

DISCIPLINARY & COMPLAINTS POLICY

Policy Number: 200.010
Approved By: International Association of Forensic Nurses Board of Directors
Changes Authorized By: CFNC
Date Approved: March 21, 2013
Date Revised:

Information regarding the complaint process will be available to the public via the Association's website or other published documents. A complete copy of this policy will be made available to any individual upon request.

The CFNC has adopted the following procedures to allow individuals to bring complaints concerning the conduct of SANE-A and/or SANE-P certificants to the CFNC.

The grounds for sanctions under these procedures may include, but are not necessarily limited to:

- Any restrictions on the general or registered nursing license, such as revocation, suspension, probation, or other sanctions by a recognized nursing authority;
- Violation of established CFNC requirements and/or policies;
- Conviction of a felony or other crime of moral turpitude under federal, state/provincial, or similar law in a matter related to the practice of, or qualifications for, forensic nursing;
- Gross negligence or willful misconduct in the performance of SANE-A and/or SANE-P professional services, or other unethical or unprofessional conduct based on the formal determination of a licensing body;
- Fraud, falsification, or misrepresentation in an initial application or renewal application for certification;
- Falsification of any material information requested by the CFNC;
- Misrepresentation of SANE-A and/or SANE-P status; or
- Cheating on any SANE-A and/or SANE-P certification examination.

Actions taken under this policy do not constitute enforcement of the law, although referral to appropriate federal, state/provincial or similar, or local government agencies may be made about the conduct of the certificant in appropriate situations. Individuals who bring complaints are not entitled to any relief or damages by virtue of this process, although they will receive notice of the actions taken.

Complaints

Complaints may be submitted by any individual or entity. Complaints must be submitted to the CFNC in writing and include the name of the person submitting the complaint, the name of the person about whom the complaint is made, a detailed description of factual allegations supporting the charges, and

any relevant supporting documentation. Information submitted during the complaint and investigation process is considered confidential and will be handled in accordance with the CFNC's confidentiality policy. Inquiries or submissions other than complaints may be reviewed and handled by the CFNC or its staff members at its discretion.

Upon receipt and preliminary review of a complaint involving the certification program, the certification director in consultation with the CFNC Chair may conclude, in their discretion, that the submission:

- Contains unreliable or insufficient information, or
- Is patently frivolous or inconsequential.

In such cases, the certification director and CFNC Chair may determine that the submission does not constitute a valid and actionable complaint that would justify bringing it before the CFNC for investigation and a determination of whether a violation of substantive requirements of the certification process has occurred. If so, the certification director and CFNC Chair will notify the submitting party that no further action will be taken. All such preliminary dispositions by the CFNC Chair are reported to the CFNC at its next meeting.

Preliminary review will be conducted within fifteen (15) business days of receipt of the complaint.

If the certification director and the CFNC Chair deem a submission to be a valid and actionable complaint, the CFNC Chair will ensure that written notice is provided to the certificant whose conduct has been called into question, advising the certificant that a complaint has been received and informing the certificant of basic information about the complaint (including the name of the person submitting the complaint unless the CFNC considers this information to be confidential) and that an investigation is being initiated. The certificant whose conduct is at issue may submit information relevant to the complaint to the CFNC within fifteen (15) days of the notification. The Chair also will ensure that the individual submitting the complaint receives notice that the CFNC is reviewing the complaint.

Complaint Review

For each complaint that the Chair concludes is valid and actionable, the CFNC authorizes an investigation into the specific facts or circumstances to the extent necessary to clarify, expand, or corroborate the information provided by the submitter.

The Chair appoints a Review Committee of three (3) or more individuals, who may or may not be members of the CFNC, to investigate and make an appropriate determination with respect to each such valid and actionable complaint; the Review Committee may review one (1) or more such complaints as determined by the Chair. The Review Committee initially determines whether it may appropriately review the complaint under these policies or whether the matter should be referred to another entity engaged in the administration of law. Other members of the CFNC and/or the Association's staff or legal counsel may assist the Review Committee in the conduct of its investigation, if requested. The Chair exercises general supervision over all investigations.

Both the individual submitting the complaint and the certificant who is the subject of the investigation (or his or her employer) may be contacted for additional information with respect to the complaint. The Review Committee, or the CFNC on its behalf, may at its discretion contact such other individuals who may have knowledge of the facts and circumstances surrounding the complaint.

All investigations and deliberations of the Review Committee and the CFNC are conducted objectively, without any indication of prejudice, and are conducted in confidence, with all written communications sealed and marked "Personal and Confidential." An investigation may be directed toward any aspect of a complaint that is relevant or potentially relevant. Formal hearings are not held and the parties are not expected to be represented by counsel, although the Review Committee and CFNC may consult its own counsel.

Members of the Review Committee will be reimbursed for reasonable expenses incurred in connection with the activities of the Committee.

Determination of Violation

Upon completion of an investigation, the Review Committee submits a recommendation to the CFNC whether a certificant's conduct constitutes grounds for disciplinary action. If the Review Committee recommends that no grounds for disciplinary action exists, the complaint is dismissed with notice to the certificant, the certificant's employer (if involved in the investigation), and the individual or entity who submitted the complaint. A summary report is also made to the CFNC.

When the Review Committee recommends disciplinary action, the Review Committee also recommends imposition of an appropriate sanction. If the Review Committee so recommends, a proposed determination with a proposed sanction is prepared under the supervision of the Chair and is presented by a representative of the Review Committee to the CFNC along with the record of the Review Committee's investigation.

The CFNC reviews the recommendation of the Review Committee based upon the record of the investigation. The CFNC may accept, reject, or modify the Review Committee's recommendation, either with respect to the determination of grounds for disciplinary action or the recommended sanction to be imposed. If the CFNC makes a determination that grounds for disciplinary action exist, this determination and the imposition of a sanction are promulgated by written notice to the certificant and to the individual submitting the complaint. The CFNC advises the certificant that she or he may provide a written response within thirty (30) days of notification. The Chair of the CFNC will report to the Association's Board of Directors all determinations by the CFNC in which grounds are found to exist for disciplinary action and sanctions.

In certain circumstances, the CFNC may consider a recommendation from the Review Committee that the certificant who is the subject of the complaint be offered an opportunity to submit a written assurance that the conduct in question has been terminated and will not recur. The decision of the Review Committee to make such a recommendation and of the CFNC to accept it is within their respective discretionary powers. If such an offer is extended, the certificant at issue must submit the required written assurance within thirty (30) days of receipt of the offer, and the assurance must be submitted in terms that are acceptable to the CFNC. If the CFNC accepts the assurance, notice is given to the certificant and to the submitter of the complaint.

Sanctions

The CFNC may impose any of the following sanctions, which must reasonably relate to the nature and severity of the violation, focusing on reformation of the conduct of the member and deterrence of similar conduct by others:

- Written reprimand to the certificant;
- Suspension of the certificant for a designated period; or
- Termination of the certificant's certification.

For each of these three (3) sanctions, the CFNC will publish on the Association's website a summary of the determination, the date, and the sanction with the certificant's name. This information will be published only after any appeal has either been considered or the appeal period has passed.

Reprimand in the form of a written notice from the Chair normally is sent to a certificant who has received his or her first substantiated complaint. Suspension normally is imposed on a certificant who has received two (2) substantiated complaints. Termination normally is imposed on a certificant who has received two (2) substantiated complaints within a two (2) -year period, or three (3) or more substantiated complaints. The CFNC may at its discretion, however, impose any of the sanctions, if warranted, in specific cases.

Where certification has been terminated, the certificant will have his or her certification revoked. If certification is revoked, any and all certificates or other materials requested by the CFNC must be returned promptly to the CFNC.

Appeal

Within thirty (30) days of the receipt of notice of a sanction determination by the CFNC, the affected certificant may submit in writing a request for an appeal to the CFNC.

Upon receipt of a request for appeal, the Chair of the CFNC establishes an appellate body consisting of at least three (3), but not more than five (5), individuals. This Appeal Committee may review one (1) or more appeals, upon request of the Chair. No current members of the Review Committee or the CFNC may serve on the Appeal Committee; further, no one with any personal involvement or conflict of interest may serve on the Appeal Committee. Members of the Appeal Committee may be reimbursed for reasonable expenses incurred in connection with the activities of the Committee.

The Appeal Committee may only review whether the determination by the CFNC was inappropriate due to:

- Material errors of fact, or
- Failure of the Review Committee or the CFNC to conform to published criteria, policies, or procedures.

Only facts and conditions up to and including the time of the CFNC's determination as represented by facts known to the CFNC are considered during an appeal. The appeal will not include a hearing or any similar trial-type proceeding. Legal counsel is not expected to participate in the appeal process, unless requested by the appellant and approved by the CFNC and the Appeal Committee. The CFNC and Appeal Committee may consult legal counsel.

The Appeal Committee conducts and completes the appeal within ninety (90) days after receipt of the request for an appeal. Written appellate submissions and any reply submissions may be made by authorized representatives of the member and of the CFNC. Submissions are made according to whatever schedule is reasonably established by the Appeal Committee. The decision of the Appeal Committee either affirms or overrules the determination of the CFNC, but does not address a sanction imposed by the CFNC. The decision of the Appeal Committee, including a statement of the reasons for the decision, is reported to the CFNC and the Association's Board of Directors.

The Appeal Committee decision is binding upon the CFNC, the certificant who is subject to the termination, and all other persons.

Resignation

If a certificant who is the subject of a complaint voluntarily surrenders his or her certification(s) at any time during the pendency of a complaint under these policies, the complaint is dismissed without any further action by the Review Committee, the CFNC, or an Appeal Committee established after an appeal. The entire record is sealed and the individual may not reapply for certification. However, the CFNC may authorize the Chair to communicate the fact and date of resignation, and the fact and general nature of the complaint which was pending at the time of the resignation, to or at the request of a government entity engaged in the administration of law. Similarly, in the event of such resignation, the certificant's employer and the person or entity who submitted the complaint are notified of the fact and date of resignation and that the CFNC has dismissed the complaint as a result.