

Judicial & Ethics Policy



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Introduction

The Judicial and Ethics Committee: Protecting the Profession's Credentials

The designations CRT, RRT, CPFT, RPFT, CRT-NPS, RRT-NPS, CRT-SDS, RRT-SDS, and RRT-ACCS have national recognition by health care professionals, employers, state governments and federal agencies. With the significant national credibility possessed by the NBRC's examinations comes the responsibility to ensure the integrity of the credentials awarded. To protect the public from those who attempt to misrepresent their qualifications as credentialed practitioners, the NBRC established the Judicial and Ethics Committee. Since 1976, the committee has been charged with investigating incidents in which national credentials have been falsified, altered examination score reports have been prepared, examination candidates used improper means in taking an examination, and forged educational documents have been presented. The committee also considers unacceptable practice-related behavior by already credentialed practitioners. To conduct its investigations, the Judicial and Ethics Committee has adopted official Operating Policies and Procedures which meet the standards of the National Commission for Certifying Agencies/Institute for Credentialing Excellence, which requires that member organizations have an enforceable disciplinary process.

Committee Composition

The Judicial and Ethics Committee is a permanent committee to which the NBRC President annually appoints members. Representatives of each of the NBRC's sponsoring organizations must be appointed. The sponsors include the American Association for Respiratory Care (AARC), the American College of Chest Physicians (ACCP), the American Society of Anesthesiologists (ASA), and the American Thoracic Society (ATS). The NBRC's elected Public Advisor, a representative of health care consumers, also serves on the committee. Each of the representatives named to the Judicial and Ethics Committee are also members of the NBRC's Board of Trustees and are familiar with and dedicated to the primary goal of the NBRC: to administer credentialing examinations of the highest quality. All members fully understand the responsibility of the NBRC to assure the public that only those who have passed one of the national examinations are using the national credentials.

Types of Complaints

The Board of Trustees has approved the following items as reasons for which applications for NBRC examinations may be refused and for which examination candidates and credentialed individuals may be disciplined:

1. Obtaining or attempting to obtain Certification, Registration, Recertification or Reregistration by fraud, deception or artifice.
2. Knowingly assisting another person or other persons in obtaining or attempting to obtain Certification, Registration, Recertification or Reregistration by fraud, deception or artifice.
3. Failure to follow examination security protocols.
4. Unauthorized use of a Certification or Registry certificate or falsification of credentials, or any other NBRC documents.
5. Unauthorized possession and/or distribution of any official NBRC testing or examination materials to include copying and/or reproduction of any part of NBRC examination questions or problems.

6. Credentialed practitioners and/or examination candidates may be disciplined for offenses related to their practice of respiratory therapy and/or pulmonary technology which give cause to question the individual's ability to practice in a safe and competent manner. Such offenses include, but are not limited to:
 - a. Conviction in a court of law, after all appeals have been exhausted, of a drug or alcohol-related offense that would cause question as to the individual's ability to appropriately interact with patients and others on the job.
 - b. Conviction in a court of law, after all appeals have been exhausted, of a job-related offense indicating the individual's intentional negligence and/or purposeful misconduct that results in endangering the health and/or safety of a patient.
 - c. Conviction in a court of law, after all appeals have been exhausted, of an act of physical violence (murder, assault, rape, robbery, etc.) that would cause question as to the individual's ability to appropriately interact with patients and others on the job.
 - d. Revocation or denial of a license to practice respiratory therapy and/or pulmonary technology by an authorized state agency due to:
 - i. a drug or alcohol-related offense that would cause question as to the individual's ability to appropriately interact with patients and others on the job.
 - ii. a job-related offense indicating the individual's intentional negligence and/or purposeful misconduct that results in endangering the health and/or safety of a patient.
 - iii. an act of physical violence (murder, assault, rape, robbery, etc.) that would cause question as to the individual's ability to appropriately interact with patients and others on the job.
 - e. Voluntary surrender of a license to practice respiratory therapy and/or pulmonary technology, or another health-related profession, by a credentialed individual and/or examination candidate to an authorized state agency after the filing of a complaint proceeding by an authorized state agency alleging:
 - i. a drug or alcohol-related offense that would cause question as to the individual's ability to appropriately interact with patients and others on the job.
 - ii. a job-related offense indicating the individual's intentional negligence and/or purposeful misconduct that results in endangering the health and/or safety of a patient.
 - iii. an act of physical violence (murder, assault, rape, robbery, etc.) that would cause question as to the individual's ability to appropriately interact with patients and others on the job.
7. Use of any authorized designation (CRT, RRT, CPFT, RPFT, CRT-NPS, RRT-NPS, CRT-SDS, RRT-SDS, RRT-ACCS or any other designation granted by the NBRC) in any unauthorized manner, including, but not limited to, disparaging usage or usage for commercial gain.

When the NBRC becomes aware of an incident that may fall into one of the preceding categories, the Judicial and Ethics Committee begins a structured investigation to determine whether or not any disciplinary action will be taken.

Investigation Procedures

The judicial process is designed to give the individual alleged to have committed a violation of the NBRC's policies a fair opportunity to refute the allegation and/or explain the situation fully before any action is taken by the Judicial and Ethics Committee. In each instance which comes to the NBRC's attention, the following steps are taken to quickly complete the investigation and resolve the complaint:

- 1. Investigation Notice:** The NBRC Executive Office responds to initial complaints received by providing written notice of the potential problem to the individual or the "charged party." The individual is given an opportunity to respond in writing to clarify the matter or provide other pertinent information.
- 2. Hearing Decision:** Based on the individual's response to the NBRC's inquiry about the complaint, the Judicial and Ethics Committee meets to determine whether or not the complaint appears to have merit and whether or not it falls within the scope of the committee's responsibilities. The committee then determines if an official hearing, in which testimony may be presented by the charged party and others, will be conducted. If the decision is that a hearing is unwarranted, the complaint is dropped and the individual is notified that no action will be taken by the NBRC.
- 3. Hearing Notice/Information Gathering:** If the complaint appears to have merit and is within the purview of the committee, the charged party is notified by certified mail that a formal hearing will be conducted at the next Judicial and Ethics Committee meeting. The specific violation alleged to have been committed is identified and the charged party is given 30 days in which to provide information to the committee regarding the complaint. The charged party may also request that a hearing not be conducted. At the same time, the NBRC may contact other individuals about the matter and develop other facts that may help the committee decide if a violation of NBRC policies has occurred. The individual has the right to review information gathered, as well as to be personally present and/or represented by legal counsel at the formal hearing.
- 4. Formal Hearing:** All of the information gathered during the investigation or provided by the charged party is reviewed by the Judicial and Ethics Committee. Any personal testimony from the individual or other witnesses is taken during the hearing and a transcribed record of the proceedings is made.
- 5. Case Decision:** Based on the record of the hearing, including all information submitted by the charged party, the Judicial and Ethics Committee determines whether or not the individual has violated NBRC policies and, if so, what disciplinary action the NBRC will take. Written notice of the committee's decision is provided to the individual by certified mail.
- 6. Appeal:** Upon receipt of the notice of the Judicial and Ethics Committee's decision, the charged party has 30 days to file a written appeal of the decision to the Board of Trustees. When an appeal is made, the Board, minus the members of the Judicial and Ethics Committee who participated in the decision, reviews the record of the case and determines whether to affirm or modify the Judicial and Ethics Committee's decision. The review is based on the record and no additional testimony is received.
- 7. Reconsideration:** Regardless of whether the individual appeals a committee decision to the Board of Trustees, the Judicial and Ethics Committee will reconsider the case of any individual upon receipt of a request to do so, accompanied by information not previously considered. This most often occurs when an individual who initially did not respond to the NBRC's inquiries about a matter, later decides to come forward after a hearing has been conducted.

Disciplinary Actions

The Judicial and Ethics Committee considers each alleged violation of NBRC policies as an individual case and makes decisions regarding appropriate punishment to fit the circumstances. In doing this, the committee may choose from a range of disciplinary measures approved by the Board of Trustees:

1. **Admonishment:** A written reprimand by the President of the NBRC to be placed in an individual's NBRC records for a minimum of two years.
2. **Formal Censure:** An official resolution recorded in the minutes of a meeting of the NBRC Board of Trustees expressing the Board's official displeasure with an individual's action. The resolution of censure will remain in the individual's records unless revoked by vote of the Board of Trustees at a future meeting.
3. **Removal from eligibility for NBRC examinations for an indefinite or specified period of time:** Depending upon the seriousness of the offense and the individual's responsiveness to the NBRC's concerns, the Judicial and Ethics Committee may remove a person's eligibility for credentialing for a specified length of time or for an indefinite period. To be reinstated, the individual must petition the committee for reconsideration of the matter and explain why such reconsideration should be made.
4. **Deletion from the NBRC Directory for an indefinite or specified period of time:** For already credentialed individuals who violate NBRC policies, the Judicial and Ethics Committee may suspend the practitioner's active membership and require the individual to formally petition for reinstatement.
5. **Disqualification from recredentialing programs:** Already credentialed practitioners may be barred from becoming recertified as a result of violation of NBRC policies.

Disciplinary Actions for Practice-Related Offenses

In addition to the preceding measures that may be taken against those who violate NBRC policies, the Judicial and Ethics Committee may take the following, more stringent, actions against examination candidates and credentialed members who commit practice-related offenses which affect the safety of patients and/or call into serious question the individual's competence to practice:

6. Deletion from "active" credentialed status for a specified or indefinite period of time.
7. Suspension of a credential(s) for an indefinite or specified period of time.
8. Suspension from the examination system(s) for an indefinite or specified period of time.
9. Publication of the disciplinary action in NBRC Horizons and other publications.
10. Mandatory re-examination to document continued competence as a credentialed practitioner; failure of the examination could lead to suspension of a credential for an indefinite or specified period of time.

In the event the disciplinary action results from a conviction, the disciplinary action shall not exceed the length of the court-imposed punishment.

NBRC Trademarks

In addition to policing the use of the national respiratory care credentials and ensuring that credentialed practitioners act responsibly on the job, the Judicial and Ethics Committee also has the responsibility to protect the NBRC's federal trademarks from infringement by unauthorized parties. The federal trademark registrations owned by the NBRC include the corporate logo and the designations CRT, RRT, CPFT, RPFT, CRT-NPS, RRT-NPS, CRT-SDS, RRT-SDS, RRT-ACCS and any other designation granted by the NBRC. The Judicial and Ethics Committee works with qualified patent and trademark attorneys to ensure that only those who have passed NBRC examinations have the right to use the trademark designations, adding to the meaning and value of the national respiratory care credentials.

Conflict of Interest

To avoid any conflict of interest, or the appearance of a conflict of interest, no member of the Judicial and Ethics Committee will participate in the hearing or decision of a matter which involves, as a party or witness, an individual who graduated within the previous year from an educational program for which the Committee member serves as an instructor, or who is employed in a position which is currently supervised by the Committee member, or with whom the Committee member is personally acquainted. Similarly, in the event of an appeal to the Board of Trustees, no Trustee will participate in the appeal of a matter which involves, as a party or witness, an individual who graduated within the previous year from an educational program for which the Trustee serves as an instructor, or who is employed in a position which is currently supervised by the Trustee, or with whom the Trustee is personally acquainted. Further, if the proposed disciplinary action is the result of an action taken by a state licensure board, then no Committee member or Trustee who served on the state board at the time its action was taken may participate in the consideration of the matter by the Committee or NBRC Board. In addition, no Committee member or Trustee shall participate in the decision or appeal of a matter in which the individual has a personal financial interest. It is the responsibility of the Committee member, or Trustee on appeal, to notify the Committee chair (or Board president) of any such Conflict of Interest and to recuse himself or herself from consideration of the matter.

Reporting Violations

To protect the national credentials and assure responsible practice by its credentialed members, the NBRC depends upon respiratory care professionals, employers, state licensure boards and the public to report incidents which may require action by the Judicial and Ethics Committee. Complaints which appear to fit the scope of the committee's responsibilities may be sent to:

Chairman,
NBRC Judicial and Ethics Committee
10801 Mastin St., Suite 300
Overland Park, Kansas 66210

Only signed written complaints will be considered; anonymous correspondence cannot be acted upon. The NBRC will protect the confidentiality of those who provide information to every possible extent. However, the NBRC must become involved only in matters that can be factually determined, while providing the charged party with every opportunity to respond in a professional and legally defensible atmosphere. Within this framework, the Judicial and Ethics Committee effectively addresses the concern of the Board of Trustees to protect the public and the national respiratory care credentials from those who would misuse them.