



## **Complaints and Discipline Policy**

### **1.27.14**

#### **Purpose**

In order to maintain and enhance the credibility of the NAWCO® certification programs the NAWCO Certification Committee has adopted the following procedures to allow individuals to bring complaints concerning the conduct of NAWCO certified clinicians to the Certification Committee.

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#### **Policy**

In the event a certificant violates the NAWCO Certification Committee certification rules, requirements, and/or policies the Certification Committee may reprimand or suspend the individual or may revoke certification.

Information regarding the complaint process will be available to the public via the NAWCCB web site or other published documents. A complete copy of this policy will be made available to any individual upon request.

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#### **Procedures**

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

- Any restrictions such as revocation, suspension, probation or other sanctions of the professional license<sup>1</sup> held by the certificant.
- Violation of established Certification Committee rules, requirements, and/or policies.
- Conviction of a felony or other crime of moral turpitude under federal or state law in a matter related to the practice of, or qualifications for, wound care.

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<sup>1</sup> Registered Nurse, Licensed Practical/Vocational Nurse, Nurse Practitioner, Physical Therapist, Physical Therapist Assistant, Occupational Therapist, Physician, or Physician Assistant

- Gross negligence, willful misconduct, or other unethical conduct in the performance of services for which the individual has achieved NAWCO certification.
- Fraud, falsification, or misrepresentation in an initial application or renewal application for certification.
- Falsification of any material information requested by the NAWCO Certification Committee.
- Misrepresentation of NAWCO certification status.
- Cheating on any certification examination.

Actions taken under this policy do not constitute enforcement of the law, although referral to appropriate federal, state, or local government agencies may be made about the conduct of the certificant in appropriate situations. Individuals initially bringing 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 should be reported to the Certification Committee in writing and should include the name of the person submitting the complaint, the name of the person the complaint is regarding along with other relevant identifying information, 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 Certification Committee's Confidentiality policy. Inquiries or submissions other than complaints may be reviewed and handled by the Certification Committee or its staff members at its discretion.

Upon receipt and preliminary review of a complaint involving the certification program the Director of Accreditation in consultation with the Certification Committee Chair may conclude, in their sole discretion, that the submission:

- contains unreliable or insufficient information, or
- is patently frivolous or inconsequential.

In such cases, the Director of Accreditation and Certification Committee Chair may determine that the submission does not constitute a valid and actionable complaint that would justify bringing it before the Certification Committee for investigation and a determination of whether there has been a violation of substantive requirements of the certification process. If so, the submission is disposed of by notice from the Director of Accreditation and Certification Committee Chair to its submitter. Complaints submitted anonymously will not be investigated. All such preliminary dispositions by the Certification Committee Chair are reported to the Certification Committee at its next meeting.

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

If a submission is deemed by the Director of Accreditation and Certification Committee Chair to be a valid and actionable complaint, the Certification Committee Chair will see that written notice is provided to the certificant whose conduct has been called into question. The certificant whose conduct is at issue will also be given the opportunity to respond to the complaint. The Chair also will ensure that the individual submitting the complaint receives notice that the complaint is being reviewed by the Certification Committee.

## **Complaint Review**

For each complaint that the Chair concludes is a valid and actionable complaint, the Certification Committee authorizes an investigation into its specific facts or circumstances to whatever extent is necessary in order to clarify, expand, or corroborate the information provided by the submitter.

The Chair appoints a Review Committee of three or more individuals, who may or may not be members of the Certification Committee to investigate and make an appropriate determination with respect to each such valid and actionable complaint; the Review Committee may review one or more such complaints as determined by the Chair. The Review Committee initially determines whether it is appropriate to review the complaint under these Procedures or whether the matter should be referred to another entity engaged in the administration of law. The timeline for responses and for providing any additional information will be established by the Review Committee. The Review Committee may be assisted in the conduct of its investigation by other members of the Certification Committee or by NAWCO staff or legal counsel. 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 Certification Committee 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 Certification Committee are conducted in confidence, with all written communications sealed and marked "Personal and Confidential," and they are conducted objectively, without any indication of prejudgment. An investigation may be directed toward any aspect of a complaint which 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 Certification Committee may consult their 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 recommends whether the Certification Committee should make a determination that there has been a violation of

Certification Committee policies and rules. When the Review Committee recommends that the Certification Committee find a violation, 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 Certification Committee along with the record of the Review Committee's investigation.

If the Review Committee recommends against a determination that a violation has occurred, 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 Certification Committee.

The Certification Committee reviews the recommendation of the Review Committee based upon the record of the investigation. The Certification Committee may accept, reject, or modify the Review Committee's recommendation, either with respect to the determination of a violation or the recommended sanction to be imposed. If the Certification Committee makes a determination that a violation has occurred, this determination and the imposition of a sanction are promulgated by written notice to the certificant, and to the individual submitting the complaint, if the submitter agrees in advance and in writing to maintain in confidence whatever portion of the information is not made public by the Certification Committee. All determinations by the Certification Committee that violations have occurred will be reported to the NAWCO Board of Directors by the Chair of the Certification Committee.

In certain circumstances, the Certification Committee may consider a recommendation from the Review Committee that the certificant who has violated the certification program policies or rules should 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 Certification Committee to accept it are within their respective discretionary powers. If such an offer is extended, the certificant at issue must submit the required written assurance within thirty days of receipt of the offer, and the assurance must be submitted in terms that are acceptable to the Certification Committee. If the Certification Committee accepts the assurance, notice is given to the certificant's employer and to the submitter of the complaint, if the submitter agrees in advance and in writing to maintain the information in confidence.

## **Sanctions**

Any of the following sanctions may be imposed by the Certification Committee upon a certificant whom the Certification Committee has determined to have violated the policies and rules of its certification program(s), although the sanction applied 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 sanctions that include suspension or termination, a summary of the final determination and the sanction with the certificant's name and date is published by the Certification Committee. 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 substantiated complaints. Termination normally is imposed on a certificant who has received two substantiated complaints within a two year period, or three or more substantiated complaints. The Certification Committee may at its discretion, however, impose any of the sanctions, if warranted, in specific cases.

Certificants who have been terminated will have their certification revoked and may not be considered for NAWCO certification in the future. If certification is revoked, any and all certificates or other materials requested by the Certification Committee must be returned promptly to the Certification Committee.

## **Appeal**

Within thirty (30) days from receipt of notice of a determination by the Certification Committee that a certificant violated the certification program policies and/or rules, the affected certificant may submit to the Certification Committee in writing a request for an appeal.

Upon receipt of a request for appeal, the Chair of the Certification Committee establishes an appellate body consisting of at least three, but not more than five, individuals. This Appeal Committee may review one or more appeals, upon request of the Chair. No current members of the Review Committee or the Certification Committee 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 Certification Committee of a violation of the certification program policies and/or rules was inappropriate because of:

- material errors of fact, or
- failure of the Review Committee or the Certification Committee to conform to published criteria, policies, or procedures.

Only facts and conditions up to and including the time of the Certification Committee's determination as represented by facts known to the Certification Committee 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 Certification Committee and the Appeal Committee. The Certification Committee and Appeal Committee may consult legal counsel.

The Appeal Committee conducts and completes the appeal within ninety 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 Certification Committee. 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 Certification Committee, but does not address a sanction imposed by the Certification Committee. The decision of the Appeal Committee, including a statement of the reasons for the decision, is reported to the Certification Committee and the NAWC Board of Directors.

The Appeal Committee decision is binding upon the Certification Committee, 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 Procedures, the complaint is dismissed without any further action by the Review Committee, the Certification Committee, or an Appeal Committee established after an appeal. The entire record is sealed and the individual may not reapply for certification. However, the Certification Committee 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 (if involved in the investigation) and the person or entity who submitted the complaint are notified of the fact and date of resignation and that Certification Committee has dismissed the complaint as a result.