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## **CONDUCT CASE PROCEDURES**

### **INTRODUCTION**

The International Society for Medical Publication Professionals (ISMPP) Certification Board develops, promotes, and establishes high ethical standards for professionals in the medical publication field. The ISMPP Certification Board requires that all certificants and candidates seeking certification (candidates) meet these standards. The following Conduct Case Procedures are the rules for processing possible violations of the ISMPP Certification Program Code of Conduct.

This Policy document describes the procedure for handling conduct cases. When medical publication professionals apply for certification or recertification, they agree to abide by the ISMPP Certification Program policies, which include the Certification Program Code of Conduct and the Conduct Case Procedures. In addition, certified professionals and candidates agree that these procedures are a fair process for resolving all conduct matters, that they will be bound by decisions made pursuant to these procedures, and that this Policy does not constitute a contract between ISMPP and the candidate or certificant.

### **SECTION A: GENERAL**

- 1. Nature of the Process.** This Policy is applicable to CMPP certificants and candidates, and is the only means to resolve all ISMPP Certification Program conduct charges and complaints. Designated Certification Program representatives have the exclusive authority to process or rule on any conduct inquiry or case, regardless of circumstances. Certificants and candidates agree that they will not challenge the authority of the Certification Program to apply the Code of Conduct, the Conduct Case Procedures, and other policies, and will not challenge the results of any disciplinary action taken under these policies in a legal or government forum. These Procedures are not formal legal proceedings, so most legal rules and practices are not observed. Designated Certification Program representatives will review the pertinent information presented when considering conduct investigations, cases, decisions and rulings.

The Conduct Case Procedures are designed to operate without the assistance of attorneys. The parties are encouraged to communicate directly with designated Certification Program representatives. Any party may be represented by an attorney with respect to conduct proceedings and procedures at the party's sole expense. However, if a party has retained an attorney, that party and attorney may be directed to communicate with ISMPP only through ISMPP Legal Counsel.

- 2. Participants.** Conduct cases may be decided by the ISMPP Certification Manager, the Conduct Review Committee, and/or the Certification Board. A CMPP certificant or candidate who is the subject of a conduct charge or complaint is identified as the Respondent in this Policy. The person(s) initiating a Conduct Complaint against a certificant or candidate is identified as the Complainant(s). The Respondent and the Complainant are identified collectively as the Parties.
- 3. Complainants/Conduct Charge Statement.** Any person, group or, in appropriate cases, the Certification Program may initiate a conduct case and act as a Complainant. A Complainant, other than the Certification Program, must:

  - a. contact the Certification Manager and request a Conduct Charge Statement form;
  - b. complete the information requested on the Conduct Charge Statement; and,
  - c. submit the completed Charge Statement to the Certification Manager.

Each Conduct Charge Statement must include a detailed written description of the factual allegations supporting the conduct charge(s).
- 4. Time Requirements.** The Certification Program will make every effort to follow the time requirements set forth in this Policy. However, a failure by Certification Program representatives to meet a time requirement will not prohibit the final ruling or decision of any conduct matter. Complainants and Respondents are required to comply with all time requirements specified in this document. Time extensions or postponements may be granted by the Certification Manager, Chair of the Conduct Review Committee, or other Certification Program representative, if a timely written request explains a reasonable cause.
- 5. Litigation/Other Proceedings.** The Certification Program may accept, resolve, continue, or delay Conduct Complaints when civil, criminal litigation, or other proceedings related to the complaint have been, or are presently, before a court, regulatory agency, or professional body.
- 6. Complaints Concerning Non-Certificants and Non-Candidates.** In the event that the Certification Manager receives a conduct inquiry or Conduct Charge Statement concerning an individual who does not hold the CMPP credential, or who is not a certification candidate, a representative of the Certification Program will inform the Complainant and may refer the Complainant to an appropriate authority or professional organization.
- 7. Improper Disclosure/False or Misleading Responses.** A failure to disclose pertinent information, or a misleading disclosure, by a certificant or candidate with respect to a conduct charge, criminal case, disciplinary proceeding, or similar matter concerning him/her may be a violation of this Policy and other Certification Program policies, and may result in discipline and/or other actions authorized by these Procedures.

- 8. Time Limitations Concerning Complaints.** The Certification Program may consider any Conduct Complaint against certificants and candidates, regardless of:
- (a) Whether the respondent held the CMPP credential at the time of the alleged violation;
  - (b) When the alleged violation occurred; or,
  - (c) Whether the Respondent continues to hold or seek the CMPP credential during the course of any conduct case.

- 9. Confidentiality.** In order to protect the privacy of the parties in a conduct case, all related material prepared by, or submitted to, the Certification Program will be confidential. Disclosure of material prepared by, or submitted to, Certification Program representatives is permitted only when: specifically authorized by Certification Program policy, the Certification Board, the Conduct Review Committee, or the Certification Manager; or, when required by an appropriate court or government agency order. Until a conduct case has been closed or finalized pursuant to Section N, all parties must maintain the confidentiality of all information related to the conduct case, including its existence.

If any party discloses information related to the conduct case contrary to these Procedures, the Certification Program may: dismiss the complaint and terminate the conduct case if the disclosure is by the Complainant; or, may impose any sanction allowed by this Policy if the disclosure is by the Respondent. This rule, however, does not limit or restrict the ability of a party to collect information relevant to the resolution of the conduct case, so long as the Party makes all reasonable efforts to maintain confidentiality.

- 10. Failure to Cooperate.** If a Party refuses to fully cooperate or participate with the Certification Program, and it is determined that the lack of cooperation was without good cause, the Program may take the following actions:
- (a) Dismiss the Conduct Complaint and terminate the conduct case, if the Complainant is uncooperative; or,
  - (b) Impose any sanction allowed by this Policy, if the Respondent is uncooperative.

No appeal of such Certification Program actions is permitted.

- 11. Resignation from CMPP Certification.** If a Respondent attempts to relinquish CMPP certification or withdraws an application during a conduct inquiry or case, the Certification Program may continue the matter to a final resolution and decision according to this Policy.

## SECTION B: MEDIATION

1. **Cases Appropriate for Mediation.** The Certification Manager will review all Conduct Charge Statements and complaint communications, in order to determine whether the matter could be resolved fairly without a formal conduct review. The Certification Manager will consider:
  - a. the seriousness of the allegations;
  - b. the Respondent's background;
  - c. the Respondent's prior conduct; and,
  - d. any other relevant information or material.

Conduct cases concerning charges issued by a regulatory agency or professional body, and those involving criminal or civil litigation, are not appropriate for mediation. If the Certification Manager determines that a conduct matter is appropriate for mediation, the Parties will be asked to participate voluntarily in a mediation process.

2. **Mediation Process.** If the Complainant and Respondent agree to mediation, the Parties will make a reasonable and good faith effort to resolve the dispute to a fair, just, and voluntary conclusion, with the assistance of the Certification Manager. The Certification Manager will schedule a meeting, either face-to-face or by telephone, that is mutually agreeable to the Parties. The Certification Manager will moderate the meeting, and each Party will be given adequate time to state their positions. The Certification Manager and parties together will determine whether the matter can be informally resolved with mutual agreement of resolution terms.
3. **Successful Mediation.** If a conduct matter is resolved informally by mediation, the Certification Manager will prepare a report summarizing the terms of each mediated resolution of a conduct case. A copy of the report will be forwarded to the parties. A mediated resolution of a conduct matter may not be appealed after the acceptance of the mediation report by all parties. The Certification Program will only maintain a copy of the final mediation report; all other records relating to the mediation will be destroyed.
4. **Unsuccessful Mediation.** In the event of unsuccessful mediation, the Certification Manager will refer the case to the Conduct Review Committee for resolution consistent with this Policy.

## SECTION C: CONDUCT INQUIRIES/CONDUCT CHARGE STATEMENTS

1. **Conduct Inquiries.** The Certification Manager will provide a Conduct Charge Statement form to an individual or group submitting a complaint, along with the Certification Program Code of Conduct and the Conduct Case Procedures. The Certification Manager will record all conduct inquiries and identify: the person(s) making the inquiry; the certificant/candidate; and, the nature of the matter.

2. **Conduct Charge Statement/Description of Charges.** In order for the Certification Program to consider a Conduct Complaint, a Complainant other than the Program should complete and submit a Conduct Charge Statement to the Certification Manager, including all information required by the form. The Conduct Charge Statement is a written communication from a Complainant describing the allegations against a certificant or candidate, and the related Code of Conduct provisions. Public documents, such as newspaper stories, court decisions or orders, agency decisions, or other appropriate materials, also may be considered as Conduct Charge Statements, or as supporting information. Documents submitted as part of a conduct inquiry or in support of a Conduct Charge Statement become the property of the Certification Program, and will not be returned.

When a Conduct Charge Statement is received by the Certification Program, the Certification Manager will:

- (a) Review the material received and assign a case number to the conduct matter;
- (b) Review the allegations made concerning the charges;
- (c) Determine whether the charges are presented in sufficient detail to permit the Certification Program to conduct a preliminary investigation; and, if necessary;
- (d) Contact the Complainant and/or other parties, as necessary, to request additional information and supporting documentation.

The Certification Manager will send a letter to the Complainant and Respondent stating whether the charges submitted are accepted or rejected for a formal conduct investigation.

#### **SECTION D: ACCEPTANCE/REJECTION OF CONDUCT CHARGES**

1. **Charge Acceptance.** The Certification Manager will review a Conduct Charge Statement submitted by a Complainant in a timely manner, and then determine if it will become the subject of a formal Conduct Complaint and Investigation. The following information will be considered when determining if a charge is accepted or rejected:
- (a) Whether the Respondent is a certificant or candidate;
  - (b) Whether a proven charge would constitute a violation of the Certification Program Code of Conduct;
  - (c) Whether the passage of time since the alleged violation requires that the charge(s) be rejected;
  - (d) Whether relevant, reliable information or evidence concerning the charge is

available;

- (e) Whether the Complainant is willing to provide relevant information to the Certification Program concerning the complaint; and,
- (f) Whether the charge appears to be justified or supported, considering the evidence made available to the Certification Program.

The Certification Manager will review the charge and available information consistent with this Policy Section, and will: determine whether the matter could be resolved fairly without a formal conduct review, such as mediation, pursuant to Section B; issue a formal Conduct Complaint and Investigation Notice pursuant to Section E; reject the charge(s) pursuant to Section D.2; or, refer the Conduct Charge Statement to the Conduct Review Committee for review pursuant to Section I.

2. **Charge Rejection.** If the Certification Manager or Conduct Review Committee determines that a charge allegation should not become the subject of a Conduct Complaint, the charge(s) will be rejected. The Certification Manager will notify the Complainant and Respondent of the rejection, and the reason(s) for the rejection by letter within approximately thirty (30) days of the determination.
3. **Appeal of Charge Rejection Determination.** Within thirty (30) days of the date of the Certification Manager's charge rejection letter, the Complainant may appeal to the Conduct Review Committee. In order for the Review Committee to reconsider the rejection, the Complainant must state, in writing, the alleged misapplication of the charge acceptance criteria in Policy Section D.1 made by the Certification Manager. The Complainant may provide any additional information to be considered by the Conduct Review Committee when reviewing the appeal.

The Conduct Review Committee will convene to consider and decide any charge rejection appeal. In the event that a charge rejection decision is made by the Review Committee, the appeal will be reviewed by the Certification Board. Such decisions cannot be appealed.

## **SECTION E: CONDUCT COMPLAINTS AND INVESTIGATION**

1. **Conduct Complaint and Investigation Notices.** After a conduct charge is accepted, a formal Conduct Complaint and Investigation Notice (Conduct Complaint) will be sent to the Respondent and Complainant identifying each alleged Code of Conduct violation, and the supporting information related to each complaint. The Conduct Complaint will state that the Respondent may request that the Conduct Complaint be reviewed and resolved by the Conduct Review Committee, and may request a hearing before the Review Committee. If the Respondent does not request review by the Review Committee, the Conduct Complaint will be resolved by the Certification Manager under Section H of this Policy, unless the Certification Manager has referred

the case to the Conduct Review Committee for resolution. The Conduct Complaint, along with a copy of the Code of Conduct and Conduct Case Procedures, will be sent to both parties, and will be marked “Confidential.”

## **SECTION F: CONDUCT COMPLAINT RESPONSE**

1. **Submitting a Conduct Complaint Response.** Within thirty (30) days of the date of a Conduct Complaint, the Respondent must submit a Conduct Complaint Response (Complaint Response) according to the instructions in the Conduct Complaint. The Complaint Response must include the following:
  - (a) A full and truthful response to each complaint matter and alleged Code of Conduct violation;
  - (b) The identification and a copy of each document that the Respondent believes to be relevant to the resolution of the Conduct Complaint; and,
  - (c) Any other information that the Respondent believes will assist the Certification Program in considering the Conduct Complaint fairly.

The Complaint Response, and any document(s) submitted in support of the Response, become the property of the Certification Program, and will not be returned.

2. **Response Deficiencies.** The Certification Manager or the Conduct Review Committee may require the Respondent to provide additional information concerning a Complaint Response.
3. **Optional Reply to Conduct Complaint Response.** The Certification Program will forward a copy of the Complaint Response to the Complainant within approximately ten (10) days following the Program’s receipt of the Response. The Complainant may submit a written Reply to the Respondent’s Complaint Response within ten (10) days of the mailing date of the Response to the Complainant. If submitted, the Reply must fully explain all objections that the Complainant wishes to present concerning the Complaint Response.
4. **Optional Response to Complainant Reply.** The Certification Program will forward a Complainant’s Reply to the Respondent within approximately ten (10) days following the Program’s receipt of the Reply. The Respondent may submit a written Response to the Complainant’s Reply within ten (10) days of the mailing date of the Reply to the Respondent. The Response must fully explain, and is limited to, any objections that the Respondent wishes to present concerning the Complainant’s Reply to the Complaint Response.

## **SECTION G: PRELIMINARY ACTIONS AND ORDERS**

1. **Voluntary Temporary Suspension of Certification.** After a Conduct Complaint is issued, the Respondent may be asked to accept, and agree to, a temporary suspension of his or her CMPP certification and certain related conditions, which will remain in effect until the final resolution of the Complaint. This Voluntary Suspension Agreement will state that the Respondent's certification is suspended, and that the Respondent agrees to stop representing him/herself as certified, credentialed, or otherwise endorsed by the Certification Program until the final resolution of the Conduct Complaint. The Respondent will return at his/her own expense any credential materials (eg, CMPP certificate) to the Certification Program to be held until the suspension or other disciplinary action has ended.
2. **Involuntary Suspension of Certification.** If a Respondent does not agree to accept a Voluntary Suspension Agreement pursuant to Section G.1, the Certification Manager, the Conduct Review Committee, or the Certification Board may issue an Order temporarily suspending the Respondent's certification, and/or imposing appropriate conditions, consistent with this Policy section. This Suspension Order will stay in effect until the final resolution of the Complaint.
3. **Circumstances of Involuntary Suspension Orders.** Suspension Orders are authorized where:
  - (a) The Respondent has been convicted of a criminal act by a court, or the Respondent has not contested a criminal charge;
  - (b) The Respondent has been charged with a criminal act or violation of criminal law, and the charge or violation is pending before a court;
  - (c) The Respondent has been found in violation of a law, regulation, or rule by a government regulatory body, or has been sanctioned or disciplined by a government regulatory body;
  - (d) The Respondent him/herself is the subject of a formal complaint and/or investigation by a government regulatory body;
  - (e) The Respondent has been found in violation of a conduct code of a professional association or certifying body;
  - (f) The Respondent is the subject of a formal complaint and/or investigation by a professional association or certifying body concerning conduct or disciplinary matters; or,
  - (g) The Respondent is the subject of litigation directly relating to his/her professional activities or practice.
4. **Other Preliminary Orders.** The Certification Manager, the Conduct Review

Committee, or the Certification Board may require the Respondent to do or to refrain from doing certain acts by Preliminary or Temporary Order, including the submission of information and/or documents relevant to a conduct case review. Any Temporary and Preliminary Order will be reasonably related to the Conduct Complaint under consideration, or to a party's responsibilities under the Code of Conduct.

- 5. Failure to Comply with Preliminary Orders.** The Certification Manager, the Conduct Review Committee, or the Certification Board may discipline a Respondent who fails to comply with a Preliminary or Temporary Order. In determining the appropriate discipline, the Certification Manager, the Conduct Review Committee, or the Certification Board will consider the severity of the failure to comply and other relevant factors. Preliminary and Temporary Orders cannot be appealed.

#### **SECTION H: CERTIFICATION MANAGER COMPLAINT REVIEW AND RESOLUTION**

- 1. Certification Manager Resolution of Complaints.** In the event that the Respondent does not request review of the Conduct Complaint by the Conduct Review Committee, the Certification Manager will consider and resolve the Conduct Complaint under this Policy, based on the information in the record, and issue a Final Decision and Order, consistent with Section K, unless the Certification Manager has referred the case to the Conduct Review Committee for resolution.
- 2. Final Resolution/Decision and Order.** The final Decision and Order of the Certification Manager is binding on the parties. An adverse Decision and Order may be appealed to the Certification Board by the Respondent, consistent with the requirements of this Policy.

#### **SECTION I: CONDUCT REVIEW COMMITTEE COMPLAINT RESOLUTION**

- 1. Conduct Review Committee.** The Chair of the Certification Board will appoint a Chair of the CMPP Conduct Review Committee. The Chair of the Conduct Review Committee (Review Committee Chair), in consultation with the Certification Manager, will appoint at least two (2) qualified individuals to serve on the Conduct Review Committee. The Review Committee will be composed of at least three (3), current disinterested CMPP certificants in good standing, none of whom shall be members of the Certification Board. No Review Committee member may serve on a case where the Committee member has had a business, employment, or personal relationship with a party to the conduct review case, or where there otherwise appears to be a possible conflict of interest related to such service. Review Committee members will recuse themselves in such situations.

Unless a case has been resolved by the Certification Manager under this Policy, the Committee will be the initial decision-making body to determine whether a violation of the Code of Conduct or this Policy has occurred.

2. **Conduct Review Committee Resolution of Complaints.** If the Respondent does not request a hearing before the Conduct Review Committee, the Review Committee will consider and resolve the Conduct Complaint under this Policy, based upon the information in the record, and issue a Final Decision and Order, consistent with Section K.
3. **Conduct Review Committee Decision and Order.** The Final Decision and Order of the Conduct Review Committee is binding on the parties, unless the Decision is appealed to the Certification Board, consistent with the requirements of this Policy.

## **SECTION J: CONDUCT REVIEW COMMITTEE HEARINGS**

1. **Conduct Review Committee Hearings.** At the request of the Respondent, the Conduct Review Committee will conduct a hearing in order to collect and review all of the available information and evidence related to the Conduct Complaint. The Review Committee Chair will preside over and conduct each Complaint hearing, with at least two (2) Review Committee members. The Committee will have full authority and responsibility to convene, preside over, continue, and conclude a conduct hearing, and to resolve a Conduct Complaint. A Conduct Complaint hearing may proceed to a conclusion and decision whether or not the Parties are present.
2. **Hearing Schedule and Location.** The hearing date for each conduct case will be scheduled by the Certification Manager, in consultation with the Conduct Review Committee, the Complainant, and the Respondent. As determined by the Certification Program, a hearing will be conducted by telephone, unless an in-person hearing is necessary. If practical, a hearing will be held no more than two hundred (200) days from the receipt of a Conduct Charge Statement by the Certification Program. All parties will be provided with adequate time to submit a Response or a Reply prior to a hearing.
3. **Hearing Notice and Attendance.** A Certification Program representative will notify the parties of the hearing schedule and location in writing. Each party will be required to provide the following information at least seven (7) days before the hearing:
  - (a) Whether the party intends to participate in the hearing, and if so, the telephone number where the party is to be reached during the hearing;
  - (b) Whether the party intends to participate in the hearing with an attorney or other representative, and if so, the name, address, and telephone number of the attorney or representative;
  - (c) Whether the party intends to present witnesses at the hearing, and if so, the name, address, and telephone number of each witness and a brief summary of the information to be provided by each witness; and,

- (d) Whether the party intends to present any written information during the course of the hearing that was not previously submitted to the Certification Program. If new information is offered, the party must provide to the Certification Program a copy of each document and a brief description of the document's relevance at least seven (7) days before the hearing.
- 4. **Postponement of Hearing.** A Respondent or Complainant may request a hearing postponement. This request must be in writing and received by the Certification Manager at least ten (10) days prior to the scheduled hearing date. The Certification Manager, or the Review Committee Chair, may grant or deny a postponement. Postponement decisions cannot be appealed.
- 5. **Participation of ISMPP Legal Counsel.** If ISMPP Legal Counsel is present at a conduct case hearing, Legal Counsel will have the privilege of the floor and may conduct the hearing with the Conduct Review Committee. Attorneys or other representatives of the parties do not have such privilege, and must follow the determinations and rulings of the Review Committee and ISMPP Legal Counsel.
- 6. **Responsibilities and Rights of the Parties.** In addition to other responsibilities and rights, the Respondent and the Complainant may do, or be required to do, the following:
  - (a) Attend the hearing and be present during all witness presentations;
  - (b) Present witnesses, written information, and argument on their behalf;
  - (c) Review or inspect all information and documents presented in the case; and,
  - (d) Comply with all orders or directives issued by the Certification Program, including the Conduct Review Committee.
- 7. **Witnesses.** All witnesses will be excluded from the hearing except during the presentation of their information. The Review Committee Chair will rule on any request for a witness to be present during the hearing, and the ruling cannot be appealed.
- 8. **Confidentiality/Inclusion of Other Persons.** All hearings are confidential and private. Only authorized Certification Program representatives, the parties, authorized witnesses, and legal counsel may participate in a hearing. A party may request the presence of an observer in the hearing during all or part of a hearing; however, no observers are permitted without special permission from the Conduct Review Committee. The Review Committee Chair will rule on these requests, and the ruling cannot be appealed.
- 9. **Information and Evidence Accepted.** The Conduct Review Committee will receive and consider all information appearing to be relevant to the Conduct Complaint,

including any information that may be helpful to a complete understanding of the case. The Review Committee may consider information concerning a party's relevant past conduct. Objections relating to the relevance of information and similar issues will be decided by the Review Committee, and these decisions cannot be appealed.

10. **Record of the Hearing.** A written summary of the hearing will be made by the Conduct Review Committee or other Certification Program representative. No tape, video, or other electronic recording or transmission of the hearing will be permitted, unless specifically authorized by the Review Committee Chair. Upon the request of a party, the Chair may grant permission for off-the-record conversations. Such conversations will not be included in the hearing record.
11. **Hearing Expenses.** The Certification Program will assume all costs related to scheduling and conducting a hearing, including conference call expenses. Each party will be solely responsible for their expenses associated with the conduct case, including all hearing and attorney expenses.
12. **Closing of the Hearing Record.** The case record will be closed following the conclusion of the hearing, unless otherwise directed by the Conduct Review Committee. Any party may request that the record remain open for thirty (30) days for the purpose of receiving additional information and written material. The Review Committee Chair may grant or deny requests to keep records open, and these decisions cannot be appealed.

## **SECTION K: CERTIFICATION MANAGER OR CONDUCT REVIEW COMMITTEE CASE DECISION AND ORDER**

1. **Conduct Case Decision and Order.** Approximately thirty (30) days after a conduct case record is closed, or as soon as practical, the Certification Manager or Conduct Review Committee, as appropriate, will prepare a Conduct Case Decision and Order, and will send the Decision to the parties.
2. **Contents of the Conduct Case Decision.** The following information will be included in the Conduct Case Decision:
  - (a) A summary of the case, including the positions of the parties;
  - (b) A summary of the relevant factual findings based on the record;
  - (c) A final ruling on each Certification Program Code of Conduct complaint;
  - (d) A statement of the disciplinary and remedial action(s) imposed; and,
  - (e) Any other appropriate directive(s) consistent with the Decision.

3. **Conduct Case Order.** The Certification Manager or Conduct Review Committee may issue a Conduct Case Order that includes any of the following actions and information:
- (a) An order directing the Respondent to stop or end any behavior or acts found to be in violation of the Code of Conduct or related Certification Program policies;
  - (b) A statement of the disciplinary and remedial action(s) imposed, and a requirement that the Respondent comply immediately with these action(s); and/or,
  - (c) Any other appropriate directive(s) consistent with the Decision and Certification Program policies.

#### **SECTION L: DISCIPLINARY ACTIONS**

1. **Disciplinary Actions Available.** When a Respondent has been found to have violated the Code of Conduct, the Certification Manager or Conduct Review Committee may issue and order one or more of the following disciplinary and remedial actions:
- (a) A recommendation to the Certification Board that the candidate be ineligible for certification, or that a certificant be ineligible for recertification;
  - (b) A requirement that the Respondent take corrective action(s), or fulfill appropriate conditions
  - (c) A private reprimand and censure of the Respondent;
  - (d) A public reprimand and censure of the Respondent;
  - (e) A term of certification probation for any period of up to three (3) years, which may include conditions related to the Respondent's conduct;
  - (f) Suspension of the Respondent's CMPP certification for a period of not less than six (6) months and not more than three (3) years, which will include the requirements that the Respondent return to the Certification Program all original or copied credential materials for the suspension period, and immediately stop any professional identification or affiliation with the Certification Program during the suspension period; and,
  - (g) Revocation of the Respondent's CMPP certification, which will include the requirements that the Respondent return to the Certification Program all original or copied credential materials, and immediately stop all identification or affiliation with the Certification Program.

2. **Referral and Notification Action.** The Certification Manager or other designated Program representative may notify appropriate government agencies or professional organizations of any final disciplinary action(s) taken concerning a Respondent by sending a copy of the final Conduct Case Decision and Order or Appeals Decision. The Certification Program representative may send this Decision notification after the time period for the Respondent to appeal an adverse decision has lapsed. During an appeal period, the Certification Program may respond to inquiries concerning conduct cases, and may indicate the existence of a complaint.
3. **Publication of Disciplinary Action.** Following the closure of a conduct case, the Certification Program may publish or release a final Conduct Case Decision or Conduct Appeals Decision. Any party or interested individual may request the publication of any final Decision, consistent with this Policy. However, the Certification Manager or other Program representative may grant or deny such requests, and these decisions cannot be appealed.

#### **SECTION M: CERTIFICATION BOARD APPEALS**

1. **Certification Board Appeals.** The Certification Board will be responsible for resolving all appropriate appeals concerning Conduct Case Decisions of the Certification Manager and the Conduct Review Committee. The Certification Board Chair will preside over and conduct each conduct appeal, consistent with this Policy. No Certification Board Director may participate in an appeal where the Director has had a business, employment, or personal relationship with a party to the conduct case, or where there otherwise appears to be a possible conflict of interest related to such participation.
2. **Time Period for Appeals to the Certification Board.** Within thirty (30) days of the date of an adverse Conduct Case Decision by the Certification Manager or Conduct Review Committee, the Respondent may appeal all or a portion of the Decision and Order to the Certification Board pursuant to this Policy Section. Any appeals received beyond this time period will not be reviewed or considered by the Board.
3. **Grounds for Appeal to the Certification Board.** An adverse Decision of the Certification Manager or the Conduct Review Committee may be affirmed, reversed, or otherwise modified by the Certification Board on appeal. However, the grounds for appeal of an adverse Decision are strictly limited to the following:
  - (a) Procedural Error: The Certification Manager or Conduct Review Committee misapplied a procedure contained in this Policy, and this misapplication prejudiced the Respondent;
  - (b) New or Previously Undiscovered Information: Following the closing of the hearing record, the Respondent has found relevant information that was not previously in

their possession, that was not reasonably available prior to the closure of the record, and that could have affected the Conduct Case Decision;

- (c) Misapplication of the Conduct Code: The Certification Manager or Conduct Review Committee Decision misapplied the provisions of the Code of Conduct, and this misapplication prejudiced the Respondent; and/or,
- (d) Contrary to the Information Presented: The Conduct Case Decision is contrary to the most substantial information provided in the record.

With respect to Sections M.3(a) and M.3(c), above, the Certification Board will consider only arguments that were presented to the Certification Manager or Review Committee prior to the closing of the hearing record.

4. **Contents of Appeal/Letter of Appeal.** In order to submit an appeal to the Certification Board under this Policy Section, the Respondent must submit a written appeal document to the Board in the time period specified in Section M.2, that contains the following information and material:

- (a) The conduct case name, case number, and the date of the Certification Manager or Conduct Review Committee Decision;
- (b) A statement of the grounds for the appeal under Subsection M.3, above, and a complete explanation of the reasons that the Respondent believes the Conduct Case Decision should be reversed or otherwise modified; and,
- (c) Accurate, complete copies of any materials that support the Respondent's appeal.

The Respondent's appeal, and any document(s) submitted in support of the appeal, become the property of the Certification Program, and will not be returned. The Certification Program will forward a copy of the Respondent's appeal, and supporting materials, to the Complainant.

5. **Appeal Review and Deficiencies.** The Certification Board will review the appeal in a timely manner. The Certification Board may require the Respondent to clarify, supplement, or amend the information presented in an appeal.
6. **Appeal Rejection.** If the Certification Board determines that an appeal does not meet the requirements of this Policy, or does not otherwise require further review under this Policy, the Certification Board Chair will reject the appeal. The Board Chair will notify the Complainant and Respondent of the appeal rejection, as well as the reason(s) for the rejection within thirty (30) days of the Certification Board's decision. Appeal rejection decisions cannot be appealed.

- 7. Optional Reply to Appeal Letter.** Within fifteen (15) days of the date of a Respondent's appeal, the Complainant may submit a written Reply to the appeal to the Certification Board. This Reply must fully explain all objections that the Complainant wishes to present to the Board concerning the appeal. The Complainant must submit the Reply to the Certification Program within ten (10) days of receiving the Respondent's appeal letter.
- 8. Optional Response to Complainant Reply.** If an optional Reply to the appeal is submitted by the Complainant, the Certification Board will forward the Reply to the Respondent within approximately ten (10) days following the receipt of the Reply. The Respondent may submit a written Response to the Complainant's Reply within ten (10) days of the mailing date of the Reply. The Response must fully explain, and is limited to, any objections that the Respondent wishes to present to the Certification Board concerning the Complainant's Reply to the appeal.
- 9. Request to Appear Before the Certification Board.** The Complainant or Respondent may request to appear before the Certification Board concerning the appeal. The Board Chair will determine whether to grant, deny, or limit the request. The denial of a request to appear before the Certification Board cannot be appealed. The Complainant and/or Respondent are solely responsible for their expenses related to the appeal.
- 10. Certification Board Appeals Hearings.** Within one hundred and eighty (180) days after the submission of a complete appeal, or as soon after as is practical, the Certification Board will conduct a hearing to determine the outcome and final resolution of the appeal. During the appeal hearing, the Board Directors will review the case record, any appeal submissions presented by the parties, and/or any other information determined to be relevant. Thereafter, the Certification Board will determine the appeal by majority vote in closed session.
- 11. Certification Board Appeal Decisions and Orders.** Within thirty (30) days of conclusion of an appeal hearing, or as soon after as is practical, the Certification Board Chair, on behalf of the Board, will issue an Appeal Decision and Order (Appeal Decision) explaining the outcome of the appeal. With respect to each appeal, the Appeal Decision will include the following:

  - (a)** A summary of any relevant portions of the Conduct Case Decision and Order;
  - (b)** A summary of any relevant procedural or factual findings made by the Certification Board;
  - (c)** The ruling(s) and decisions with respect to each matter under appeal; and,
  - (d)** The Certification Board final Order affirming, reversing, amending, or otherwise modifying any portion of the Conduct Case Decision and Order, including any

disciplinary or remedial action(s).

Copies of the Board Appeal Decision will be sent to the parties by U.S. mail, return receipt requested, or other appropriate delivery method.

## **SECTION N: FINALIZING AND CLOSING CONDUCT CASES**

1. **Events That Will Cause Closure of a Conduct Case.** A conduct case will be closed and all proceedings ended when any of the following occur:
  - (a) The Charge Statement has not been accepted and the charges have been rejected as the basis for a Conduct Complaint, and all related appeal rights have ended;
  - (b) A final Conduct Case Decision or Appeal Decision has been issued, and all related appeal rights have ended; or,
  - (c) A Conduct Complaint has been terminated or withdrawn by the Complainant(s).
2. **Events That Will Cause an ISMPP Conduct Case Decision and Order to Become Final.** A Conduct Case Decision that is not appealed will be final. The Appeal Decision of the Certification Board will be final, and no further appeals will be available to any party.

## **SECTION O: REINSTATEMENT AND REAPPLICATION PROCEDURES FOLLOWING PROBATION, SUSPENSION, AND REVOCATION ORDERS**

1. **Probation Orders/Reinstatement or Referral.** Following the expiration of a final Probation Order, the Certification Manager, in consultation with the Conduct Review Committee, will determine whether the Respondent has satisfied the terms of the Probation Order. If the Respondent has completely satisfied the terms of probation, the Certification Manager will reinstate the certificant to full certification status. If the Respondent has not satisfied the terms of probation, the Certification Manager will refer the case to the Certification Board for review and action consistent with this Policy, including, but not limited to, continuation of the Probation Order and/or the issuance of additional disciplinary or remedial actions.
2. **Suspension Orders/Reinstatement Requests.** After a final Suspension Order issued under this Policy has expired, a Respondent may submit a Request for Certification Reinstatement (Reinstatement Request) to the Certification Board, consistent with the requirements of this Policy Section.
3. **Revocation Orders/Reapplication Petition.** Five (5) years after a final Revocation Order is issued under this Policy, a Respondent may submit a Petition for Permission to Reapply for Certification (Reapplication Petition) to the Certification Board,

consistent with the requirements of this Policy Section.

- 4. Contents of Reinstatement Requests and Reapplication Petitions.** Subject to the time requirements above, the Certification Board will consider Reinstatement Requests and Reapplication Petitions from certificants and candidates who have been the subject of final Suspension or Revocation Orders. Reinstatement Requests and Reapplication Petitions must include the following information:

  - (a)** The conduct case name, case number, and the date of the final Conduct Decision;
  - (b)** A statement explaining the reasons that the Respondent believes the Reinstatement Request or the Reapplication Petition should be granted, including the reasons that the Respondent should now receive CMPP certification, or be eligible for certification; and,
  - (c)** Accurate and complete copies of any documents or other materials that support the Request or Petition.
- 5. Certification Board Reinstatement Request and Reapplication Petition Review.** Within ninety (90) days after a complete Reinstatement Request or Reapplication Petition is submitted to the Certification Program, or as soon after as is practical, the Certification Board will review the Request or Petition. Requests to participate in the review will be granted at the sole discretion of the Certification Board. Each Request or Petition will be considered by a quorum of the Board in a closed meeting. During these deliberations, the Certification Board will review the information presented by the Respondent, and any other relevant information, and determine the final outcome of the Request or Petition by majority vote.
- 6. Certification Board Reinstatement Request and Reapplication Petition Decisions and Orders.** Within thirty (30) days after the Certification Board has completed its review of a Reinstatement Request or Reapplication Petition, or as soon as is practical, the Board Chair or Certification Manager, on behalf of Board, will prepare and issue a Decision and Order concerning the Request or Petition. The final Certification Board Decision and Order will indicate whether the Request or Petition is granted, denied, or continued to a later date. If appropriate, the Certification Board Decision and Order will indicate any conditions of certification or recertification. The Certification Board Decision and Order will be sent to the parties by U.S. mail, return receipt requested, or other appropriate delivery method. While no appeal of the Board Decision and Order is permitted, the Respondent may submit a new Request or Petition pursuant to this Section, two (2) or more years after the issuance of the Board Decision and Order.