

Excerpted from the Policy & Procedure Manual of the Certification Board of Infection Control & Epidemiology, Inc.

Category 5.0 Judicial and Ethics Committee

Since 1983 the Certification Board of Infection Control and Epidemiology, Inc. (CBIC®) has certified professionals whose primary responsibility is the implementation of infection control and epidemiological principles in various patient care settings. The designation Certified in Infection Control (CIC®) is recognized by health care professionals, employers, and regulatory agencies at the local, state and national level. Examination is the standard by which the professional's knowledge base is measured.

Because of the significant national credibility associated with the CBIC examination, CBIC has a responsibility to ensure the integrity of the credential awarded (CIC®). To protect the public from individuals who hold themselves out as certified, credentialed professionals, without having first been awarded the CIC® credential by CBIC, who had the designation but failed to timely renew same, or who otherwise falsely represent their qualifications to CBIC in obtaining such credentials, CBIC has established a Judicial and Ethics Committee (JEC).

5.1 Purpose of the Judicial and Ethics Committee

Policy: The JEC shall be charged with investigating, adjudicating, and disciplining reported incidents in which certification credentials have been falsified or misrepresented, altered examination score reports have been prepared and forged educational documents have been presented. In addition, JEC shall investigate, adjudicate and recommend or take appropriate action for the misuse of CIC® by those who have not obtained the right to use the mark or who failed to maintain the right to use the mark by not timely renewing his or her registration. The JEC will also investigate and decide claims of unacceptable or harmful practice related behaviors of current certified professionals. In order to perform its functions, the JEC has adopted operating policies and procedures, which meet the standards of the Institute for Credentialing Excellence (ICE), which requires that member organizations have an enforceable disciplinary process.

Procedure:

1. Meetings of the JEC can be held by conference call or other telecommunication unless a face-to-face meeting is determined to be essential for evaluating a complaint.
2. Written complaints from individuals may be disregarded if the complainant does not identify himself or herself and the complaint is not signed. If an initial complaint is accepted by the JEC, the complainant, if known, shall be required to authorize the disclosure of all information reasonably related to the complaint to the charged party. There may be times when written complaints are not required, such as in judicial or regulatory proceedings against a charged party that allege or determine an act of misconduct or misuse of the CIC which appears in the public domain. The JEC shall be able to act upon such credible evidence that they may become aware of without the necessity of a formal, written complaint.
3. When CBIC receives a written report, or in its discretion, receives what it believes to be credible evidence, of an incident or professional misconduct which falls into one of the

categories listed below, such complaint shall be referred promptly to the JEC which shall then initiate an investigation to determine whether such conduct warrants formal action.

4. To protect the credential and assure responsible practice by its certified members, the CBIC depends upon infection control professionals, employers, state licensure boards, and the public to report incidents, which may require action by the JEC. Complaints which appear to fit the scope of the JEC's responsibilities may be sent to:

Chair, CBIC Judicial and Ethics Committee
C/O CBIC Office

5.2 Types of Complaints

Policy: The CBIC recognizes that misconduct, including but not limited to the conduct set forth below, is misconduct for which applications for the CBIC examination may be denied and for which examination candidates and/or certified individuals may be disciplined.

Procedure: Examples of misconduct for which the judicial ethics process may be implemented includes:

1. Obtaining or attempting to obtain certification or recertification by fraud, deception, or artifice.
2. Knowingly assisting another person or other persons in obtaining or attempting to obtain certification or recertification by fraud, deception, or artifice.
3. Illegal use of a certification certificate or falsification of credential.
4. Unauthorized possession and/or distribution of any official CBIC testing or examination materials including copying and/or reproduction of any part of the CBIC examination questions or problems.
5. Unauthorized use of the registered certification mark owned by the CBIC. This includes the designation CIC® (Certified in Infection Control).

5.3 Investigation procedure

Policy: The judicial process is designed to provide the individual alleged to have committed a violation of the CBIC policies/procedures notice of the alleged violation and a fair opportunity to be heard before any action is taken.

Procedure: In each instance of a complaint in accordance with the procedures set forth herein, the following steps shall be taken within a reasonable time to perform the investigation and address the complaint.

1. *Investigation procedure:* Within a reasonable time following receipt of a complaint, the chair of the JEC shall provide written notice via certified mail to the individual referred to as the "charged party," fairly describing the particulars of the complaint. The "charged party" shall be notified of the opportunity to furnish a written response within thirty (30)

days from said notice of charge in order to set forth its position in response to the complaint and provide pertinent information in connection therewith. Such notice shall also inform the charged party that the failure to respond to the complaint within the thirty (30) day period, absent an extension or request for an extension, shall constitute an admission to the facts and charges as set forth in the complaint and that as a consequence, disciplinary action may be taken.

2. *Hearing determination:* The Chair of the JEC shall forward the initial complaint and the response by the charged party, together with any supporting materials, to a "Probable Cause Committee (PCC) comprised of three former members of CBIC Board, none of which are the Immediate Past President or currently serving on the Board". The PCC shall review such submitted materials and determine, based on majority vote, whether there is probable cause that the allegations advanced against the charged party, if proven, would constitute a violation of the policy. In the event probable cause is found, the matter will proceed to a formal evidentiary hearing. If no probable cause is found, then the complaint shall be dismissed. In either event, within ten (10) days from such decision by the PCC, both the complainant, if they provided the complaint in writing and the charged party shall be notified in writing of such determination and that such notice be given by both certified mail/return receipt requested and regular first class mail/postage prepaid. The Chair of the JEC can overrule the finding of no probable cause if the gravity of the circumstance(s) warrants a hearing by the full JEC.
3. *Hearing procedure:* In the event the PCC finds that probable cause exists, the chair of the JEC shall notify the charged party as stated above of:
 - a) The specific charge or charges for which probable cause has been found.
 - b) That the charged party has thirty (30) days within which to file a more detailed written response, which may include affidavits.
 - c) A formal hearing before the JEC shall be held within sixty (60) days from the date such response is due.

Said response by the charged party shall also include the names of persons who may have knowledge of facts relevant to the complaint and who may be contacted by an investigator/presenter appointed by the President of CBIC. Once the investigator/presenter notifies the chair of the JEC that it has completed the investigation; the chair shall set a hearing date which shall, absent good cause attributable to the investigative process, be within ninety (90) days from the date of the receipt of the response by the charged party set forth in this subsection 3. The charged party, or its legal counsel, shall be entitled to review the findings of the investigator/presenter and information obtained in the course of the investigation. The charged party shall have the right, but not the obligation, to submit a written rebuttal of the charges within fifteen (15) days following receipt of the charges.

4. *Investigator/presenter:* An investigator/presenter shall be appointed by the President of CBIC. This person (who may, but need not be, a member of the CBIC Board of Directors) shall contact individuals who may have knowledge of facts pertaining to the alleged offenses and otherwise investigate evidence which may be relevant, to be presented to the JEC on behalf of the complaint or the CBIC Board. The designated investigator/presenter shall not sit on the JEC and shall not have any authority other

than as expressly set forth herein. The investigator/presenter shall notify the chair of the JEC when s/he has completed the investigation.

5. *Formal hearing:* The hearing shall be at a specific time and place set forth in the Notice of formal hearing served on the charged party or counsel therefore and shall be served no later than fourteen (14) days prior to the hearing. The hearing shall be presided over by the Chair of the JEC or designee. The investigator/presenter shall represent the CBIC Board position to the JEC. Either party may be represented by legal counsel but is not required to do so. The JEC may engage the services of legal counsel for the committee, who may be legal counsel for CBIC. Witnesses may be presented by either side, under oath. Both sides may make closing arguments the length of which may be limited at the discretion of the chair of the JEC, with the charged party being the last to make its argument. The JEC shall be responsible for making an audio recording of the proceedings and all parties and witnesses shall be required to cooperate in making such a recording. A copy of the recording shall be delivered to the charged party upon written request. Either party may, at its own expense, elect to have a stenographer present throughout the course of the hearing.
6. *Decision and notice:* At the close of all the evidence, the committee shall engage in private deliberations to consider the evidence presented. Legal counsel for the JEC may, at the request of the committee, attend such deliberations. A separate vote, by a majority, is required as to whether a violation or violations occurred, and a second vote, by a majority, shall decide on what sanctions shall be imposed. The chair of the JEC shall mail written notice of the decision of the JEC to the charged party by certified mail, return receipt requested, and restricted delivery, within ten (10) days of the decision of the JEC. The written notice of decision shall provide specific finding(s) as to what conduct constituted a violation(s) of CBIC policy(s)/procedure(s) if any. This notice shall also specifically provide what sanctions (if any) are to be imposed. The notice of decision shall also set forth the steps necessary in order to take an appeal from the decision.
7. *Appeal:* Upon receipt of the notice of decision of the JEC, the charged party has thirty (30) days to file a written notice of appeal to the CBIC Board of Directors. The charged party may appeal the decision as to whether a violation occurred or an appeal also may be made solely as to the sanctions, which have been imposed. The CBIC Board of Directors, excluding the investigator/presenter; if applicable shall review the record and determine whether to affirm, modify or reverse the decision of the JEC. The appeal shall be decided by a vote of the majority Board of Directors, so sitting within thirty (30) days.
8. *Reconsideration:* The JEC may in its discretion reconsider a decision, only if the petition to reconsider contains new information not previously considered by the JEC in its original decision. Reconsideration will be available only if it appears that the evidence is so substantial in nature that the JEC finds that it would have been reasonably likely to affect the outcome of the initial hearing. The charged party has sixty (60) days from the date of adjudication of the original charge(s) to file the petition to reconsider based solely on newly acquired evidence or evidence not available to the charged party at the time of the original hearing. Within thirty (30) days, the JEC may dismiss the complaint or set the case for a rehearing. The JEC Chair shall appoint an investigator/presenter, if necessary, to conduct a further investigation, including interviewing new witnesses. This additional investigation shall be completed within sixty (60) days unless the JEC grants

an extension of thirty (30) days. The charged party may review the investigator's findings prior to a formal rehearing. The charged party shall have thirty (30) days from the conclusion of the investigation to further respond in writing or by affidavit. From this point, the hearing is set as described in the preceding sections of this document.

9. *Extensions:* Extensions for good cause and for a reasonable period of time shall be granted unless doing so is found to substantially impair the rights of any party. The JEC may extend the time periods up to ninety (90) days in the foregoing procedure(s). The charged party, the investigator/presenter or the complainant may request the extension.