



*Protecting the Citizens
of Florida*

Code of Ethical and Professional Conduct and Disciplinary Procedures

Effective Date: April 2014

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Introduction

FCB is dedicated to the principle that health and human services professionals must demonstrate the high standards of ethical conduct and professional practice. To that end, the FCB has adopted this Code of Ethical and Professional Conduct.

Agreement to follow the Code of Ethical and Professional Conduct is a requirement of certification. The FCB is committed to investigate and sanction those certified professionals who violate this Code. It is the responsibility of the certified professional to become thoroughly familiar with the FCB Code of Ethics and guide their professional behavior accordingly. The most recent version of the FCB Code of Ethical and Professional Conduct and Disciplinary Procedures are maintained and available for download at <http://www.flcertificationboard.org/Ethics.cfm>.

The FCB will notice certified individuals of changes to the FCB Code of Ethical and Professional Conduct and Disciplinary Procedures; however, it is the responsibility of the certified individual to comply with the most current standards.

Glossary

Advisory Council: A standing committee of certified professionals who assist the FCB in meeting its mission by providing feedback and recommendations from representatives of the certified population to the Board of Directors for their approval and action.

Appeal Hearing: A formal hearing conducted when a respondent appeals the decision of the Board of Directors.

Applicant: A person who has submitted an Application for Certification but is not yet certified.

Certified Professional: Any person who holds any credential issued by the FCB.

Clear and Convincing Evidence: Evidence presented is credible and verifiable, and that memories of witnesses are clear and without confusion. The evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince the FCB Board of Directors without hesitancy that the applicant will not pose a threat to the safety and/or well-being of others, especially potential clients. Clear and convincing evidence is a heavier burden than the “preponderance of the evidence” standard but less than “beyond a reasonable doubt.”

Code of Ethics: The FCB Code of Ethical and Professional Conduct and Disciplinary Procedures that applies to all applicants and certified professionals.

Complainant: A person who files a formal complaint against an applicant or certified professional.

Consent Order: A voluntary agreement worked out between the Respondent and the FCB that carries the same weight as a final decision by the Board of Directors.

Consumer: A person seeking or receiving services from an applicant, a certified professional or the applicant/certified professional’s employer.

Ethical Complaint: A formal notice to the FCB alleging that an applicant or certified individual violated the FCB Code of Ethics.

Ethics Committee: A standing committee of the Advisory Council responsible for implementing the FCB Code of Ethical and Professional Conduct and Disciplinary Procedures.

Ethics Complaint: A formal allegation of a violation of one or more Rule(s) of the FCB Code of Ethics.

Fraudulent Claim: A 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 a service that is false or misleading. It does not include charging for a missed appointment.

Hearing Committee: A committee convened by the FCB Board of Directors to hear, consider, and make recommendations when a respondent appeals the decision of the Advisory Council's Ethics Committee.

Hearing Officer: A non-voting member of the Hearing Committee who presides over the Appeal Hearing.

Immediate Family: A spouse, child, parent, parent-in-law, sibling, grandchild, grandparent or other household members of the certified professional.

Probative Value: Evidence or facts which tend to prove the existence of other facts of issues.

Respondent: The applicant or certified professional who is the subject of a formal complaint alleging a violation of the Code of Ethics.

Revocation: A sanction resulting in the complete forfeiture of FCB certification.

Rules: Standards of ethical and professional conduct that apply to all certified professionals.

Sanction: A penalty intended to enforce compliance with the Code of Ethics.

Sexual Misconduct: Engaging, attempting to engage, or offering to engage in any behavior, whether verbal or physical, which is intended to be sexually arousing, including kissing; touching breasts, genital areas, buttocks, or thighs, whether clothed or unclothed; any form of intercourse; or any form of oral sex. Certified professionals are prohibited from sexual misconduct with a consumer, even if the consumer is not assigned to the certified professional and /or a supervisee.

Summary Suspension: An immediate suspension of a certified individual's credential(s) or application for certification when a preponderance of the evidence contained in the ethical complaint supports emergency action while the case is being investigated.

Supervisee: An individual that works under the direct supervision of a certified professional.

Suspension: A sanction resulting in the temporary forfeiture of FCB certification for a specified period of time.

Written Reprimand: A sanction that is a formal, written document expressing disapproval and/or providing a warning in regard to the Respondent's behavior.

Rules of Ethical and Professional Conduct

The FCB Code of Ethics set forth the rules of ethical and professional conduct which all applicants and certified professionals are expected to honor (hereafter referred to as 'the Rules'). Failure to comply with an obligation or prohibition set forth in the Rules will result in disciplinary action.

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.

1. Professional Standards

1.1 An applicant or a certified professional shall meet and comply with all terms, conditions, or limitations of any professional credential they hold.

1.2 An applicant or a certified professional shall not perform services outside of their area of training, expertise, competence, or scope of practice.

Discussion of Rule 1.2: When a consumer's therapeutic issues are outside their level of professional functioning or scope of practice, the certified professional must refer the consumer to another professional who will provide the appropriate therapeutic approach for the consumer.

1.3 An applicant or certified professional 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.

1.4 An applicant or certified professional shall place their application or credential(s) on inactive status for any mental, physical, or behavioral health related adversity that interferes with their professional functioning.

Discussion of Rule 1.4: The private life of an applicant or certified professional remains a personal matter to the same degree as any other person. However, when a personal issue begins to adversely affect professional performance, affecting the quality of service delivered and thus putting the consumer at risk, the applicant or certified professional must take sufficient and timely action to resolve any adversity that interferes with their professional functioning.

1.5 An applicant or certified professional shall not practice 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.

1.6 An applicant or certified professional must maintain a high standard of ethical and professional conduct. The moral, ethical and legal standards of behavior of the certified professional 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 public trust in applicants or certified professionals.

2. Criminal Activity

- 2.1 An applicant or certified professional shall report all arrests and case disposition, regardless of adjudication to any felony or first degree misdemeanor crime. Such report must be received within 72 hours of release from any state or federal confinement.**

Discussion Rule 2.1: Any public record pertaining to an arrest, charge, disposition or sentencing of a certified professional 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 in the credentialed discipline, the fact of conviction shall also be proof of violation of this Rule. 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.

- 2.2 An applicant or certified professional shall not use, possess, or sell any unprescribed or illegal substance.**
- 2.3 An applicant or certified professional shall comply with all federal and state laws.**

3. Sexual Misconduct

- 3.1 An applicant or certified professional shall not engage in sexual misconduct with a consumer during the period of time services are being rendered to the consumer and a minimum of two years after the professional relationship has terminated.**

Discussion Rule 3.1: This Rule applies to any consumer of the agency by which the certified professional is employed, regardless of whether or not the consumer is assigned to the certified professional. For purposes of determining if sexual misconduct has occurred, the professional relationship is deemed to continue for minimum of 2 years from the date of the consumer's last professional interaction with the certified professional's employer. Although the professional relationship is deemed to be terminated 2-years after termination of professional services, the certified 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.

- 3.2 An applicant or certified professional shall not engage in sexual misconduct with any family member or guardian of a consumer during the period of time services are being rendered to the consumer.**
- 3.3 An applicant or certified professional shall not engage a supervisee in sexual misconduct during the period of time supervisory relationship exists.**

4. Fraud-Related Conduct

- 4.1 An applicant or certified professional shall not present fraudulent documents when applying for certification, certification upgrades, or certification renewal.**
- 4.2 An applicant or certified professional shall not prepare fraudulent certification documents for certification applicants.**

- 4.3 An applicant or certified professional 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.
- 4.4 An applicant or certified professional 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.
- 4.5 An applicant or certified professional shall not prepare, present, or participate in activities related to fraudulent billing or benefit claim under any employee benefit program or insurance policy/program.
- 4.6 An applicant or certified professional shall not produce, publish, create, or partake in the creation of any false, fraudulent, deceptive, or misleading advertisement.

5. Exploitation of Consumers

- 5.1 An applicant or certified professional shall not develop, implement, or maintain exploitative relationships with current or past consumers.

Discussion Rule 5.1: Ethical problems are often raised when a certified professional blends his or her professional relationship with a consumer with another kind of relationship. The nature of the consumer-professional relationship is such that the consumer remains vulnerable to the real or perceived influences of the certified professional. An applicant or certified professional who is in a position to influence a consumer's behavior may not impose their own desires upon the consumer.

- 5.2 An applicant or certified professional shall not misappropriate property from a consumer.
- 5.3 An applicant or certified professional shall not enter into a relationship with a consumer which involves financial gain to the certified professional or a third-party resulting from the promotion or the sale of services unrelated to treatment.
- 5.4 An applicant or certified professional shall not recommend to a consumer any unnecessary, ineffective or unsafe device, treatment, procedure, product or service.
- 5.5 An applicant or certified professional shall not solicit gifts or favors from consumers.

Discussion Rule 5.5: When a certified professional "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 and should "repay" him or her through gifts or other favors, their unique position of trust and responsibility with the consumer becomes jeopardized.

- 5.6 An applicant or certified professional shall not offer, give, or receive commissions, rebates, or any other forms of remuneration for a consumer referral.

Discussion Rule 5.6: This standard is governed by Florida Statute. See 817.505 for further information on restrictions related to patient brokering.

6. Safety & Welfare

- 6.1 When a condition of clear and imminent danger exists that a consumer may inflict serious bodily harm on another person or persons, an applicant or certified professional shall, consistent with federal and state confidentiality laws, take reasonable steps to warn any likely victims of the consumer's potential behavior.**
- 6.2 When a condition of clear and imminent danger exists that a consumer may inflict serious bodily self-harm, an applicant or certified professional shall, consistent with federal and state confidentiality laws, take reasonable steps to protect the consumer.**

Discussion Rules 6.1 and 6.2: If during the course of treating a consumer, an applicant or certified professional 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 has a duty to take reasonable steps to warn such persons; and/or*
- 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 has a duty to take reasonable steps to protect the consumer.*

In doing so, the certified professional should be aware that state and federal regulations set forth rules concerning the confidentiality of applicant-consumer or certified professional-consumer communications, 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, it may be necessary for the applicant, certified professional 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.

7. Records Management

- 7.1 An applicant or certified professional shall not falsify, amend, knowingly make incorrect entries, or fail to make timely essential entries into the consumer record.**
- 7.2 An applicant or certified professional shall follow all Federal and State regulations regarding consumer records.**
- 7.3 An applicant or certified professional shall comply with all federal and state confidentiality laws.**

Discussion Rule 7.3: Except as may otherwise be indicated in this Code, applicants and certified professionals are expected to refrain from revealing confidential information except as may be authorized by the consumer or required or authorized by law. Applicants and certified professionals are expected to be familiar with and act in accordance with federal and state regulations concerning confidentiality of consumer records and identifying information.

8. Cooperation with the Board

- 8.1 An applicant or certified professional shall cooperate with a FCB disciplinary investigation or proceeding.**
- 8.2 An applicant or certified professional shall not attempt to prevent or interfere with a complaint from being filed or FCB disciplinary investigation or proceeding to occur. Interference attempts may include but are not limited to:**
 - a. the use of threats or harassment against, or an inducement to, any person in an effort to prevent or attempt to prevent a complaint from being filed, prosecuted or completed;**
 - b. 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 an investigation, disciplinary proceeding or any other legal action; and**
 - c. the willful misrepresentation of facts before the disciplining authority or its authorized representative.**
- 8.3 An applicant or certified professional shall report any violation of the Rules by filing a formal Ethics Complaint with the FCB. Complaints must be filed within no more than 30 calendar days of becoming aware of the violation.**
- 8.4 An applicant or certified professional shall not file a false or misleading Ethics Complaint or information to the FCB.**
- 8.5 An applicant or certified professional shall comply with all federal and state confidentiality requirements when submitting any information to the Board.**

Disciplinary Procedures

1. Confidentiality of Proceedings

- 1.1 Except as is otherwise provided herein, all information, notes, reports, transcripts, and any documentation of any kind generated or received during the course of an ethics investigation, including the ethics committee meetings and appeal hearings, shall be kept confidential by the FCB.
- 1.2 At the initiation of an ethics investigation, the respondent is entitled to a full and complete copy of the ethics complaint, including the complainant's name.
- 1.3 At the conclusion of an ethics investigation, the respondent is entitled to a full and complete copy of the:
 - a. Investigation Summary Report
 - b. Ethics Committee's Recommendation for Action
 - c. Hearing Committee's Finding of Fact and Recommendation for Action
- 1.4 At the conclusion of an ethics investigation, the complainant is entitled to a full and complete copy of the:
 - a. The Ethics Committee's Recommendation for Action
 - b. The Hearing Committee's Finding of Fact and Recommendation for Action

2. Oversight and Conflict of Interest

- 2.1 The Director of Certification will supervise Ethics Investigator(s) and direct ethics investigations.
- 2.2 The President and CEO of the FCB shall approve or deny all recommendations for action made by the Director of Certification.
- 2.3 The FCB Ethics Investigator shall conduct investigative activities, including interviewing relevant persons and collecting and receiving evidence and other documents related to the case, under the direct supervision of the Director of Certification.
- 2.4 The FCB will provide all investigation reports, documents, and findings to the Ethics Committee for review and recommended action. The Director of Certification will present the recommendations of the Ethics Committee to the Advisory Council for voting. Sanctions become final upon Advisory Council vote. The Director of Certification will report all Advisory Board votes on ethics cases to the FCB's Executive Board of Directors at their quarterly meetings.
- 2.5 Should the President and CEO, the Director of Certification, or the Ethics Investigator have a conflict of interest with any party to the case, the duties of said person shall be delegated and that person shall be recused from any involvement in the case, including investigation and sanction activities.

- 2.6 Should any member of the Ethics Committee, Advisory Council or FCB Executive Board of Directors have a conflict of interest with any party to the case, the person shall be recused from any involvement in the case, including case review, sanctioning, or voting activities.
- 2.7 The FCB recognizes that there may be some cultural differences regarding the interpretation of the Code of Ethics. In cases where cultural norms are used as a defense against a complaint, the FCB may seek the assistance of cultural leaders, teachers, elders, or others to assist in understanding the cultural norms in question. The FCB will strive to be appropriately sensitive to cultural differences throughout the disciplinary process.

3. Code of Ethics Sanctions

- 3.1 Possible sanctions for violating the Code of Ethics include but are not limited to:
 - a. Written Reprimand
 - b. Summary Suspension
 - c. Consent Order
 - d. Suspension
 - e. Revocation
 - f. Denial of Application for Certification
- 3.2 The FCB may impose any sanction deemed appropriate for the founded violation(s). There is not a requirement that sanctions are imposed in any particular order.
- 3.3 In conjunction with official sanctions, the FCB may impose fines, educational requirements, and other conditions deemed necessary and appropriate. If assessed, fines will be imposed according to the following schedule:
 - a. First offense: \$500
 - b. Second offense: \$750
 - c. Third offense: \$1,000
- 3.4 The Ethics Committee may consider the applicant's or certified individual's past history in regard to ethical sanctions and disciplinary actions when determining the appropriate sanctions for the current ethics case. A founded third offense in a two-year period will automatically result in an immediate summary suspension and sanctions shall include a suspension or revocation of the credential(s).
- 3.5 Except as may be provided in a consent order, public notice of all ethics cases resulting in sanctions shall be published in the FCB newsletter and on the FCB's web-based public access database. Such notice shall include the name of the Respondent, the rule(s) violated, and the sanction imposed. Public notice shall be published in the newsletter in the issue following the date the sanctions are applied. Web-based notice shall be published the first business day following the date the sanctions are approved by the Advisory Council. Such notice is permanent and will not be removed from the database. Should a certified professional appeal the sanction(s), notice shall not be posted until the appeal hearing has been concluded.

4. The Complaint Process

- 4.1 The FCB will not accept anonymous complaints.
- 4.2 The FCB will accept phone calls from individuals wishing to discuss a particular situation for the purposes of determining if an ethical complaint should be filed. Based on the content of the discussion the FCB will either recommend that the issue is dismissed, or recommend that the caller file a formal ethical complaint.
- 4.3 All complaints must be submitted in writing, on the FCB Ethics Complaint Form, within no more than 30 calendar days of becoming aware of the allegation. The FCB Ethics Complaint Form is maintained on the FCB's website at www.flcertificationboard.org/Ethics.cfm. Mail the completed form to the FCB as follows:

Florida Certification Board
CONFIDENTIAL
Director of Certification
1715 South Gadsden Street
Tallahassee, FL 32301

- 4.4 Should the FCB become aware of a possible violation of the Code of Ethics, the Director of Certification may, on behalf of the FCB, file a formal complaint against a certified professional.
- 4.5 In the instance that a formal complaint has been filed and the complainant subsequently requests to revoke said complaint, the FCB may choose to proceed with the investigation.
- 4.6 Within no more than 10 business days of receipt of a formal ethical complaint, the Director of Certification shall review all formal complaints and determine if the preponderance of the evidence contained within the complaint warrants opening of an investigation.
- 4.7 Within three (3) business days of the Director's decision, the FCB will:
 - a. Mail a letter to the complainant detailing the FCB's decision to issue a summary suspension and open an ethics investigation; open an ethics investigation; or dismiss the complaint.
 - b. Send a certified letter to the respondent detailing the FCB's decision to issue a summary suspension and open an ethics investigation, or open an ethics investigation: the respondent will not be notified if the FCB dismisses the complaint. The notice shall include a complete copy of the accepted complaint, including the name of the complainant, and the date by which the respondent must submit a written response to the complaint, which shall be no more than 20 business days from the date of the notice. In the written response, respondents are encouraged to submit their interpretation of the situation or conduct under investigation, including documentation or other evidence, and name(s) and contact information for witnesses who can assist in the investigation. Should the respondent fail to respond by the specified date in the formal notice, the FCB will assume guilt and will proceed with sanctions as necessary and appropriate.
- 4.8 Misrepresentation by a respondent, failure to provide information, or failure to cooperate with the investigation may be grounds for the FCB to open a subsequent ethical complaint against the respondent.

5. The Investigation Process

- 5.1 The initial investigation shall be conducted by the FCB Ethics Investigator, under the direct supervision of the Director of Certification. The initial investigation shall include, but is not limited to, the gathering of documentation and other evidence from the complainant, the respondent, and others identified by the complainant and/or the respondent.
- 5.2 Within no more than five (5) business days of the date the respondent is required to submit a written response to the allegation, the Director of Certification will review all evidence received to date from the complainant, respondent, and others involved in the investigation.
- 5.3 Based on a preponderance of the evidence, the Director of Certification shall make one of the following recommendations to the FCB's President and CEO:
 - a. Dismiss the case without further investigation,
 - b. Close the investigation and prepare the case for submission to the Ethics Committee, or
 - c. Continue the investigation.
- 5.4 The President and CEO may determine:
 - a. No violation has occurred and that no further investigation is warranted. If so, the Ethics Investigator will write an Investigative Summary Report for approval by the Ethics Committee at their next meeting. The ethics investigation will not be closed until the recommendation of the Ethics Committee is voted on by the Advisory Council.
 - b. Allegations are founded and the investigation is complete. If so, the Ethics Investigator will write an Investigative Summary Report for review and recommended action by the Ethics Committee at their next meeting. Sanctions will not be applied and the ethics investigation will not be closed until the recommendation of the Ethics Committee is voted on by the Advisory Council.
 - c. Further investigation is warranted. If so, within two business days of the decision, the Ethics Investigator will inform the respondent and the complainant that the investigation will be continued. Every 30 calendar days, steps 5.3 and 5.4 will continue until the President and CEO determines the investigation is dismissed or complete pursuant to Step 5.4 a. or 5.4 b.

6. Consent Order

- 6.1 A consent order shall be the final action and have the same force and effect of an order made by the Ethics Committee and voted on by the Advisory Council; result in a waiver of additional procedural steps in front of the Ethics Committee, the Advisory Council, or an Ethics Hearing Committee; and result in a waiver of the right to challenge or contest the sanctions included in the Consent Order in front of the Ethics Committee, the Advisory Council, or an Ethics Hearing Committee.
- 6.2 At any point after the commencement of the investigation, but no later than 14 days prior to the next regularly scheduled meeting of the Ethics Committee, the respondent may, in writing, request negotiation of a Consent Order.
- 6.3 The FCB may, at its discretion, agree to or reject the offer of request to negotiate a Consent Order. If the request is granted, the FCB will defer the proceedings a reasonable time to

permit negotiation of a Consent Order. If the request is denied, the investigation will proceed as planned.

7. Action by the Ethics Committee

- 7.1 The Ethics Committee shall receive a completed Investigation Summary Report and supporting documentation for all cases where the investigation is complete. The Investigation Summary Report shall include, but is not limited to the complaint; a summary of the investigation conducted, including the respondent's rebuttal to the complaint; recommended sanctions, and grounds for recommendation(s).
- 7.2 No later than 10 business days from the Ethics Committee review and recommended action, the FCB shall prepare a written Recommendation for Action, which shall include a copy of the Investigation Summary Report, the committee's finding of fact, and the committee's recommendation for action. The committee's Recommendation for Action shall call for one of the following actions:
 - a. Dismissal of the complaint.
 - b. Return of the complaint to FCB for further investigation. If so, the recommendation must detail the additional information desired by the Committee for consideration.
 - c. Sanctions. If so, the recommendation must detail the sanctions to be imposed, including fees, educational requirements, and timeframes for compliance.
- 7.3 The Director of Certification or designee shall present the committee's written Recommendation for Action to the Advisory Council for voting at its next regularly scheduled meeting. For each presented case, the Advisory Council shall vote to:
 - a. Accept the recommendation of the Ethics Committee as presented,
 - b. Reject the recommendation of the Ethics Committee and impose different sanctions, or
 - c. Reject the recommendation of the Ethics Committee and return the complaint to the FCB for further investigation.
- 7.4 Within seven (7) business days of the determination by the Advisory Council, the FCB shall send, by certified mail, a letter to the complainant and the respondent detailing the outcome of the investigation.
 - a. If the case has been dismissed, the letters to the complainant and respondent must state that the investigation has determined that no violation of the Code of Conduct has occurred and the case has been dismissed.
 - b. If the case has been returned to the FCB for further investigation, the letters to the complainant and respondent must state that the FCB Advisory Council has returned to case to the FCB pending further investigation.
 - c. If the case has resulted in sanctions, either those recommended by the Ethics Committee or determined by the Advisory Council:
 - i. The letter to the complainant must state that the investigation is complete, the rule(s) that have been violated, and the sanction(s) to be applied.

- ii. The letter to the respondent must state that the investigation is complete, the rule(s) that have been violated, the sanction(s) to be applied, and the process to appeal the results of the investigation.

8. The Appeal Process

- 8.1 If the respondent believes his or her due process rights were not followed or if there is new or additional information that was not presented or considered at original determination of recommended sanctions, the respondent may, within 10 business days of receipt of the Board's decision, submit a written Request for an Appeal Hearing to the FCB via mail, fax, or email. Contact the FCB at 850-222-6314 for contact information. The request must detail the basis of the appeal.
- 8.2 Within two (2) business days of receipt of the Request for an Appeal Hearing, the Director of Certification shall, by email, notify both the President and CEO and the Chair of the Ethics Committee of the Executive Board of Directors of such request. Within 10 business days of notification, the President and CEO shall convene a conference call of the Executive Board of Directors to take action on the request (accept or deny the appeal request).
- 8.3 Within 20 business days of the Advisory Council's decision to hear the appeal, the Chair of the Ethics Committee of the Executive Board of Directors shall appoint a hearing committee and schedule the appeal hearing. The hearing shall be scheduled no less than 20 and no more than 90 days of the date the Notice of Appeal Hearing is mailed to the respondent.
- 8.4 Within two (2) business days of notification of hearing committee members and hearing date, the Director of Certification will send, by certified mail, a written Notice of Appeal Hearing to both the respondent and the complainant. Such notice shall advise the respondent and complainant of the date, time, and location of the Appeal Hearing; the names of the Appeal Hearing committee members, and notice of the following rules:
 - a. Prior to the hearing, there shall be no contact between the respondent and the complainant, or the respondent and the FCB, for purposes of discussing any part of the case, including actions from receipt of the complaint through the request for an appeal hearing.
 - b. Any request for postponement of the Appeal Hearing must be served in writing to the FCB at least five (5) business days prior to the scheduled date. The decision to grant or deny the request for postponement is solely that of the FCB.
 - c. Failure to attend the appeal hearing shall be deemed as a waiver of the appeal and the appeal will be dismissed and the decision of the Advisory Council will stand.
- 8.5 The Appeal Hearing shall be governed by the following rules:
 - a. The Appeal Hearing shall be presided over by the Hearing Officer, which is a non-voting member of the Hearing Committee. The Hearing Officer is the Chair of the Ethics Committee of the Executive Board of Directors or designee.
 - b. The respondent shall have the burden of proof at the Appeal Hearing.
 - c. The Hearing Committee shall not be bound by common law or statutory rules of evidence and may consider all facts having reasonable probative value.

- d. The Hearing Committee will base its decision on written ethics case files, reports, and supporting documentation; physical evidence; and testimony presented at the hearing.
 - e. No discovery is permitted and no access to FCB files is permitted.
 - f. Objections concerning evidence will be resolved by the Hearing Officer.
 - g. The FCB shall be represented by the Director of Certification or designee.
 - h. Any party, at the party's own expense, may be represented by counsel at the hearing.
 - i. Any party, at the party's own expense, may request the services of a court reporter at the hearing. If the respondent elects to hire a court reporter, the respondent must provide a copy of the transcript, without charge, to the FCB.
 - j. Evidence may be presented and witnesses cross-examined by both sides.
 - k. The respondent shall present its case to the Hearing Committee first.
 - l. The FCB shall present its case to the Hearing Committee second. At the hearing, the Director of Certification will present evidence in support of the recommendation by the Ethics Committee and the vote by the Advisory Council. Such evidence includes ethics case file documentation to ensure hearing committee members have the information necessary to make an informed decision.
 - m. The Appeal Hearing is closed to the public.
- 8.6 Within 20 business days of the conclusion of the Appeal Hearing, the Hearing Officer will prepare and submit, to the President and CEO, a written Finding of Fact and Recommendation for Action, which shall call for Dismissal or Sanctions. Recommendations for Sanctions must detail the sanctions to be imposed, including fees, educational requirements, and timeframes for compliance.
- 8.7 The Director of Certification shall present the Hearing Committee's written Finding of Fact and Recommendation for Action to the Advisory Council for voting at its next regularly scheduled meeting. For each presented case, the Advisory Council shall vote to accept, accept with modifications, or reject recommended sanctions.
- 8.8 Within seven (7) business days of the final determination by the Advisory Council, the Director of Certification shall send, by certified mail, a letter to the complainant and the respondent detailing the outcome of the investigation.
- a. If the case has been dismissed, the letters to the complainant and respondent must state that the investigation has determined that no violation of the Code of Conduct has occurred and the case has been dismissed.
 - b. If the case has resulted in sanctions, either those recommended by the Hearing Committee or determined by the Advisory Council, the letters to the complainant and respondent must state that the appeal hearing is complete, identify the rule(s) that have been violated, and detail the sanction(s) to be applied. Letters will include a statement that the decision is final and not subject to further appeal.

9. Reinstatement following Disciplinary Action

- 9.1 When a respondent's credential is suspended, the respondent may not use the credential during the period of suspension. Once the suspension period has expired and all additional sanctions have been satisfied, the President and CEO may authorize reinstatement of the credential, unless:
- a. An additional complaint has been received and accepted by the FCB for investigation,
 - b. An additional disciplinary action has been taken against the individual,
 - c. The respondent has failed to maintain renewal payments and CEUs during the time of the suspension, or
 - d. The respondent has failed to comply with the terms of the sanction.
- 9.2 Typically, revocation of credentials will not be overturned; however, no sooner than 36 months from the effective date of the revocation, respondents may petition the Executive Board of Directors to hold a reinstatement hearing. The petition must include a written and reasonable rationale as to why the reinstatement hearing should be granted, and an acknowledgement that if the petition is approved, a \$750 fee is due to the FCB before the reinstatement hearing will be scheduled. The FCB maintains sole discretion to grant or deny the respondents petition.
- 9.3 In the event that the Board of Directors approves a reversal of revocation, the respondent must reapply for the credential(s), starting the process as a new applicant, and must meet all standards in place at the time of application, including earning a new passing score on required exam(s).

10. Reports to Other Agencies

- 10.1 If during the course of the investigation it appears that criminal misconduct has occurred, the President and CEO or designee will report such allegations to the appropriate law enforcement agency.
- 10.2 If, during the course of the investigation it appears that state law, administrative code, or licensing requirements have been broken, the President and CEO or designee will report such allegations to the appropriate state agency, inspector general, office of internal affairs, or other authority.
- 10.3 If the investigation results in sanctions, the President and CEO or designee may report such findings to other licensing boards, certification boards, and/or employers.



*Protecting the Citizens
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Ethics

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