to the following, when applicable:

- 12b-1 fees;
- Cash bonuses or other incentives received from the firm or issuer for selling specific financial or insurance products;
- Trailing commissions for selling financial or insurance products;
- Compensation received from wrap-fee programs;
- Trading fees, if passed on to the client;
- Ticket charges, if passed on to the client;
- Administrative or management fees on mutual funds or variable annuities as outlined in the prospectus; and
- Solicitation fees.

If the cost to the client is not known until a series of decisions or actions occurs, the *Standards* do not require the CFP® professional to provide disclosure until that information is determined.

Example: Tom Higgins has been a large producer for *Take-It-All-In Financial, Inc.* Tom has been threatening his B/D that he may take his future business elsewhere. *Take-It-All-*

In Financial, Inc. was concerned about his ability to receive higher payouts elsewhere, and immediately renegotiated a deal to have a series of larger bonuses and trailers be made payable to him. The essence is the longer Tom keeps those investments and insurance policies on the B/D's books, the larger the commission percentage he will receive.

When Tom meets with his financial planning clients, he just makes a general statement that he is paid by his B/D in a different direction. Has Tom fully disclosed his compensation package?

No. The client may assume that Tom will be keeping all of his or her investments and insurance with that particular company even if it makes sense to change Companies as determined during the monitoring stage of the financial planning engagement.

Conflict of Interest Disclosures

Potential conflicts of interest require two disclosures. One is to be given at the beginning of the client engagement providing a general description of the CFP® professional's conflicts of interest; and a second disclosure provided if a new conflict arises.

Be alert that this objective would require two disclosures: one at the beginning of the client engagement providing a general description of how the client would pay for all of the services of the CFP® professional; and one at the time the CFP® Professional makes specific recommendations to the client/prospective client.

Conflicts of interest can be avoided with a written agreement when financial planning services are provided.

Example: Paul Loman, CFP, has moved from industry to become a comprehensive financial planner. He is looking to build up his financial planning clientele and is aggressively pursuing clients through many types of marketing methods.

Upon meeting with prospect Jennifer Jannaro, she asks Paul to describe any conflicts of interest he may represent. Paul responded that he will do everything in the best interests of the client. However, Paul sits on the Board of an insurance company and an investment firm of which he does not disclose either and sends a lot of business to those companies.

Has Paul committed any violation here?

Yes. Since Paul serves on those two Boards, he may be tempted, or the perception is that he could be tempted, to recommend products and services from those companies when other alternatives may prove better for the client.

When Disclosures Should Be Made

The *Rules of Conduct* do not specify a timeframe for sending out disclosure documents. CFP Board believes a CFP® professional's best practice is to disclose such items when the client requests such information or before any agreement is signed or prior to the execution of any transaction where the client is expected to pay for a service or product. If information previously disclosed to a client changes, Rule 2.2 requires that those changes be disclosed to the client in a timely manner.

CFP Board understands that CFP® professionals may be engaged in providing clients financial services that fall under different regulatory environments. Each regulatory environment may require CFP® professionals and their employers to provide disclosures at different points during a client relationship. CFP Board does not advocate any particular business model or any form of compensation and does not intend to replace the regulatory requirements for disclosing items to clients. CFP® professionals are reminded to adhere to Rule 1.4 when dealing with clients in all capacities.

Practice Standards and Disclosure Requirements

In addition to the above set of Rules, several CFP Board Practice Standards are to be included in the CFP® Professional's disclosure requirements. Those Practice Standards are listed below.

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:

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

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

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

As the relationship proceeds, the scope may change by mutual agreement.

Again, as stated, it is a better practice to state these specifics in writing.

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.

These items should be discussed with the client at the onset. As the professional, you may want to provide the client with the gamut of possibilities in advance so the client can make a better informed decision. Each aspect of your assistance with the client will alert the client to the interdependence of each discipline that you may be assisting the client with.

If during or after the process, the professional feels that the objectives or recommendations may be unattainable, the professional should re-start the conversations to determine how the client can be made aware of the issues and how to proceed going forward.

500-1: AGREEING ON IMPLEMENTATION RESPONSIBILITIES

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

Explanation of this Practice Standard

The client is responsible for accepting or rejecting recommendations and for retaining and/or delegating implementation responsibilities. The financial planning practitioner and the client shall mutually agree on the services, if any, to be provided by the practitioner. The scope of the engagement, as originally defined, may need to be modified.

The practitioner's responsibilities may include, but are not limited to the following:

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

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

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

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

Example: Rodney Wright has a fee-only financial planning practice. He designs a comprehensive financial plan only for the client. He does not implement any product follow-through and does not manage money. He feels this approach makes him more independent when providing client implementation of his recommendations.

During the preliminary phase of the engagement, Rodney alerts the client that he will be providing a “comprehensive road map” that any competent financial planner should be able to follow and therefore assist with the overall implementation. Rodney does not provide a listing of advisors to the client because he feels that would damage his independence.

Does Rodney take an appropriate approach in performing comprehensive financial planning?

Yes. A CFP® professional is not required to offer product or money management services. In providing comprehensive financial planning services, that individual does have the task of drawing an appropriate roadmap to allow competent professionals to implement the recommendations uncovered during the engagement.

If the professional can not help the client attain the recommendations stated in the plan, the professional may wish to work with affiliates, associates and others to help guide the client towards successful implementation of the recommendations uncovered during the process.

2016 Instructor and Author Eligibility Requirements for CFP Board Ethics CE Programs

Effective January 2016, instructors of Ethics CE programs registered with CFP Board must meet the following requirements.

The instructor and author of an Ethics CE program must:

- Hold current CFP® certification, with all CFP Board continuing education requirements up-to-date and all CFP Board renewal and other fees paid in full.
- Have held CFP® certification for 5 years or more.
- Not be the subject of a pending investigation by CFP Board or any federal or state regulator.
- Not have been the subject of a CFP Board discipline (i.e. private censure, public letter of admonition, or suspension) received within the past five years.
- Complete CFP Board ethics instructor and author webinar.

Individuals who do not meet all of the above criteria may submit a Policy Exception Request.

As the author and only instructor of this program, and having been involved in the process of drafting the first major revision of Code of Ethics as a former employee of CFP Board in the early 90s, the information you receive in this program is genuine, current, and on target in the manner in which CFP® certificants must conduct themselves to abide by this Code.

The following sections discuss recent CFP Board updates.

SECTION III: RECENT CFP BOARD UPDATES

In 2013, CFP Board issued an Advisory Opinion dealing with Conflicts of Interest between CFP® Professionals and Clients. In their day-to-day business, it is not uncommon for CFP® professionals to face decisions about whether a particular action or circumstance constitutes a conflict of interest. In response to recent increases in the number of conflict of interest cases reviewed by CFP Board, CFP Board presents this Advisory Opinion to provide guidance to CFP® professionals concerning conflicts of interest in order to help CFP® professionals address conflicts of interest in compliance with CFP Board's Standards of Professional Conduct.

In 2012, CFP Board was very active in revising and updating many facets of the Code and other important documents. A quick summary is produced below:

CFP Board Update	Effective Date
Amendments to Disciplinary Rules and Procedures	1/1/13
Amendments to Appeal Rules and Procedures	1/1/13
Amendments to Fitness Standards for Candidates & Registrants	9/14/12
Amendments to Experience Requirement	9/1/12
Sanction Guidelines	8/27/12
Bankruptcy Disclosure Procedure	7/1/12
Compliance Checklist - tool	

Compensation Methods – Enacted 2013

Executive Summary - Past Recent Changes Made by CFP Board

In 2013, CFP Board addressed issues dealing with compensation and the definition of fee-only through a notice to CFP® professionals regarding the importance of compensation disclosure to clients. The Notice provides an important reminder that CFP® professionals are required to disclose to clients and prospective clients information concerning the CFP® professional’s compensation. The purpose of this Notice is to remind CFP® professionals of both the scope of the term “compensation” and the obligation to make accurate disclosures of compensation methods on all public websites, including related-party websites, public search engines, and public disclosure forms, including Form ADV. Disclosures of compensation methods must remain accurate throughout each client relationship.

In late 2013, CFP Board became aware of misrepresentations being made by CFP® professionals regarding their compensation methods. Some CFP® professionals were purporting to be “fee-only” when in fact some of their compensation was derived from commissions. This misrepresentation was uncovered on CFP Board's search tool (“Find a CFP® Professional”). To prevent any further misrepresentation to the public, CFP Board temporarily disabled the ability to search on “fee-only” in their search tool. Additionally, CFP Board made aware of the importance of accurate compensation disclosures, encouraging certificants to carefully review their compensation methods and to accurately reflect all of their compensation methods in their profiles.

A certificant may describe his or her practice as “fee-only” **if, and only if, all of the certificant's compensation from all of his or her client work comes exclusively from the clients in the form of fixed, flat, hourly, percentage or performance-based fees.** CFP Board's September 20, 2013, notice to certificants included further guidance on the “fee-only” language as follows:

“The fee only” description is appropriate only when the CFP® professional and any related parties receive, or are entitled to receive, only fees for providing professional activities. As a general rule, if you are a registered representative of a broker/dealer, are dually-registered, or are an employee of an insurance firm, your compensation may not be described as “fee only.”

CFP® professionals are responsible for disclosing their compensation consistent with our compensation disclosure rules and definitions. Should it come to our attention, subsequent to the opportunity to fully understand and comply with our rules, that a CFP® professional is misrepresenting their compensation, the matter will be referred to our enforcement process.

In addition to the reminder of the importance of accurate compensation disclosures, CFP Board's August 7, 2013, notice to certificants included further guidance on the compensation disclosures as follows:

“In determining how to make compensation disclosures, a CFP® professional must consider compensation to the CFP® professional and any related party. The CFP® professional also must include as compensation any non-trivial economic benefit that the CFP® professional or any related party receives or is entitled to receive.”

Please note that CFP Board does not audit a CFP® professional to verify the accuracy of compensation disclosures. However, in the event that CFP Board is notified that a CFP® professional has made an inaccurate compensation disclosure, CFP Board will initiate an investigation of that professional's compensation disclosures.

CFP Board Update
Compensation

Effective Date
9/23/13

Amendments to Disciplinary Rules and Procedures – Enacted 2013

The substantive amendments to the *Disciplinary Rules* include:

- Article 2.5 – Disqualification – Add a provision requiring a Respondent to identify in his/her Answer to the Complaint any potential conflict the Respondent believes exists with regard to any of the hearing panelists.
- Article 2.6 – CFP Board Counsel, CFP Board Designated Counsel and CFP Board Advisory Counsel, and the Duties thereof – Clarify that CFP Board Counsel’s role is to serve as an advocate for CFP Board.
- Article 6.2(b) – Procedures for Investigation – Define “adverse inference” as “an inference, adverse to the concerned party, drawn from silence or absence of requested evidence.”
- Article 6.3 – Probable Cause Determination Procedures – Add a provision allowing a Respondent to file a response to a Letter of Caution issued by CFP

Board. The Letter of Caution and the response letter would become part of the Respondent's disciplinary record and be available for the Disciplinary and Ethics Commission's (DEC) review in any subsequent proceeding involving the Respondent.

□ Article 9 – Motions – Add a provision to specifically allow for the submission of pre-hearing motions. Motions would be limited to procedural and evidentiary matters and cannot be more than two single-spaced pages with no more than 10 pages of attachments, which is consistent with the limitations imposed on motions in the *Appeal Rules and Procedures*.

□ Article 10.3 – Procedure and Proof – Define “preponderance of the evidence” as “a legal standard of review which generally means ‘more probable than not’, i.e., evidence which shows that, as a whole, the fact sought to be proved is more probable than not to have occurred.” This definition is consistent with the definition that appears in the *Appeal Rules and Procedures*.

□ Article 11.2 – Power of the DEC – Clarify that the DEC is required to mail its decision order to the Respondent within 45 calendar days of a hearing. Additionally, clarify that if the DEC does not approve the hearing panel's recommendation, it must remand the matter to the hearing panel for further consideration.

□ Article 14 – Settlement Procedure – Amend to allow CFP Board Counsel more flexibility in negotiating a settlement agreement with Respondent.

□ Article 15 – Required Action After Revocation or Suspension – Add a provision requiring a Respondent to submit proof of Respondent's compliance with an order of suspension or revocation. In the case of an order of suspension, failure to submit proof of compliance with the DEC's Order would result in a revocation, as provided in the DEC Order.

□ Article 16.2 – Reinstatement After Suspension – Identify the criteria used by the DEC to assess a Respondent's rehabilitation and fitness to use the marks. Additionally, “clear and convincing evidence” is defined.

□ Article 18.1 – Quorum – Increase the requirement for a quorum from a majority to two-thirds of the DEC.

□ Article 18.6 – Anonymous Case Histories and Sanction Guidelines – Add a provision noting that the Anonymous Case Histories and Sanction Guidelines serve as guidance for the DEC during hearings and deliberations, and are available on CFP Board's website.

Amendments to Appeal Rules and Procedures

These amendments streamline the appeal process, clarify the “clearly erroneous” standard of review and ensure that CFP Board’s appeal process is fair and credible to all participants.

The substantive amendments to the *Appeal Rules* include:

- Article 2 – Appeal Panel – Transfer jurisdiction of hearing appeals from Appeal Committee to Appeal Panel. The Appeal Panel will be made of up former Appeal Committee members, former DEC members and former DEC volunteers.

- Article 4 – Right to Appeal and Representation – Add a provision allowing CFP Board Counsel to appeal a decision of the DEC.

- Article 5 – Appeal Procedures – Streamline the process by eliminating the step of forwarding the record under separate cover. CFP Board will provide the record with the DEC Order.

- Article 10 – Decisions – Clarify the potential outcomes under the “clearly erroneous” standard of review.

- 2

- Article 11 – Review by the Appeal Committee of the Board of Directors of CFP Board – Add provision allowing the Appeal Committee of the Board of Directors to review the decisions of the Appeal Panel and “call” any decision for its review. If the Appeal Committee determines that the Appeal Panel committed “clear error,” the Appeal Committee can remand the matter back to the Appeal Panel with instructions.

Amendments to Fitness Standards for Candidates & Registrants

CFP Board established specific character and fitness standards for candidates for CFP® certification to ensure that an individual’s prior conduct would not reflect adversely upon the profession or the CFP® certification marks. CFP Board determined that such standards would also provide notice to individuals interested in attaining CFP® certification that certain conduct would bar certification, or require an individual to petition the Disciplinary and Ethics Commission (Commission) for consideration.

Effective January 1, 2011, the *Fitness Standards* shall apply to Registrants, i.e., individuals who are not currently certified but have been certified by CFP Board in the past and are eligible to reinstate their certification without being required to pass the current CFP® Certification Examination.

Amendments to Experience Requirement

The Board of Directors of Certified Financial Planner Board of Standards, Inc. (CFP Board) recently approved several amendments to the Experience requirement for initial CFP® certification. The purpose of CFP Board's Experience requirement is to demonstrate an individual's ability to practice personal financial planning independently. Combined with the other requirements for CFP® certification, the Experience requirement helps ensure that individuals applying for CFP® certification are competent to provide financial planning services to the public as a CFP® professional.

Following careful and thoughtful review of the comments received on the proposed amendments, the Board of Directors approved the following amendments:

- The options for meeting CFP Board's Experience requirement will be expanded with a very limited exception whereby individuals may meet CFP Board's Experience requirement solely through two years full-time, or the equivalent parttime (2,000 equals one year full-time) of experience focused exclusively on "personal delivery of all or part of the personal financial planning process to a client," with direct supervision by a CFP® professional, and documented qualifying experience in all six primary elements of the personal financial planning process.
- CFP Board will no longer require that six months of experience must have been gained within 12 months of an individual's reporting of experience to CFP Board.
- CFP Board will allow individuals to submit experience to CFP Board for review prior to passing the CFP® exam. Credit will be granted only for experience completed within 10 years before and five years after successful completion of the CFP® exam.

Sanction Guidelines

The Board of Directors of Certified Financial Planner Board of Standards, Inc. (CFP Board) recently approved the introduction of CFP Board's Sanction Guidelines. The Sanction Guidelines, the full text of which is available below and on CFP Board's website at www.CFP.net/downloads/CFPBoard_Sanction_Guidelines_2012-07.pdf (PDF, 163 KB) are effective on August 27, 2012.

CFP Board developed the Sanction Guidelines to assist the Disciplinary and Ethics Commission (DEC), the group charged with conducting disciplinary hearings in accordance with CFP Board's *Disciplinary Rules and Procedures*, in maintaining consistency regarding the imposition of sanctions for similar offenses. The Sanction Guidelines identify specific conduct that is a violation of CFP Board's *Standards of Professional Conduct*, the sanction guideline for that conduct and policy notes for the DEC to consider when imposing the appropriate sanction. The DEC is not bound by the Sanction Guidelines, which are intended, along with the Anonymous Case Histories, to guide the DEC in its decision making. When considering the appropriate sanction in a particular case, the DEC may deviate from the sanction guideline if there are aggravating factors that warrant a more severe sanction or mitigating factors that warrant a less severe sanction. The

Sanction Guidelines may also be used by the Appeals Committee of the Board of Directors, which considers appeals of DEC decisions.

Bankruptcy Disclosure Procedure

The Board of Directors of Certified Financial Planner Board of Standards, Inc. (CFP Board) recently approved the following changes to the way CFP Board addresses cases involving a CFP® professional who has filed bankruptcy within the previous five years, and who is not under investigation by CFP Board for any other conduct (“bankruptcy only cases”).

Bankruptcy Disclosure Procedure

CFP Board will no longer investigate, and the Disciplinary and Ethics Commission will no longer adjudicate, bankruptcy-only cases. Rather, CFP Board will verify the bankruptcy filing by checking publicly available court records, then note the bankruptcy filing on the CFP® professional’s public profile, which is available through the search functions on CFP Board’s website www.CFP.net, including the “Find a CFP® Professional” and “Verify an Individual’s CFP® Certification” search functions. CFP Board will also share with consumers and other stakeholders who contact CFP Board regarding a CFP® professional’s certification status the information in the CFP® professional’s public profile, including identifying whether the CFP® professional has filed bankruptcy. The disclosure of the bankruptcy in a CFP® professional’s public profile will continue for 10 years from the date CFP Board is notified of the bankruptcy, whether resulting from disclosure by the CFP® professional or discovery by CFP Board.

Additionally, CFP Board will issue a news release no less frequently than four times each year to identify CFP® professionals who have filed bankruptcy within the previous five years. A CFP® professional’s name will appear only one time on a news release. As a result of issuing the news release, the public will be able to access the information contained in the news release through commonly used internet search tools.

Retroactivity

The bankruptcy disclosure procedure will be applied retroactively to any CFP® professional who, as a result of having a bankruptcy-only case, received a public discipline from CFP Board. Public discipline includes revocation, suspension and public letter of admonition. These individuals will have the option of retaining their public discipline and the press release associated with that discipline or having the public discipline rescinded and previous press release removed from CFP Board’s website and replaced with the new bankruptcy procedure. Any CFP® professional who previously received a private censure for having a bankruptcy-only case or whose bankruptcy-only case was dismissed by CFP Board will not be affected by the new procedure.

The bankruptcy disclosure procedure will also be applied retroactively to any candidate for CFP® certification who, as a result of having a bankruptcy-only case, was denied certification and offered the opportunity to re-apply on a date specified by the Disciplinary and Ethics Commission. These individuals will have the option of waiting to re-apply no sooner than the date specified by the Commission, or have their order of denial rescinded and be granted CFP® certification on the condition that their bankruptcy filing will be made public via the search function on CFP Board’s website and in a news release. Any individuals who had a bankruptcy-only case and were granted CFP®

certification will not be affected by the new procedure.

Compliance Checklist

The compliance checklist is designed to help CFP® professionals document an initial client consultation in accordance with CFP Board's *Standards*. The questions contained in this checklist reflect both the requirements of the *Standards* and established best practices for complying with the *Standards*.

Except for Section A(2), all boxes should be completed for compliance purposes. This checklist should be periodically reviewed throughout the course of your relationship with your client.

SECTION IV.

OVERVIEW OF THE STANDARDS OF PROFESSIONAL CONDUCT

(Including the CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY, FINANCIAL PLANNING PRACTICE STANDARDS, DISCIPLINARY ACTIONS, AND THE FITNESS STANDARDS).

CHANGES TO THE CFP BOARD'S CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY Effective July 1, 2009

Script:

The CFP Board continually updates its standards and procedures, and the revised *Standards of Professional Conduct*, which includes the *Code of Ethics and Professional Responsibility*, *Rules of Conduct*, and *Financial Planning Practice Standards* reflect the most recent of such initiatives. The Fitness Standards (effective January 1, 2011) apply towards candidates of CFP® certification to ensure that an individual's conduct does not reflect adversely upon the profession or the CFP® certification mark.

I wanted to make you aware of these changes before we begin our presentation to ensure that all of you can begin working these revisions into your practice and to remind you to update your Code when you return back into the office.

For your benefit, I have included a list of the changes to this Code as follows:

- Terminology
- Principles
- Rules and
- Practice Standards and Rules.

TERMINOLOGY

The following is additional Terminology covered in the Code

“**CFP Board**” denotes Certified Financial Certificant Board of Standards, Inc.

Candidate for CFP® Certification denotes a person who has applied to CFP Board to take the CFP® Certification Examination, but who has not yet met all of CFP Board’s certification requirements.

“**Certificant**” denotes individuals who are currently certified by CFP Board.

“**Client**” denotes a person, persons, or entity who engages a certificant and for whom professional services are rendered. Where the services of the certificant are provided to an entity (corporation, trust, partnership, estate, etc.), the client is the entity acting through its legally authorized representative.

“**Certificant’s Employer**” denotes any person or entity that employs a certificant or registrant to provide services to a third party on behalf of the employer, including certificants and registrants who are retained as independent contractors or agents.

“**Commission**” denotes the compensation generated from a transaction involving a product or service and received by an agent or broker, usually calculated as a percentage on the amount of his or her sales or purchase transactions. This includes 12(b)1 fees, trailing commissions, surrender charges and contingent deferred sales charges.

“**Compensation**” is any non-trivial economic benefit, whether monetary or non-monetary, that a certificant or related party receives or is entitled to receive for providing professional activities.

A “**conflict of interest**” exists when a certificant’s financial, business, property and/or personal interests, relationships or circumstances reasonably may impair his/her ability to offer objective advice, recommendations or services.

“**Fee-only.**” A certificant may describe his or her practice as “feeonly” if, and only if, all of the certificant’s compensation from all of his or her client work comes exclusively from the clients in the form of fixed, flat, hourly, percentage or performance-based fees.

A “**financial planning practitioner**” is a person who engages in financial planning using the financial planning process in working with clients.

“**Registrant**” denotes individuals who are not currently certified but have been certified by CFP Board in the past and have an entitlement, direct or indirect, to potentially use the CFP® marks. This includes individuals who have relinquished their certification and who are eligible for reinstatement without being required to pass the current CFP® Certification Examination. The Rules of Conduct apply to registrants when the conduct at issue occurred at a time when the registrant was certified; CFP Board has jurisdiction to investigate such conduct.

PRINCIPLES

The following is the entire Principles section of the Code. Interpretations of each of the principles will be discussed later on.

CFP Board adopted the Code of Ethics to establish the highest principals and standards. These principles and general statements expressing the ethical and professional ideals certificants and registrants are expected to display in their professional activities. As such, the principals are aspirational in character and provide a source of guidance for certificants and registrants. The principals 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.

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 co-exist 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.

RULES

The following is the entire Rules section of the Code. Interpretations of the rules will be discussed later on.

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, or type of employment or method of compensation, and they govern all those who have the right to use the CFP® mark, 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.

Rule 1.1

The certificant and the prospective client or client shall mutually agree upon the services to be provided by the certificant.

Rule 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.

Rule 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.

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.

Rule 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.

Rule 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.

(Rule 1.3 requires financial planning engagements to be accompanied by a written agreement specifying the services to be provided as part of the Agreement. Rule 2.2(e) requires written disclosure of compensation arrangements, among other things. Changes to services offered or compensation arrangements should be established definitively through revision of these written agreements, thereby eliminating the need for periodic updates.)

Rule 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.

Rule 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.

Rule 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.

Rule 3.4

A certificant shall clearly identify the assets, if any, over which the certificant will take custody, or exercise investment discretion, or exercise supervision.

Rule 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.

Rule 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.

Rule 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.

Rule 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.

Rule 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 without sufficient record-keeping to track each client's assets accurately.

Rule 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.

Rule 4.1

A certificant shall treat prospective clients and clients fairly and provide professional services with integrity and objectivity.

Rule 4.3

A certificant shall be in compliance with applicable regulatory requirements governing professional services provided to the client.

Rule 4.4

A certificant shall exercise reasonable and prudent professional judgment in providing professional services to clients.

Rule 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.

Rule 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.

A certificant shall advise his or her current clients of any certification suspension or revocation he or she receives from CFP Board.

Rule 4.7

A certificant shall advise his or her current clients of any certification suspension or revocation he or she receives from CFP Board.

Rule 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*.

Rule 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.

Rule 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.

Rule 6.2

A certificant shall meet all CFP Board requirements, including continuing education requirements, to retain the right to use the CFP® marks.

Rule 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. No equivalent

FINANCIAL PLANNING PRACTICE STANDARDS and RULES
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The following is an update to the Practice Standards and Rules section of the Code

NOTE: CFP Board considers the *Financial Planning Practice Standards* as the best practices for financial planning professionals, and CFP Board's Disciplinary and Ethics Commission and Appeals Committee use them in evaluating conduct to determine if the *Rules of Conduct* have been violated. A few minor revisions to the introductory and explanatory materials in the *Financial Planning Practice Standards* have been made to ensure their consistency with the *Rules of Conduct*.

Specific elements of the guidelines in the *Financial Planning Practice Standards* have been restated as binding Rules within the proposed *Rules of Conduct*, as outlined below.

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

These Practice Standards are intended to:

4. Assure that the practice of financial planning by CFP® professionals is based on established norms of practice.
5. Advance professionalism in financial planning, and
6. Enhance the value of the financial planning process

CFP BOARD CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY

Script:

Every profession that wants the respect of the public demands a high degree of ethical behavior from its members. The CFP Board has developed the *Code of Ethics* for the purpose of providing principles and rules to all CFP Board certificants.

CFP BOARD CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY

Script:

There are seven principles in the *Code of Ethics*. We will do a brief summary of what they are about. But before that, let's look at the Why, What, and Who of the code.

Why: The Code of Ethics was adopted by the Board to provide ethical guidance to an individual who is certified to use the CFP® mark when working in any field where a special knowledge is used, or where, as a CFP® certificant, that individual is expected to act in an ethical and professionally responsible manner.

What: The Code of Ethics is made up of MULTIPLE parts. Part I is the Principles. Part II is the Rules of Conduct. Part III are the Practice Standards and Part IV is the Disciplinary Rules and procedures. Additionally, the Practice Standards are in integral part of the ethical business practices of CFP Board certificants. The Principles apply to all CFP Board certificants, all of the time. The Rules apply whenever they are applicable to the individuals work. The Practice Standards apply to CFP Board certificants performing personal financial planning. The *Practice Standards* are separate from the *Code of Ethics*. They are not a sub-part of the *Code of Ethics*.

Who: The CFP Board takes the position that the *Code of Ethics* and *Practice Standards* apply to all who have earned the right to use the CFP® mark, but anyone who is registered with the CFP Board as a candidate to earn the CFP® mark.

All of this is presented just before the Principles of the code as the Preamble and Applicability; Composition and Scope, and Compliance paragraphs.

WHAT'S THE POINT OF HAVING A CODE OF ETHICS?

Script:

You may wonder: What's the point of having a Code of Ethics? Why do we need all of this stuff? Who cares?

Great questions. What's the point of traffic laws? Why do professions go to all this work to put into writing what everyone is doing anyway?

The reality is that everyone isn't "doing it" as they should. The public wants to be able to refer to some list of rules to see if you have any guidance in how you operate your practice. And, if CFP Board is going to be responsible for making the CFP® marks a positive image in the public eye, it needs a way to measure if someone isn't acting appropriately.

So next you're thinking that this huge set of principles, rules and practice standards is a giant trap and that the Board is just waiting to spring on you and take away your hard earned CFP certification for the slightest infraction.

RELAX, it doesn't work that way. No one is keeping score. It's hard to imagine anyone having a complaint about the principles. They are obviously reasonable. The rules apply where they are appropriate, and the practice standards, when you read them, are mostly common sense. All of it is in place to protect you and your clients. And trust me, when it comes to giving people advice about their finances, you want to be protected.

SECTION V

THE PRINCIPALS

Script:

Now we'll tackle the Principles. A way to remember the principles is through the saying, "I Only Care for Cash Paid Daily". The principles correspond to the first letter of each word.

The seven principles are:

- **I**ntegrity
- **O**bjectivity
- **C**ompetence
- **F**airness
- **C**onfidentiality
- **P**rofessionalism, and
- **D**iligence

Now we'll have a quiz on the details of the Principles. A score of 85% or better will be required to get credit for the workshop.

JUST KIDDING!

First, let's look at them individually and see what they mean.

PRINCIPLE 1

INTEGRITY

Script:

The first principle reads: *Provide professional services with integrity.*

Sounds pretty straightforward. This does not mean that you must be perfect in everything you do for a client. Just be as perfect as you can be. This principle focuses on honesty and candor, and making sure that your actions are for the best interest of the client, not you. Adhering to this principle requires not just abiding by the written word of the *Code of Ethics*, but the spirit as well.

PRINCIPLE 2

OBJECTIVITY

The second principle reads: *Provide professional services objectively.*

Hang your preconceived notions at the door. Those biases, prejudices, and old wives tales about insurance, mutual funds, stocks, tax planning, estate planning, employee benefits and the rest, have no place in the office of a professional financial planner. In the words of the CFP Board, “Objectivity requires intellectual honesty and impartiality.”

PRINCIPLE 3

COMPETENCE

Principle three reads: *Maintain the knowledge and skill necessary to provide professional services competently.*

This principle says that it's great that you were awarded the right to use the CERTIFIED FINANCIAL PLANNER™ mark. BUT, you now have the obligation to keep up and to recognize what it is that you don't know. Being a competent CERTIFIED FINANCIAL PLANNER™ practitioner means knowing what you know, knowing what you don't know, the wisdom to be able to tell the difference, and the courage to admit it.

PRINCIPLE 4

FAIRNESS

Principle number 4 reads: *Be fair and reasonable in all professional relationships. Disclose conflict(s) of interest(s) in providing such services.*

Being awarded the right to use the CFP® mark is not the equivalent of being anointed with sainthood. You didn't suddenly become able to subsist on air and have all negative, hurtful, biased thoughts purged from your mind. You didn't suddenly become separated from every financial transaction of your life. You will still have your personal point of view. You will still have a bias for or against certain financial products or industries. However, it is incumbent on you to maintain impartiality and intellectual honesty and disclose your position or beliefs whenever they MIGHT conflict with any service you provide or advice you give.

For this principle, think of this modified golden rule. Do unto others what you would have others, who may have differing points of view and beliefs, do unto you.

PRINCIPLE 5

CONFIDENTIALITY

Principle five reads: *Protect the confidentiality of all client information.*

When a client tells you all of his or her financial wants and desires, combined with a full disclosure of their personal finances, you are expected to keep it to yourself. Any financial planning engagement is based on trust and confidence. If you betray that trust by sharing client information, your clients won't have any confidence that you are working in their best interest.

PRINCIPLE 6

PROFESSIONALISM

The sixth principle reads: *Act in a manner that demonstrates exemplary professional conduct.*

As a member of the financial planning profession, you have an obligation to promote and maintain the image of this profession. You are expected to treat clients, other CFP Board's certificants, and those in related professions with courtesy and dignity. Conversely, you are not to do anything that would bring discredit to the profession. CFP Board works very hard to maintain the image of its certification, and you, as beneficiaries of that effort, are expected to help.

PRINCIPLE 7

DILIGENCE

And the seventh principle reads: Provide professional services diligently.

Doesn't it drive you crazy when a word is defined with itself? Diligence means that you do your job of financial planning well, do it thoroughly, and do it in a timely manner. Diligence is not grabbing your client's file two hours before your meeting and throwing something together. Diligence is not using a one-size-fits-most approach.

SECTION VI

THE RULES OF CONDUCT

Script:

Knowing the principles is a great start. However, because of the diverse nature of CFP Board certificant's activities, CFP Board adopted the rules of conduct to provide more specific guidelines. The rules identify specific areas and activities under each principle that the CFP Board has in mind. The rules are there to help CFP certificants understand the scope of the principles.

The rules recognize that all CFP Board certificants do not work the same way or have the same kinds of jobs. While all of the Principles apply to all CFP Board certificants, not all of the rules will. Each certificant has to take the time to determine if a specific rule fits the work he or she does.

The rules have two digit numbers, the first digit relates to the particular section of the rules of conduct and the second number represents the order under which that particular rule falls within that section.

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.

CONTENTS of the Rules of Conduct

- 1. Defining the Relationship with the Prospective Client or Client**
- 2. Information Disclosed to Prospective Clients and Clients**
- 3. Prospective Client and Client Information and Property**
- 4. Obligations to Prospective Clients and Clients**
- 5. Obligations to Employers**
- 6. Obligations to CFP Board**

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.

Rule 1.1 ensures that what you and the client are entering into is mutually agreeable.

Rule 1.2 ensures provides a framework for the services you will be providing be in writing or discussed with a prospective client or client.

Rule 1.3 states that when the parties enter into a financial planning engagement for services that various governing written facts be present, including the parties to the contract, date and duration, termination rights and services to be provided.

Rule 1.4 requires you to put the client's interests ahead of your own, always. Keep this rule in mind all of the time and it's less likely any of the other rules will be broken.

As stated earlier, when responding to the following series of questions, please tie back, where you can, to any of the new Learning Objectives for CFP Board Ethics CE Programs.

The 2016 Learning Objectives have been re-listed here for you convenience.

1. Define and discuss a financial planning engagement, material elements of financial planning, and the financial planning process.
2. Analyze specific fact patterns to determine if a financial planning relationship exists.
3. Differentiate between the standards of care set forth in Rules 1.4 and 4.5 of the *Rules of Conduct*, and apply each standard of care to specific factual situations.
4. Apply each *Practice Standard* set forth in the *Financial Planning Practice Standards* to a hypothetical financial planning engagement.
5. Identify the information that must be disclosed to the client in writing by a CFP® professional who is engaged in a financial planning relationship or providing material elements of financial planning.

6. Define the required information that must be disclosed to clients and prospective clients, when that information must be disclosed, and apply each disclosure requirement to specific factual situations. (This includes but is not limited to the compensation and conflict-of-interest disclosure requirements set forth in Rule 2.2 of the *Rules of Conduct and Practice Standards* 100-1, 400-3, and 500-1.)

Let's get ready to rumble!!!

Question #1:

Rule: All

- From a practical standpoint, what is the true benefit of having a Code of Ethics?
- How can it be used to protect the CFP® practitioner?
- How can it be used to protect the CFP® Board?
- What other observations do you have regarding the Code?

Question #2:

Rule 1.4

- Harmon's financial planning practice was fee and commission. Julianna, a referral to Harmon, inherited some money from her grandmother and wanted to put it away for retirement, but not in an IRA. She wanted to avoid taxes on any earnings until retirement. Even with over 20 years from her expected retirement, she was not comfortable with the use of equities. She and Harmon discussed a number of options and decided on a Single Premium Deferred Annuity. They looked at two VAs. Aardvark Life offered 8% the first year as an incentive, adjusted annually, and with a guaranteed 2.5% minimum interest rate. It paid a straight 5% commission. Aardvark Life had one 2nd level rating, one third level rating and two 5th level ratings from four different rating agencies. Boring Life offered 7.25% for the first three years and a minimum guaranteed interest rate of 3.5%. It paid a 2% commission each year for the first five years if the annuity stayed in place; total commission of 10%. Boring Life had two top ratings, one 2nd level rating and 1 third level rating from the same four rating companies as Aardvark. In reviewing the last 10 years worth of payouts for the two companies, Boring Life seems to average a higher return, but also has higher surrender charges for seven years. Harmon recommended using Boring Life.

How did Harmon do?

Question #3:
Rule 1.2

- Carlton Clinebeck, a CFP® practitioner, met with Seth Watson to discuss a possible financial planning engagement. In discussing Seth's needs and objectives, it was clear that there wasn't much Carlton could do other than to refer him to an estate planning lawyer to do some fine tuning of his estate plan. However, Seth was moderately wealthy and the fee for doing nothing more than putting the organization of his financial life on paper could bring in a very nice fee. The work that he would do wouldn't likely improve Seth's financial position, and it would be the lawyer who would take care of the document preparation, but Carlton thought that Seth might be more comfortable just seeing it all on paper, so he suggested that he and Seth enter into a full financial planning relationship. Carlton gave him all of the disclosure information, laid out the fee schedule and provided a list of documents and information to be brought to the next meeting.

How did Carlton do?

Rules that relate to the Prospective Clients and Clients

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.

Here are some general observations about the rules of conduct in this series. Disclosure is the focus of the 2.2 series of rules. It requires that you tell your clients everything the law says you have to tell them, and everything that materially affects the financial planning relationship.

You are expected to tell your clients how you work and how you think about financial planning. Tell them of any conflicts of interest and all sources of your compensation. They need to know about everyone who will be involved in the process. How you are paid for doing financial planning is part of this and it is quite clear that you may not call yourself a fee-only financial planner if you sell products and earn a commission concurrent with doing the planning. Clients need to be told if you are an employee or working as an agent for someone else.

If you know that a relationship you have with an individual or a company affects your ability to be objective or independent, tell your client. It is critically important that the client know. We can assume that you will be as objective and independent as you can be, but if the client finds out after the fact, his or her assumption may be that you were not objective.

If a conflict of interest comes up after the relationship has been established, tell the client and anyone else involved, immediately. If they find out later, you have ruined the relationship. It's better to lose a client than be faced with a lawsuit.

You have to regularly disclose to your clients how you get paid. Since you need to disclose how the payments are based, what you get paid should be fair and reasonable.

Rule 2.1 deals with truth in communicating misleading information. This also includes advertising. Don't claim to know more than you do or that you can do more than you can about your professional qualifications. This means in print or in the words you speak. Honesty is the best policy.

Rule 2.2 provides a framework for disclosure requirements. If entering into a financial planning relationship, these disclosures must be in writing, including requirements you have to adhere to/from other regulatory organizations. Source (and not amount) of compensation must be disclosed, conflicts of interest that can materially affect the relationship, and employer relationships, including contact info, that can affect the scope and nature of the engagement.

You have an obligation to provide disclosure to your employer, your principal if you are an agent, and/or your business partners of any activities or circumstances that might materially affect their working relationship with you. Any changes in those activities or circumstances must also be disclosed. You must also disclose to them any relevant compensation you receive.

Question #4:
RULE 2.1

- Alec, Anne, Andrew, and Abigail all went through their financial planning studies together. All four worked for one of the national companies that use financial planning as an entrée to selling mutual funds and insurance. They became good friends and found that they worked well together. Three years after becoming certified, they decided they wanted to start their own financial planning firm. The name was easy: “AAAA Financial Planning.” They spent nearly two years working on their business plan. On the fifth anniversary of becoming certified, they opened the doors. Their company brochure had all of the required disclosure material clearly set forth. The cover proudly touted their 20 years of financial planning experience and ability to handle “all of your financial planning needs.” The same information was on their business cards and mailings they sent to all of their previous clients.

What’s wrong with this picture?

Question 5:
Rule 2.2

- Davis and Karen share a financial planning practice. They are also partners in a number of real estate investments – both having real estate broker’s licenses, they own a mortgage company, and have a seasonal tax practice with a CPA they know. Their disclosure information includes references to broad based, fee-only financial planning, real estate investments, credit management and tax advice. Prospective clients also learn when Davis and Karen became certified and see a list of organizations for which they have been speakers.

How is their disclosure?

Question #6:
Rule 2.2

- Marlene Wisnant is a CFP Board certificant who specializes in the financial planning issues of divorce. She is in a small planning firm of five certificants. She agreed to do financial planning for Joan Martin who had just started her divorce proceedings. Between their first meeting and the fact finding meeting Marlene found out that one of the other certificants, with whom she did a great deal of joint work, had agreed to work with Joan's soon to be "ex."

What is Marlene's obligation to Joan at this point?

Question #7:
Rule 2.2

- Billie Swan, CFP®, was employed by Dollar & Sense Financial Planning, LLC. She is paid well in that most of the clients are fairly high end and the average client fee is in excess of \$10,000 initially, with a minimum \$5,000 retainer. The firm also provides asset management services, estate planning, legal document preparation and income tax preparation. A lot of Billie's friends could use some help with their financial planning, and they really want her help because she is clearly competent in the work she does. Her friends understand that this is her profession, and other than an offhanded question now and then they feel they need to pay her for her expertise. She has a small, word of mouth practice on weekends doing financial plans for her not so wealthy friends.

Does she have an obligation to tell her employer about this?

Question #8:
Rule 2.2

- Steve, Karl, and Suzanne, all CFP Board certificants, agreed to establish a financial planning partnership. They each put together a list of material information about their licensing, legal status, credentials, and all of the rest of the information that they needed to provide to have full disclosure to one another. Karl, however, chose to leave out some information. Twelve years earlier, he was in the middle of a divorce and made some very bad financial choices. That led him to do some stupid things with client's money. He lost

his securities license for two years, his insurance license for a year, and was fined over \$100,000. All of this happened in another state, and five years ago, when it was all over, including getting his finances straight after paying the fine, he moved to the city where he met Steve and Suzanne. Since it was over and done with, he didn't think it was necessary to tell them about it.

Is he right: is it okay not to tell Steve and Suzanne about this dark period?

Rules that relate to Prospective client and Client 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.

Rule 3.1: Information about your client's financial affairs, your employer's financial affairs, and your business associates' financial affairs is to be kept confidential and should not be used for your own benefit. It doesn't matter if disclosing it would actually cause harm or not. There are a few exceptions:

- a) Only as necessary to carry out the work you agreed to do for the client.
- b) To comply with legal requirements or legal process.

- c) To defend yourself against charges of wrongdoing in a court of law or in front of CFP Board's Disciplinary and Ethics Commission.
- d) In connection with a civil dispute between you and your client.

This requirement continues even after the relationship ends.

Rule 3.2: Take the time and be prudent about protecting the security of confidential client information.

Rule 3.3: Inform the client of any material deficiencies. This is important because you can not complete a reliable plan without obtaining as much relevant information as possible. The old "garbage in garbage out" adage applies here.

Rules 3.4 and 3.5: Clearly identify the assets and keep complete records of all funds.

Rules 3.6 and 3.7: As a general rule, do NOT borrow or lend money to a client. Period! However, there are a few exceptions worth noting. These include family members, if the certificant works for an entity that is in the business of lending money and the borrowing is unrelated to the professional services performed by the certificant, or if the certificant works for an institution where the money lent is that of the institution and not of the certificant.

Rules 3.8 and 3.9: To avoid future issues, do NOT Comingle a client's property with your property or someone else's unless it is permitted by law. Still, it is not advisable to do this.

Rule 3.10: If your client asks for his or her original records, return them as soon as practicable. This means even if he or she owes you money.

Question #9:

Rule 3.1

- Markus Weimer, a CFP® practitioner, was notified by CFP Board that it received a complaint from one of his clients regarding significant questions regarding his adherence to the *Code of Ethics* and that the Disciplinary and Ethics Commission was investigating the allegations. He made copies of

pertinent portions of the client's file to give to the Disciplinary and Ethics Commission to review while he explains his position and defends himself.

Is this permissible disclosure of confidential information?

Question #10:
Rule 3.1

- David, Scott and Bob started a financial planning partnership 12 years ago. Their skills and interests seem to mesh pretty well at that time. Their business did well. Scott, at age 20 got into financial trouble and had embezzled money from his employer. David and Bob knew about this unfortunate experience. It happened fifteen years before they met, and Scott had served some time in jail and repaid all of the money, plus interest. At Scott's suggestion, he wasn't allowed to have access to any company or client funds. Since this history was not relevant to the professional relationship that knowledge was kept among the three of them. Over time their interests and focus changed. David realized that he didn't fit with the firm anymore, so he exercised his option to sell his share of the partnership to Scott and Bob, and left. He joined a couple of certificant he had known for many years who had been competitors of his prior firm. When David moved, he sent a letter to all of the clients with whom he had worked and told them of the change. Many of them talked to him and asked why he left the other firm. He explained that he wanted to move in a different direction than the firm was going.

Would it have been permissible to divulge the information about Scott?

Question #11:
Rule 3.3

- Mary Jane has had a financial planning practice for eight years. Part of her practice involved tax return preparation, One of her planning and tax clients, Jules, works in an auto body shop as a painter. He makes a good income, but like everyone else wants a little extra. For years he collected fountain

pens. They were cheap for many years because no one else seemed to be collecting them. He still finds them at garage and estate sales for bargain prices. He has started selling them through an internet auction. The first year he sold a few and took in about \$150. He didn't even mention it to Mary Jane. Last year he was busy and made about \$400 per month more than he paid for the pens. When he asked Mary Jane what he should do about this income, she said that it seemed to be merely a hobby and not to worry about it.

Is there any Rule violation here?

Question #12:
Rule 3.8

- Larry's financial planning practice involved asset management. He actively managed client money in three families of mutual funds. All were load funds, but since he controlled so much money in them, the fund companies agreed to sell the shares to him with no load. Since the money was, for all practical purposes, invested in something all of the time, Larry didn't think it made sense to set up and pay for a checking account merely for the purpose of passing client money from the clients to the funds and back. He used his business checking account for everything. He paid his staff from it, rent, utilities, office supplies, travel, everything related to the business. He also deposited client checks in it, and, without fail, within one business day, transferred the client money into one fund or more, even if it was merely a money market fund.

How's he doing?

Question #13:
Rule 3.10

- Carol Milder, a CFP® practitioner, attempted to work with Bill and Carlie Pnastry for over a year. They missed appointments, didn't provide the requested information, gave conflicting information, and changed their

minds every time she spoke with them. She was very patient and did everything she could think of to make the relationship work. As mid-November came around, and her year end planning sessions were the heaviest, Bill and Carlie started calling and demanding that she put their file in order and send it to them immediately because they needed it to do their taxes. Carol had offices in two cities, and she was not where the Pnastry's file was. She also knew that nothing she had was necessary for them to do their taxes, and she had only copies of records. Her response was that she was working in her office on the other side of the state and that when she got back to the other office, she would mail their file to them. The response made them angry and they demanded that she have it couriered to them the next day. She reiterated what she was able to do, and at the receiving end of a hail of obscenities, hung up the phone.

Was Carol in violation of any rule?

Rules that relate to Obligations to Prospective Clients and Clients

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.

Rule 4.1 ensures that you treat clients fairly and provide professional services with integrity and objectivity.

When you begin a business transaction with a client, you must “bend over backward” to make sure that he or she is aware of any relevant information so that they are entering into a fair and equitable transaction.

Rule 4.2: CFP Board knows that you have a broad knowledge of the various areas of financial planning. CFP Board also recognizes that with the

exception of the areas(s) in which you specialize, there maybe limited depth to your knowledge. This rule demands that you be aware of when it is appropriate to call in an expert. Know what you know, and know what you don't know. There is no shame in not being an expert in all areas of financial planning. There is risk in pretending that you do.

If you are NOT competent in an area, you need to either punt, bring in someone who can assist you or take the lead, or alert the client that this is not an area you get involved with and provide qualified referrals.

Rule 4.3 discusses the following. You are obliged to abide by any laws, rules or regulations imposed by any governmental agencies or other applicable authorities as well as follow the rules, regulations and policies of CFP Board. This is all to be done to avoid any conduct that may detract from the CFP® mark or the financial planning profession.

Rule 4.4 states that a CFP Board certificant shall exercise reasonable and prudent professional judgment in providing professional services. This is where intelligent thought replaces gut level reactions. It is what you know to be true, not what you want to be true.

Rule 4.5 states not to get into a financial planning engagement unless the individual's needs and objectives warrant it, you can provide the necessary services competently, and you can make recommendations that are SUITABLE to the client.

Rule 4.6 states that you are ultimately responsible for anything leaving your office. Therefore, you need to supervise very carefully, any professionals, paraplanners or admins you assign client work to.

Rule 4.7 You do have an obligation to report any changes in your licensing status to your clients.

Question #14: Rule 4.2

- Barbara Adams, a CFP® practitioner, has a great family financial planning practice. She works primarily with middle income families. In order to make it possible for them to pay for her services, she provides each family

with a book and CD of standard legal forms so they can put together their own trusts, wills, powers of attorney, etc. She makes sure she tells them she isn't a lawyer and can't prepare any forms for them, but she also answers any questions they may have, to the best of her knowledge.

Is this approach acceptable?

Question #15:
Rule 4.2

- Charmaign's financial planning practice is broad based. The principal of her firm is a registered investment advisor. Her primary background, before earning her CFP® certification, was as a series 6 licensed registered representative for a mutual fund company. She is still a registered rep and most of her CE courses deal with investment planning, asset management and taxes. Jake and Julie Jonson are new clients of hers. She reviewed their financial information and made a number of recommendations. She included specific recommendations about investments, insurance, trusts and estate planning issues.

Did she meet the requirements?

Question #16:
Rule 4.4

- Wendy, a CFP® certificant provides broad based financial planning. One of her clients asked her about an investment property he was considering in a nearby suburb. Wendy had a bad experience with a piece of real estate in that suburb about 10 years ago and so she told her client to look somewhere else.

Does this comply with the rules?

Question #17:
Rule 4.6

- Stephanie Bramel, CFP® practitioner, started her own financial planning firm 12 years ago. She now had eight other professionals working for her. Her management style was essentially hands off. She figured all of her certificants had earned their certification and deserved to be treated as professionals. So it came as a big surprise when she was notified by the Disciplinary and Ethics Commission about allegations that a certificant who worked for her had been involved in serious breaches of the *Code of Ethics*.

Did Stephanie violate any code provision?

Rules that relate to the Obligations to Employers

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.

Rule 5.1: Even if you are working as an employee or agent of another person, you, as a CFP® certificant, are bound to work within the framework of the law, and your employer, and meet the requirements of these rules.

Rule 5.2 states that you are always responsible to notify the current employer of any suspension or revocation from CFP Board.

Question #18:

Rule 5.1

- Nadia Smith, a CFP® practitioner, is with one of the large financial services firms. While working with the large company, she attends numerous meetings and training sessions, few of which are preceded with notices that information divulged in the meeting is confidential and not to leave the company. Some of these involved the methods used to determine planning fees, marketing methods, sales methods, and planning approaches. Nadia was constantly amazed that the company thought any of the information was unique to them, most of it seemed logical. Through her local association she has developed some good friendships with other certificants. Some of them were interested in how the large firm was different from the ways they were working. Some of the questions touched on areas her firm said were

confidential. Since Nadia thought anything she related was either common knowledge or common sense, she wasn't concerned about giving details.

Under these circumstances, has Nadia done anything wrong?

Rules that relate to the Obligations to 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.

Rule 6.1 implies that the CFP® designation must be used correctly. Any improper use of the mark requires that you succumb to CFP Board's requirements for enforcement.

Rule 6.2: Keep up with what's going on in financial planning **and** meet your CE requirements. A certificant who meets CE requirements by seeking the shortest route to the required hours is not complying with the spirit of the *Code of Ethics*.

Rules 6.3 – 6.4 requires immediate notification by you in the event that you change contact information, are convicted of a crime (other than a traffic violation).

Rule 6.5 states that always be a professional at all times. Your conduct reflects positively or negatively against the mark and the profession as a whole.

Question #19:
Rule 6.2

-DeAnn worked very hard to prepare for her certification exam. The *Code of Ethics* and Practice Standards, were so full of details. She was glad that

she only had to learn it once. All she wanted to do was get through the exam and then she could forget all these shalls and shall nots.

Is she right?

Question #20:
Rule 6.5

- Philip Scatter, CFP® was proud of his certification. He spent five years in securities sales before studying for and passing the certification exam. With his new proof of knowledge and expertise he jumped right in and started accepting financial planning clients, just as his company wanted. As he reviewed the materials brought in by clients, he would sometimes see nice looking insurance needs analysis presentations along with various insurance policies. In spite of what his study materials had tried to do to sway him, he knew the truth. His most common comment was: “Look at this fancy report. Unfortunately, these guys only put it together to sell you policies that made them the most money. I’m confident I can get your insurance plan straightened out.”

How professional is Philip’s demeanor in this case.

Question #21:
Rule 6.2

- Marley has a great financial planning practice. He sees 20 clients a week, all fee paying, sells investments, insurance, and does tax returns. As expected, 60 - 70 hour weeks are the norm. He is so busy that he doesn’t have a lot of time to read or take CE courses. He receives e-mails and mailings about CE programs that can provide his necessary hours, at bargain prices. As the deadline approaches for his CE requirements, he starts calling on these folks and finds that he can get all of his hours by reading the materials sent and taking a quiz that is intended to verify that he read all of the material. One of the reps told him that most people can get 10 hours worth of credits in about two and a half hours with each of their programs. Knowing he can’t possibly find all the CE courses to attend before his time runs out, he signs up for three “courses” that will provide all of his hours.

Is Marley meeting the requirements of the rules that apply to the principle of Competence?

Question #22:
RULE 6.5

- Hal earned his certification in 1978. He is quite proud of the fact that he was an early member of the profession. With a thriving practice and great respect from the financial planning community, he was often asked for interviews about financial planning topics. In one interview he was asked about the difference in certification requirements today compared to when he became certified. He told the interviewer that in his opinion CFP Board candidates of the last 10 years had a much more difficult time qualifying than those who came earlier.

He emphasized that the long-standing CFP® certificants he knows who have worked hard to improve the image of the CFP® mark and to expand their own knowledge. The profession has matured over the years and refined its focus and image a number of times. Hal told the interviewer that he was comfortable with the way CFP Board had focused on the activities of the profession and had worked to create practical guidelines for CFP Board certificants. He stated that he would prefer it if the CFP Board made it more clear as to what a financial planner does. Right now, financial planners operate in so many different ways and with so many different focuses that it is hard to point to a specific set of activities and say that those are the things that make someone a financial planner. He said that it probably wasn't possible, but that it was something he thought about a lot.

Has a violation taken place here?

SECTION VII. - SUPPLEMENT

FINANCIAL PLANNING PRACTICE STANDARDS – Official Standards from CFP® Board website – *prior live discussion covered from pages 18-39*

Script:

The CFP Board has established an ongoing process of developing *Financial Planning Practice Standards*. This is the most recent development in CFP Board’s efforts to improve the image of the CFP® marks.

THE PRACTICE STANDARDS

Financial Planning Practice Standards

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STATEMENT OF PURPOSE FOR FINANCIAL PLANNING PRACTICE STANDARDS

Financial Planning Practice Standards are developed and promulgated by Certified Financial Professional 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 CERTIFICANT™ professionals is based on established norms of practice;
2. Advance professionalism in financial planning; and
3. Enhance the value of the financial planning process.

HISTORY OF PRACTICE STANDARDS

CFP Board is a professional regulatory organization founded in 1985 to benefit the public by establishing and enforcing education, examination, experience and ethics requirements for CFP® professionals. Through its certification process, CFP Board established fundamental criteria necessary for competency in the financial planning profession. 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.

The *Practice Standards* were developed for selected financial planning activities identified in a financial certificant job analysis first conducted by CFP Board in 1987, updated in 1994 by CTB/McGraw-Hill, an independent consulting firm, and again in 1999 by the Chauncey Group. The financial planning process is defined as follows:

FORMAT OF 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 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.

1. Establishing and defining the relationship with a client
2. Gathering client data
3. Analyzing and evaluating the client's financial status
4. Developing and presenting financial planning recommendations
5. Implementing the financial planning recommendations
6. Monitoring

100-1 Defining the Scope of the Engagement

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

200-2 Obtaining Quantitative Information and Documents

300-1 Analyzing and Evaluating the Client's Information

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

400-2 Developing the Financial Planning Recommendation(s)
400-3 Presenting the Financial Planning Recommendation(s)
500-1 Agreeing on Implementation Responsibilities
500-2 Selecting Products and Services for Implementation
600-1 Defining Monitoring Responsibilities

FINANCIAL PLANNING PROCESS RELATED *PRACTICE STANDARD*

Practice Standards 100 Series

ESTABLISHING AND DEFINING THE RELATIONSHIP WITH THE CLIENT

100_1: Defining the Scope of the Engagement

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

Explanation of this Practice Standard

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

This process is accomplished in financial planning engagements by:

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

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

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

As the relationship proceeds, the scope may change by mutual agreement.

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

Effective Date

Original version, January 1, 1999. Updated version, January 1, 2002.

Relationship of this Practice Standard to CFP Board’s Code of Ethics and 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.

Practice Standards 200 Series

GATHERING CLIENT DATA

200_1: Determining a Client's Personal and Financial Goals, Needs and Priorities

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

Explanation of this Practice Standard

Prior to making recommendations to the client, the financial planning practitioner and the client shall mutually define the client's personal and financial goals, needs and priorities. In order to arrive at such a definition, the practitioner will need to explore the client's values, attitudes, expectations, and time horizons as they affect the client's goals, needs and priorities. The process of "mutually-defining" is essential in determining what activities may be necessary to proceed with the client engagement. Personal values and attitudes shape the client's goals and objectives and the priority placed on them. Accordingly, these goals and objectives must be consistent with the client's values and attitudes in order for the client to make the commitment necessary to accomplish them.

Goals and objectives provide focus, purpose, vision and direction for the financial planning process. It is important to determine clear and measurable objectives that are relevant to the scope of the engagement. The role of the practitioner is to facilitate the goal-setting process in order to clarify, with the client, goals and objectives. When appropriate, the practitioner shall try to assist clients in recognizing the implications of unrealistic goals and objectives.

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

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

Effective Date

Original version, January 1, 1999. Updated version, January 1, 2002.

Relationship of this Practice Standard to CFP Board's Code of Ethics and 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 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:

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

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

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

Effective Date

Original version, January 1, 1999. Updated version, January 1, 2002.

Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility*

This *Practice Standard* relates to CFP Board's *Code of Ethics and 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.

Practice Standards 300 Series

ANALYZING AND EVALUATING THE CLIENT'S FINANCIAL STATUS

300_1: Analyzing and Evaluating the Client's Information

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

Explanation of this *Practice Standard*

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

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

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

Analysis and evaluation are critical to the financial planning process. These activities form the foundation for determining strengths and weaknesses of the client's financial situation and current course of action. These activities may also identify other issues that should be addressed.

As a result, it may be appropriate to amend the scope of the engagement and/or to obtain additional information.

Effective Date

Original version, January 1, 2000. Updated version, January 1, 2002.

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.

Practice Standards 400 Series

DEVELOPING AND PRESENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

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.

Effective Date

Original version, January 1, 2001. Updated version, January 1, 2002.

Relationship of this Practice Standard to CFP Board's Code of Ethics and 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.

Effective Date

Original version, January 1, 2001. Updated, effective January 1, 2002.

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.

Effective Date

Original version, January 1, 2001. Updated version, January 1, 2002.

Relationship of this Practice Standard to CFP Board's Code of Ethics and 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.

Practice Standards 500 Series

IMPLEMENTING THE FINANCIAL PLANNING RECOMMENDATION(S):

500_1: Agreeing on Implementation Responsibilities

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

Explanation of this Practice Standard

The client is responsible for accepting or rejecting recommendations and for retaining and/or delegating implementation responsibilities. The financial planning practitioner and the client shall mutually agree on the services, if any, to be provided by the practitioner. The scope of the engagement, as originally defined, may need to be modified.

The practitioner's responsibilities may include, but are not limited to the following:

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

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

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

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

Effective Date

January 1, 2002.

Relationship of this Practice Standard to CFP Board's Code of Ethics and 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.

Effective Date

January 1, 2002.

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.

Practice Standards 600 Series

MONITORING

600_1: Defining Monitoring Responsibilities

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

Explanation of this Practice Standard

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

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

The monitoring process may reveal the need to reinstate steps of the financial planning process.

The current scope of the engagement may need to be modified.

Effective Date

January 1, 2002.

Relationship of this Practice Standard to CFP Board's Code of Ethics and 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 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.