

PREAMBLE

The Florida Certification Board (referred to herein as "the Board" or "FCB") provides certification for substance abuse counselors, prevention specialists, and criminal justice professionals in the State of Florida. The purpose of the FCB's voluntary certification process is to assure consumers, the public, and employers that individuals certified by FCB are capable and competent, have been through a certain organized set of experiences, and have been judged to be qualified. FCB is dedicated to the principle that professionals in the field of alcohol and drug treatment must conform their behavior to the highest standards of ethical practice. To that end, the FCB has adopted this *Certified Professional Code of Conduct* (referred to herein as "the Code" or "the Code of Conduct"), to be applied to all professionals, certified or seeking certification.

The Code is divided into three sections: (1) a Glossary of key terms used in the Code; (2) the Rules of Conduct, which sets forth the standards that certified professionals or those seeking certification are required to observe and discussions of selected standards; and (3) the Disciplinary Procedures that will be followed by the Board in investigating suspected or alleged violations of the Rules. The Board is committed to investigate and sanction those certified professionals or those seeking certification who breach this Code. Certified professionals or those seeking certification are therefore encouraged to thoroughly familiarize himself/herself with the Code and to guide their behavior according to the Rules set forth within this Code.

GLOSSARY

CONSUMER	Any person seeking or assigned the services of a FCB certified professional or person seeking certification, regardless of the certified professional or person seeking certification's work setting.
COMPLAINANT	A person who files a formal complaint with the FCB against a certified professional or a person seeking certification under FCB jurisdiction.
CONTINUUM OF CARE	The range of services deemed appropriate and necessary for an individual consumer. Such services may include but are not limited to prevention, intervention, outreach, information and referral, detoxification, inpatient or outpatient services, extended care, transitional living facilities, and aftercare.
CERTIFIED PROFESSIONAL	Any person who holds any credential issued by FCB.
ETHICS COMMITTEE	FCB standing committee charged with the responsibility of sanctioning certified professionals or persons seeking certification who breach the Code of Conduct, as well as amending and reviewing all appropriate documentation, and charged with all other responsibilities deemed necessary.
FCB PROFESSIONAL CLASSIFICATIONS	Classifications offered by FCB: <ol style="list-style-type: none">1. Certified Addictions Professional (CAP): Certified Associate Addictions Professional Levels 1 and 2 (CAAP-1 and CAAP-2).2. Certified Addictions Prevention Professional (CAPP); Certified Associate Addictions Prevention Professional Levels 1 and 2 (CAAPP-1 and CAAPP-2)3. Certified Criminal Justice Addictions Professional (CCJAP); Certified Criminal Justice Associate Addictions Professional Levels 1 and 2 (CCJAAP-1 and CCJAAP-2)

HEARING COMMITTEE	Three certified professionals and a non-voting Hearing Officer appointed by the Board to hear a Respondent's appeal.
HEARING OFFICER	A non-voting member of a Hearing Committee appointed by the Board who presides over a Respondent's appeal hearing. The Hearing Officer may or may not be a certified professional.
PERSON SEEKING CERTIFICATION	Any individual who has an application for certification, at any level, on file with the FCB.
PLAGIARISM	The act of appropriating the language, ideas, or thoughts from another person, organization, or entity and representing them as one's own original work.
PUBLIC REPRIMAND	A sanction that is a formal, written, published reproof or warning to a Respondent who the Ethics Committee has determined to have breached the Code of Conduct.
RESPONDENT	A certified professional or person seeking certification who is the subject of a formal complaint alleging a breach of the Code of Conduct.
REVOCAION	A sanction resulting in the complete forfeiture of FCB certification, or application for certification, for a period of at least 36 months.
SEXUAL MISCONDUCT	When a certified professional or person seeking certification engages, attempts to engage, or offers to engage a consumer in sexual behavior, or any behavior, whether verbal or physical, which is intended to be sexually arousing, including kissing; sexual intercourse, either genital or anal; cunnilingus; fellatio; or the touching by either the professional or person seeking certification or the consumer of the other's breasts, genital areas, buttocks, or thighs, whether clothed or unclothed.
SUPERVISEE	An individual that works under the direct supervision of a certified professional, and works in the capacity of delivering direct services to consumers of addiction services.
SUSPENSION	A sanction resulting in the temporary forfeiture of FCB certification or application for certification for a period of time to be determined by the FCB.
WRITTEN CAUTION	A sanction that is a formal, private, non-publicized letter of warning to a Respondent who the Ethics Committee has determined to have breached the Code of Conduct and which cautions the Respondent against certain conduct or behavior.

RULES of CONDUCT

The following Rules of Conduct, adopted by the Florida Certification Board, set forth the minimum standards of conduct which all certified professionals or those seeking certification are expected to honor. Failure to comply with an obligation or prohibition set forth in the Rules may result in discipline by the FCB.

Discussion sections accompany some of the Rules. These discussions are intended to interpret, explain, or illustrate the meaning of the rules, but the rules themselves remain the authoritative statements of the conduct for which disciplinary action may be imposed.

I. APPLICABILITY

Rule 1.1 The rules within this FCB *Certified Professional Code of Conduct* apply to all professionals certified by or seeking certification through FCB.

II. PROFESSIONAL STANDARDS

Rule 2.1 A certified professional or person seeking certification shall meet and comply with all terms, conditions, or limitations of any professional certification or license which they hold.

Rule 2.2 A certified professional or person seeking certification shall not perform services outside of their area of training, expertise, competence, or scope of practice.

Discussion: A certified professional or person seeking certification should not use a modality or a technique if the certified professional or person seeking certification does not have the education, training, or skills to perform a modality or a technique in a competent or qualified manner.

Rule 2.3 A certified professional or person seeking certification shall not fail to obtain an appropriate consultation or make an appropriate referral when the consumer's problem is beyond the area of training, expertise, competence, or scope of practice of the certified professional or person seeking certification.

Discussion: Most certified professionals or those seeking certification strive to achieve and maintain the highest level of professional competence. In order to provide the highest standard of therapy for consumers, certified professionals or those seeking certification must maintain the commitment to assess their own personal strengths, limitations, biases, and effectiveness.

When a certified professional or person seeking certification recognizes that a consumer's therapeutic needs exceed their education, training, and capabilities, the certified professional or person seeking certification must pursue advice and counsel from colleagues and supervisors. When a consumer's therapeutic issues are outside their level of professional functioning or scope of practice, the certified professional or person seeking certification must refer the consumer to another professional who will provide the appropriate therapeutic approach for the consumer.

Rule 2.4 A certified professional or person seeking certification shall not in any way participate in discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, socio-economic status, political belief, psychiatric or psychological impairment, physical disability, or the amount of previous therapeutic or treatment occurrences.

Rule 2.5 A certified professional or person seeking certification shall seek therapy for any psychoactive substance abuse or dependence, psychiatric or psychological impairment, emotional distress, or for any other physical health related adversity that interferes with their professional functioning, and where any such conditions exist and impede their ability to function competently, a certified professional or person seeking certification shall request inactive status for medical reasons for so long as is necessary.

Rule 2.6 A certified professional or person seeking certification has a responsibility both to the client and/or participant(s) and to the organization within which the service is performed to maintain a high standard of ethical conduct. The moral, ethical and legal standards of behavior of the certified professional or person seeking certification are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities or reduce the trust in addiction professionals or those seeking certification held by the general public. This includes:

1. Awareness of the prevailing community standards and of the possible impact upon the quality of professional services provided by their conformance to or deviation from these standards;
2. Serve as a role model in the certified professionals or person seeking certifications'

- use of alcohol or other mood altering drugs.
3. Reporting to an employer, supervisor, colleague or the addiction professional or person seeking certification's intervention program when difficulty with mood altering substance(s) are experienced.

Discussion: Private conduct of a certified professional or person seeking certification remains a personal matter to the same degree as any other person. However, when conduct compromises the fulfillment of professional responsibilities, the certified professional or person seeking certification bears the responsibility for any misconduct in all areas of their professional life. When a certified professional or person seeking certification's personal life begins to adversely affect professional performance, affecting the quality of service delivered, and thus putting the consumer at risk, the certified professional or person seeking certification must take sufficient and immediate action to resolve any personal adversity that interferes with their professional functioning. This may include but is not limited to seeking professional assistance or requesting inactive status for medical reasons.

The certified professional or person seeking certification should expect his or her employer to intervene when the certified professional or person seeking certification's personal problems begin to adversely affect their professional performance with consumers and coworkers.

Rule 2.7 The certified professional or person seeking certification shall not discontinue professional services to a consumer nor shall the certified professional or person seeking certification abandon the consumer without facilitating an appropriate therapeutic closure of professional services for the consumer.

Discussion: The certified professional or person seeking certification shall not discontinue professional services to a consumer unless:

1. services have been completed;
2. the consumer requests the discontinuation;
3. alternative or replacement services are arranged; or
4. the consumer is given reasonable opportunity to arrange alternative or replacement services.

Rule 2.8 A certified professional or person seeking certification shall not reveal confidential information obtained as the result of a professional relationship, without the prior written consent from the recipient of services, except as authorized or required by law.

Discussion: Except as may otherwise be indicated in this Code, certified professionals or those seeking certification are expected to preserve all consumer confidences and refrain from revealing confidential information obtained as a result of the certified professional-consumer or person seeking certification-consumer relationship, except as may be authorized by the consumer or required or authorized by law. Certified professionals or those seeking certification are expected to be familiar with and act in accordance with federal and state regulations concerning confidentiality of participant records and identifying information.

III. UNLAWFUL CONDUCT

Rule 3.1 Being convicted or found guilty, regardless of adjudication, or entering a plea of nolo contendere to any crime relating to the certified professional or person seeking certification's ability to practice the substance abuse counseling profession to include intervention, prevention, and criminal justice services shall be grounds for disciplinary action.

Rule 3.2 A certified professional or person seeking certification shall not use, possess, or sell any controlled or psychoactive substance. Being convicted or found guilty, regardless of adjudication, or entering a plea of nolo contendere to any crime which involves the use of any controlled or psychoactive substance shall be grounds for disciplinary action.

Rule 3.3 If a certified professional or person seeking certification is reprimanded by any agency or organization through any administrative proceedings, this may be grounds for disciplinary action by this body.

Discussion: Any public record pertaining to an arrest, charge, disposition or sentencing of a certified professional or person seeking certification, shall be deemed as conclusive evidence of guilt of the felony or misdemeanor for which he or she has been convicted. If that felony or misdemeanor relates to the individual's ability to practice the substance abuse counseling profession, the fact of conviction shall also be proof of violation of this Rule. Some specific examples within this section include but are not limited to crimes involving violence, use or sale of drugs, fraud, theft, sexual misconduct, or other felonies. All proceedings in which the sentence has been deferred, suspended, adjudication withheld, or a conviction expunged shall be deemed a conviction within the meaning of this section. For example, an AHCA investigation of a certified professional or person seeking certification could provide the independent grounds for an investigation.

IV. SEXUAL MISCONDUCT (Defined in Section I)

Rule 4.1 A certified professional or person seeking certification shall not engage in any form of sexual contact/behavior (as defined in Section I, *Sexual Misconduct*) with consumers. The prohibition shall apply with respect to any consumer of the agency by which the certified professional or person seeking certification is employed, regardless of whether or not the consumer is on their caseload. For the purposes of determining the existence of sexual misconduct the professional-consumer relationship, once established, is deemed to continue for a minimum of 2 years after the termination of services or the date of the last professional contact with the consumer.

Discussion: The Board finds that the effects of the certified professional-consumer or person seeking certification-consumer relationship can be powerful and subtle and that consumers can be influenced consciously and subconsciously by the unequal distribution of power inherent in such relationships. Furthermore, the Board finds that the effects of the establishment of a professional-consumer relationship can endure after services cease to be rendered. The certified professional or person seeking certification is responsible for acting in the best interest of the consumer even after the termination of services. The professional shall not engage in or request sexual contact with a former consumer at any time if engaging with that consumer would be exploitative, abusive or detrimental to that consumer's welfare. A certified professional-consumer or person seeking certification-consumer relationship is established between a professional and a person once a professional renders, or purports to render addictions, prevention, or criminal justice services including but not limited to, counseling, assessment, or treatment to that person. A formal contractual relationship, the scheduling of professional appointments, or payment of a fee for services are not necessary conditions for the establishment of a professional-consumer relationship, although each of these may be evidence that such a relationship exists.

Rule 4.2 A certified professional or person seeking certification shall not:

1. Engage a supervisee in sexual misconduct (as defined in the Code's Glossary) during the period a supervisory relationship exists.
2. Engage in sexual misconduct (as defined in the Code's Glossary) with any immediate family member or guardian of a consumer during the period of time services are being rendered to the consumer, during the entire professional consumer relationship pursuant to rule 4.1. "Immediate family" shall be defined as spouse, child, parents, parent-in-laws, siblings, grandchild, grandparents, and other household members.

V. FRAUD-RELATED CONDUCT

Rule 5.1 A certified professional or person seeking certification shall not:

1. Present or cause to be presented a false or fraudulent claim, or any proof in support of such claim, to be paid under any contract or certificate of insurance;

2. Prepare, make or subscribe to a false or fraudulent account, certificate, affidavit, proof of loss or other document or writing, with knowledge that the same may be presented or used in support of a claim for payment under a policy of insurance; or
3. Present or cause to be presented a false or fraudulent claim or benefit application, or any false or fraudulent proof in support of such a claim or benefit application, or false or fraudulent information which would affect a future claim or benefit application, to be paid under any employee benefit program.

Discussion: The term "fraudulent claim" includes but is not limited to charging a consumer or a third-party payer for a service not performed or submitting an account or charge for services that is false or misleading. It does not include charging for an unkept appointment.

Rule 5.2 A certified professional or person seeking certification shall not use misrepresentation in the preparation of an application for certified professional certification or in the procurement of certification or recertification as an alcohol or drug certified professional, or assist another in the preparation of an application for certification or in the procurement of registration, certification or re-certification through misrepresentation. The term "misrepresentation" includes but is not limited to the misrepresentation of professional qualifications, certification, accreditation, affiliations, employment experience, educational experience, the plagiarism of application and recertification materials, or the falsification of references.

Rule 5.3 A certified professional or person seeking certification shall not use a title designation, credential or license, firm name, letterhead, publication, term, title, or document which states or implies an ability, relationship, or qualification that does not exist.

Rule 5.4 A certified professional or person seeking certification shall not practice under a false name or under a name other than the name under which his or her certification or license is held.

Rule 5.5 A certified professional or person seeking certification shall not sign or issue in the professional capacity a document or a statement that the certified professional or person seeking certification knows or should have known to contain a false or misleading statement.

Rule 5.6 A certified professional or person seeking certification shall not produce, publish, create, or partake in the creation of any false, fraudulent, deceptive, or misleading advertisement.

VI. EXPLOITATION OF CONSUMERS

Rule 6.1 A certified professional or person seeking certification shall not develop, implement, or maintain exploitative relationships with current or past consumers.

Discussion: Certified professionals or those seeking certification must remain "honest and self-searching in determining the impact of their behavior on the consumer. Ethical problems are often raised when a certified professional or person seeking certification blends his or her professional relationship with a consumer with another kind of relationship. Behavior is unethical when it reflects a lack of awareness or concern about the impact of the behavior on the consumers. Certified professionals or those seeking certification who engage in more than one role with consumers may be trying to meet their own financial, social, or emotional needs." (1993, Corey G., Corey M., & Callanan, P.)¹

The nature of the consumer-professional relationship is such that the consumer remains vulnerable to the real or perceived influences of the certified professional or person seeking certification. Certified professionals or those

¹ A resource and reference utilized regarding the Exploitation of Consumers section was *Issues and Ethics in the Helping Professions* (1993, 4th ed.) by G. Corey, M. Corey, & P. Callanan published by Brooks/Cole.

seeking certification, who are in a position to influence a consumer's behavior, may impose their own desires upon the consumer.

Rule 6.2 A certified professional or person seeking certification shall not misappropriate property from a consumer.

Rule 6.3 A certified professional or person seeking certification shall not enter into a relationship with a consumer which involves financial gain to the certified professional or person seeking certification or a third party resulting from the promotion or the sale of services unrelated to treatment or of goods, property, or any psychoactive substance.

Rule 6.4 A certified professional or person seeking certification shall not promote to a consumer for personal gain, any unnecessary, ineffective or unsafe psychoactive substance, or any unnecessary, ineffective or unsafe device, treatment, procedure, product or service.

Rule 6.5 A certified professional or person seeking certification shall not solicit gifts or favors from consumers.

Discussion: When a certified professional or person seeking certification "plays" or "preys" upon the consumer's gratitude for counseling services; or covertly or overtly implies or states that the consumer remains indebted to the certified professional or person seeking certification and should "repay" him or her through gifts or other favors, their unique position of trust and responsibility with the consumer not only becomes jeopardized, but the certified professional or person seeking certification has also engaged in actions antithetical to the counseling profession.

Rule 6.6 A certified professional or person seeking certification shall not offer, give, or receive commissions, rebates, or any other forms of remuneration for a consumer referral.

Discussion: Notwithstanding this provision, a certified professional or person seeking certification may pay an independent advertising or marketing agent compensation for advertising or marketing services rendered on their behalf by such agent, including compensation for referrals of consumers identified through such services on a per consumer basis.

VII. SAFETY & WELFARE

Rule 7.1 In circumstances where the certified professional or person seeking certification becomes aware, during the course of providing or supervising professional services, that a condition of clear and imminent danger exists that a consumer may inflict serious bodily harm on another person or persons, the certified professional or person seeking certification shall, consistent with federal and state regulations concerning the confidentiality of alcohol and drug counseling records, take reasonable steps to warn any likely victims of the consumer's behavior.

Discussion: If during the course of treating a participant, a certified professional or person seeking certification becomes aware that a consumer intends or is likely to commit some act which may result in serious bodily harm to another person or persons and there is a clear and imminent danger of such harm occurring, the certified professional or person seeking certification has a duty to take reasonable steps to warn such persons. In doing so, the certified professional or person seeking certification should be aware that state and federal regulations set forth rules concerning the confidentiality of certified professional-consumer or person seeking certification-consumer communications and consumer records and identifying information. In cases where the threat is of the commission of a crime on agency premises or against agency personnel, the rules may allow disclosure of the circumstances of the threatened crime and identity of the consumer directly to law enforcement officers. In some instances, however, in order to warn the likely victims of the consumer's actions it may be necessary for the certified professional or person seeking certification or their agency to make an emergency application to a court for an order permitting disclosure of information concerning the consumer or communications from the consumer

before such information can be disclosed.

Rule 7.2 In circumstances where the certified professional or person seeking certification becomes aware, during the course of providing or supervising professional services, that a condition of clear and imminent danger exists that a consumer may inflict serious bodily harm to himself or herself, the certified professional or person seeking certification shall, consistent with federal and state regulations concerning the confidentiality of alcohol and drug counseling records, take reasonable steps to protect that consumer.

Discussion: If during the course of treating a participant, a certified professional or person seeking certification becomes aware that a consumer intends or is likely to inflict serious bodily harm to himself or herself and that there is a clear and imminent danger of such harm occurring, the certified professional or person seeking certification has a duty to take reasonable steps to protect the consumer. In doing so, the certified professional or person seeking certification should be aware that state and federal regulations set forth rules concerning the confidentiality of certified professional-consumer or person seeking certification-consumer communications and consumer records and identifying information.

Under those rules, it may be permissible in some cases to communicate information about an individual if done in a manner that does not disclose the individual's status as a participant in alcohol or drug abuse counseling. In other cases, however, in order to protect the consumer, it may be necessary for the certified professional or person seeking certification or their agency to make an emergency application to a court for an order permitting disclosure of information concerning the consumer or communications from the consumer before such information can be disclosed.

Rule 7.3 A certified professional or person seeking certification shall not administer to himself or herself any psychoactive substance to the extent or in such manner as to be dangerous or injurious to a consumer of services, to any other person, or to the extent that such use of any psychoactive substance impairs the ability of the certified professional or person seeking certification to safely and competently provide professional counseling services.

VIII. RECORDS MANAGEMENT

Rule 8.1 A certified professional or person seeking certification shall not falsify, amend, knowingly make incorrect entries, or fail to make timely essential entries into the consumer record.

Rule 8.2 A certified professional or person seeking certification shall follow all Federal and State regulations regarding consumer records.

IX. ASSISTING UNLICENSED PRACTICE

Rule 9.1 A certified professional or person seeking certification shall not refer a consumer to a person that the certified professional or person seeking certification knows or should know is not qualified by training, experience, certification, or license to perform the delegated professional responsibility.

X. DISCIPLINE IN OTHER JURISDICTIONS

Rule 10.1 A certified professional or person seeking certification shall not practice substance abuse counseling during the period of any denial, suspension, revocation, probation, or other restriction or discipline on certification, license, or other authorization to practice issued by any certification authority or any state, province, territory, tribe, or the federal government.

XI. COOPERATION WITH THE BOARD

Rule 11.1 A certified professional or person seeking certification shall cooperate in any investigation

conducted pursuant to this Code of Conduct and a certified professional or person seeking certification shall not interfere with an investigation or a disciplinary proceeding or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed. Interference attempts may include but are not limited to:

1. the willful misrepresentation of facts before the disciplining authority or its authorized representative;
2. the use of threats or harassment against, or an inducement to, any consumer or witness in an effort to prevent them from providing evidence in a disciplinary proceeding or any other legal action;
3. the use of threats or harassment against, or an inducement to, any person in an effort to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted or completed.

Rule 11.2 A certified professional or person seeking certification shall report any violation of the Code of Conduct. Failure to report a violation may be grounds for discipline.

Rule 11.3 A certified professional or person seeking certification who has firsthand knowledge of the actions of a respondent or a complainant shall cooperate with a FCB complaint investigation or disciplinary proceeding. Failure or an unwillingness to cooperate in a FCB complaint investigation or disciplinary proceeding shall be grounds for disciplinary action.

Rule 11.4 A certified professional or person seeking certification shall not file a complaint or provide information to the FCB which the certified professional or person seeking certification knows or should have known is false or misleading.

Rule 11.5 In submitting any information to the Board, a certified professional or person seeking certification shall comply with any requirements pertaining to the disclosure of consumer information established by the federal or state government.

Discussion: The primary commitment of the certified professional or person seeking certification is to the health, welfare, and safety of a consumer. As an advocate for the consumer, the certified professional or person seeking certification must take appropriate action to report instances of incompetent, unethical, or illegal practice by other certified professionals or those seeking certification that places the rights or best interests of the consumer in jeopardy.

DISCIPLINARY PROCEDURES

I. CONFIDENTIALITY of PROCEEDINGS

Except as is otherwise provided herein, all information received and all reports, decisions files, transcripts or any other documents, of any kind, generated or received during the course of a disciplinary proceeding shall be kept confidential by the FCB and the respondent.

II. CODE of CONDUCT SANCTIONS

A. Possible sanctions for violation of the *Code of Conduct* include:

1. Denial of application for certification, at any level, by FCB.
2. Written Caution
3. Public Reprimand
4. Suspension or Revocation of the following credentials:
 - a. CAP, CAAP-2, CAAP-1
 - b. CAPP, CAAPP-2, CAAPP-1

c. CCJAP, CCJAAP-2, CCJAAP-1

- B. The FCB may also impose fines, or education and training requirements in conjunction with any of the above sanctions. Fines will be imposed according to the following rates:
- 1st Offense - \$500.00
 - 2nd Offense - \$750.00
 - 3rd Offense – \$1,000.00
- A third offense within a two-year period shall result in immediate suspension or revocation of credential.
- C. Past disciplinary actions taken against a certified professional or person seeking certification by FCB may be considered in setting sanctions. Two or more written cautions or reprimands issued against a certified professional by FCB in a two year period shall result in a suspension or a revocation of the certified professional's credential.
- D. Except as may be provided for in a consent order, in all cases where a public reprimand, suspension, or revocation is issued by the FCB, there shall be cited in the FCB *Briefings . . . a newsletter for addiction professionals* the name of the respondent, the rule violated, and the sanction imposed, and in all cases where a revocation has been issued, the same information shall be published in the newspaper of record within the county where the offense occurred and in the newspaper of record within the county where the respondent is employed or was previously employed; and the same information shall be referred to other pertinent certifying/licensing organizations such as but not limited to the ICRC/AODA Data Bank, ICRC member states, the Florida Agency for Health Care Administration, the Florida Department of Health, the Florida Department of Children and Families, the Florida Department of Corrections, and the Florida Department of Juvenile Justice.

III. COMPLAINTS

- A. Persons wishing to file a complaint against a certified professional or against a person seeking certification may do so by obtaining and filling out a formal complaint form. Complaint forms may be obtained from the FCB office.
- B. All complaint forms must contain the complainant's address and a phone number where the complainant can be contacted. The complainant must sign and date the complaint form.
- C. Completed complaint forms shall be mailed to:
- Executive Director-Investigation
 - Florida Certification Board
 - 1715 South Gadsden Street
 - Tallahassee, FL 32301
- D. The Executive Director shall acknowledge receipt of the complaint and initiate the investigation process.
- E. The Executive Director, on behalf of the FCB, may file a complaint against a certified professional or against a person seeking certification.

IV. INVESTIGATION PROCESS

- A. In all cases, the Executive Director shall, prior to beginning the review and/or investigation of a complaint, notify the respondent by certified mail of the name of the complainant(s), if any, and a copy of the complaint against him/her. Within 20 days or a time otherwise specified by the Executive Director, the respondent shall be entitled to submit a written response, including any documentary evidence and list of witnesses that the respondent believes will assist the Board in its review of the allegations of professional misconduct and disclose all facts and circumstances pertaining to the alleged misconduct, as well as the respondent's

interpretation of the situation or conduct which is the subject of the investigation. Misrepresentation by a respondent, failure to provide information, or failure to cooperate with the investigation shall be independent grounds for disciplinary action.

- B. The Executive Director shall conduct an initial review of all complaints and responses filed with the FCB.
- C. The FCB recognizes that there may be some cultural differences regarding the interpretation of rules. In cases where cultural norms are used as a defense against a complaint, the Executive Director may seek assistance of cultural leaders, teachers, or elders to assist in understanding the cultural norms in question. The FCB, its Ethics Committee, and the Executive Director will strive to be appropriately sensitive to cultural differences throughout the disciplinary process.
- D. After the initial review is complete, the Executive Director may (1) suggest to the Ethics Committee that it dismiss the complaint without further investigation or (2) initiate and direct an investigation, to the extent the Executive Director deems sufficient, of any or all allegations of professional misconduct against a certified professional or person seeking certification, regardless of whether such allegations come to the Board's attention by means of a formal complaint, during the course of the disciplinary process, or by any other means. In supervising investigations, the Executive Director may use the FCB Complaints Investigator and other investigators where deemed appropriate. Except as otherwise provided herein, all FCB investigatory information remains confidential to the Board and its committee. If during the course of the investigation it appears that criminal behavior may have occurred, the FCB's Executive Director may report the alleged criminal behavior to the appropriate authority.
- E. If a complaint has been filed, the Executive Director may, at his or her discretion, proceed with an investigation even if the complainant subsequently requests that the complaint be withdrawn.
- F. In cases where, upon initial review, the Executive Director deems that no violation has occurred and that no further investigation is warranted, this conclusion shall be reported in writing to the Ethics Committee at its next quarterly meeting.
- G. In cases in which an investigation has been conducted, the Executive Director shall submit an Investigation Summary Report to the Ethics Committee, at its next quarterly meeting, recommending either that the complaint be dismissed or that disciplinary action be imposed. The grounds for the recommendation shall be stated in the report and, if disciplinary action is recommended, a statement of the nature of discipline recommended shall be made. A copy of the entire case shall be included with the report. In the event that the Executive Director has a conflict of interest with any party, the Executive Director will abdicate all responsibilities to the Ethics Committee Chairperson and shall excuse himself/herself from any involvement in the procedure.

V. ACTION by the ETHICS COMMITTEE

- A. Within 30 days of receipt of a recommendation from the Executive Director, the Ethics Committee shall issue a written Decision to the Executive Director based on the materials provided by the Executive Director, calling for one of the following:
 - 1. Dismissal of the complaint;
 - 2. Return of the complaint to the Executive Director for further investigation; or,
 - 3. Imposition of sanctions.
- B. If the Ethics Committee imposes a sanction, the Decision shall include Findings of Fact, a Conclusion as to which Rules of Conduct have been violated, and the sanction to be imposed. The Decision shall recite the nature of the complaint, a summary of the investigation conducted, and the respondent's rebuttal to the complaint.

- C. Within seven (7) days after the issuance of the Ethics Committee's Decision, the Executive Director shall mail a copy to the complainant and respondent, by certified mail, together with a notice of the right to appeal any Ethics Committee Decision.
- D. If a request for an Appeal Hearing is timely filed, all administrative procedure shall be stayed pending the decision of the Hearing Committee. However, in the event that a request for appeal is not filed within the time period prescribed hereafter, the Decision of the Ethics Committee shall be final, and any disciplinary action imposed shall take effect upon passage of the prescribed time period.

VI. APPEAL PROCESS

- A. Either the complainant or the respondent may appeal the decision by submitting a request for an appeal hearing to the FCB. Such requests shall be mailed to the FCB by certified mail and postmarked no later than twenty (20) days after receipt of the Decision. Appeal requests should be addressed to: President, Board of Directors ▪ Florida Certification Board ▪ 1715 South Gadsden Street ▪ Tallahassee, FL 32301.
- B. If a timely request for an appeal hearing is submitted to the FCB, the Board shall appoint a Hearing Committee. No member of the Hearing Committee shall be a member of the Ethics Committee, nor shall anyone be appointed to the Hearing Committee who has a potential or actual conflict of interest with either the complainant or the respondent. All potential conflicts of interest will be disclosed and discussed prior to the appointment.
- C. Within twenty-one (21) days after the FCB receives a request for an appeal hearing, a hearing into the facts contained in the Decision of the Ethics Committee shall be scheduled, and the Executive Director shall send by certified mail a notice of the hearing to the complainant and the respondent. The hearing shall be scheduled no less than twenty-one (21) days nor more than ninety (90) days from the date of the hearing notice.
- D. The notice of hearing shall advise the respondent and the complainant of the following:
 - 1. The date, time, and the location of the hearing and the identity of the Hearing Committee members.
 - 2. Any party, at the party's own expense, may be represented by counsel at the hearing.
 - 3. The Ethics Committee or its representative shall present evidence in support of its recommendation at the hearing. Such evidence shall be limited to the issues and charges contained in the Decision of the Ethics Committee previously served.
 - 4. The appealing party may present and rebut evidence and present and cross-examine witnesses.
 - 5. The Hearing Committee shall not be bound by common law or statutory rules of evidence, and the Hearing Committee may consider all evidence having reasonable probative value, but a decision to impose discipline may not be based solely on a declarant's oral hearsay statement unless it would be admissible under common law or statutory rules of evidence.
 - 6. The Hearing Committee will base its decision as to whether a violation of the Code of Conduct has occurred solely upon the evidence presented at the hearing.
 - 7. Any party, at its own expense, may have a registered court reporter present to transcribe the proceedings, provided that the FCB is notified of such election at least five (5) days prior to the hearing and is supplied with a copy of the transcript.
 - 8. No discovery shall be permitted, and no access to FCB files shall be allowed to the respondent or the complainant.
 - 9. Any request for postponement of the hearing must be immediately served in writing to the FCB, and the decision to grant or deny such request is discretionary with the FCB, acting through its representative.
 - 10. There shall be no contact prior to the hearing between the complainant and the respondent, nor shall the complainant or the respondent be in contact with any FCB members for the purpose of discussing in any way the complaint or the Decision of the Ethics Committee.
- E. The Hearing shall be governed by the following rules:

1. The appealing party shall have the burden of proof at the Hearing and shall present its case to the Hearing Committee first with a right to rebut the Ethics Committee's presentation.
 2. Evidence may be presented and witnesses examined and cross-examined by both sides. The evidence presented by the Ethics Committee shall be limited to the issues and charges contained in the Decision of the Ethics Committee previously served on the complainant and respondent.
 3. The Hearing Committee shall not be bound by common law or statutory rules of evidence and may consider all evidence having reasonable probative value. However, a decision to impose discipline shall not be based solely on a declarant's oral hearsay statement unless it would be admissible under common law or statutory rules of evidence.
 4. The hearing shall be presided over by a Hearing Officer, and objections concerning evidence shall be resolved by the Officer. The Hearing Officer shall be a non-voting member of the Hearing Committee.
 5. The Hearing Committee's Decision shall be based solely upon the testimony and evidence presented at the hearing
 6. The hearing shall be closed to the public.
- F. Failure of the appealing party to attend the hearing shall be deemed a waiver of the appeal. In such cases the hearing will be dismissed and the Decision of the Ethics Committee shall take immediate effect.
- G. Within twenty-one (21) days after the completion of the hearing, the Hearing Committee shall prepare a written decision containing Findings of Fact and a Conclusion as to whether any of the ethical principles or rules of the certified professional Code of Conduct have been breached. If the Hearing Committee determines that the respondent did breach the Code of Conduct, the committee will impose a disciplinary sanction, which shall be specified in the Committee's decision. The Hearing Committee shall submit its decision to the FCB's Executive Director who shall mail a copy of the decision to the complainant and respondent by certified mail.
- H. The decision of the Hearing Committee shall be deemed that of the FCB, shall be effective upon issuance or at such date as the Hearing Committee shall specify, and shall be final, without further action by the FCB.
- I. At any time prior to the issuance of the Hearing Committee's written decision, the respondent, complainant and/or the FCB, acting through its representative, may enter into a consent order. Such consent order shall state the nature of the complaint and the sanctions agreed upon and shall supersede any prior decision in the case. Sanctions imposed pursuant to a consent order are not limited to those listed under Section I.

VII. PROCEDURES and REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

- A. If a certified professional's FCB credential has been suspended or revoked and the certified professional does not appeal the Ethics Committee's Decision, or if the Hearing Committee upholds the suspension or revocation imposed by the Ethics Committee, the certified professional shall return his or her credential certificate and the FCB identification card to the FCB office no later than twenty-one (21) days after the suspension or revocation takes effect. The FCB credential certificate and identification card remain the property of the FCB.
- B. FCB credential reinstatement following a suspension: Upon expiration of the suspension period, the Ethics Committee shall authorize reinstatement of the certified professional for the balance of the certified professional's certification period, or allow a certified professional previously in process to reapply unless:
1. Another suspension or revocation of the respondent's certification or application for certified professional certification has occurred; or
 2. The respondent has committed another violation of the Certified professional Code of Conduct; or
 3. The respondent has failed to remit the annual recertification fees/continuing education requirements by the end of the annual renewal period; or
 4. The respondent has failed to comply fully with the terms of his or her suspension.

- C. FCB credential reinstatement following revocation: Following a respondent's FCB credential revocation, the FCB maintains sole discretion to grant the respondent permission to petition for removal of revocation. Such petition shall only be considered after:
1. The passage of thirty-six (36) months from the effective date of the revocation;
 2. The respondent seeking such permission has submitted a written request and provided the Ethics Committee a reasonable rationale as to why permission should be granted; and
 3. The respondent has reimbursed the FCB for the costs of the disciplinary proceedings, which costs shall be limited to the costs of investigation, the attorney fees, if any, incurred by the Board in the investigation and prosecution of the disciplinary proceedings, and any hearing costs including, but not limited to, the fees of the Hearing Officer which have been incurred by the Board.
 4. In the event that FCB approves a petition for removal of revocation, the respondent must follow the procedures prescribed for normal applications through the application process for certification and pass all required exams.

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