

ACPE
Policy to Ensure the Wellness and Fitness of Educators
Approved by the ACPE Board September 13, 2023

A. Introductory statement

The Professional Ethics Commission (PEC) of the ACPE encourages and, in certain circumstances requires, notifications about clinical pastoral education educators when concerns arise related to impairment. In accord with the Standards and Manuals of the ACPE, impairment is one of the grounds for both voluntary and mandatory notifications in specific circumstances. This document describes how the PEC deals with impaired practitioners, and claims relating thereto.

B. Policy

1. ACPE seeks to ensure that all educators maintain capacity and self-awareness of any limitations in order to provide clinical pastoral education free from impairment or other conditions that could put members or other persons at risk.
2. Educators need to be educated about the nature, extent, and manifestations of impairment. This process should occur in workplaces, schools and in continuing education venues.
3. This policy is designed to compassionately ensure that impaired educators get the help they need while also ensuring that the public is protected from practitioners whose judgment and job performance are impacted by an impairment.
4. It is the policy of ACPE to only disclose impairment allegations or findings to individuals identified within this policy unless required by law or to protect members of the public.

C. What is impairment?

Impairment, means that an educator has a mental disability, deficit, condition or disorder, including substance abuse or dependence, that the educator is unable or unwilling to safely and reliably treat or control with reasonable accommodations and that detrimentally affects or is likely to detrimentally affect the person's capacity to perform the essential job-related functions of the profession or for the position in which the educator was hired to perform. Impairment also includes any situation involving a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

D. Notification about impairment

Anyone can make a notification about a CPE educator whom they believe may be impaired. ("notification"). Typically, notifications about impairment are made by colleagues, employers, statutory bodies and by the practitioners themselves. The PEC encourages educators, candidates or students suffering from impairment issues to self-report to the PEC, with the ACPE Director of Communities of Practice ("DCP") or the Chair of the Professional Wellbeing Committee. Unless required by law or for the protection of others, the PEC will maintain the confidentiality and privacy standards set forth in this policy and will not report impaired persons for civil, criminal, and administrative liability when said individuals make a notification in good faith.

Notification may be made through the ACPE complaint process, with the ACPE Director of Communities of Practice or the Chair of the Professional Wellbeing Committee. Notice must be in writing and provide sufficient information with regard to the nature of the alleged incidents relating to the impairment, including dates and circumstances giving rise to the impairment concerns. The notice shall be no more than five pages in length and shall be made in accordance with any forms created by the ACPE for this purpose. If the notification about impairment is made by an ethics complaint, the IRP may process the case according to the ethics complaint process or refer the case to the DCP for further action. The person making the notification must be willing to communicate with members of the PEC reviewing the alleged impairment with regard to the circumstances giving rise to the notification. Upon notification of a possible impairment, DCP will notify the Chair of the PEC and the preliminary assessment process, as set forth herein, will be initiated by the PEC.

E. Grounds for mandatory notifications related to impairment: notifiable conduct

For CPE educators with an impairment or a possible impairment, notification must be made by any educator who has knowledge or reason to believe that either they or another educator has:

1. Practiced their profession while intoxicated by alcohol or drugs¹; or
2. Placed the public at risk of substantial harm in the educator's practice of the profession because the practitioner has an impairment.

CPE educators must file an ethics complaint or notify the DCP if, in the course of practicing their profession, they form a reasonable belief that another educator has behaved in a way that constitutes notifiable conduct.

F. Initial Review

The ACPE Professional Ethics Commission takes all notifications seriously. Within 30 days after notification is received of a possible impairment, a Review Panel shall be convened by the PEC Chair to review the notice of possible impairment. This panel shall consist of the following ACPE members or designees: the Chair Elect or Chair of the PEC, the Chair Elect or Chair of the Professional Wellbeing Committee, ("Wellbeing Committee") a member of the Psychotherapy Commission and the Ethics Consultant. This panel shall determine if the notice of impairment articulates a sufficient basis to refer the case to the PEC for a preliminary assessment. If the Review Panel determines that there is not a sufficient basis for referral to the PEC, it may dismiss the case or refer the case to the Wellbeing Committee for further action as determined by the Wellbeing Committee.

G. Preliminary assessment

Within 30 days after the review panel refers a case to the PEC, the PEC Chair shall notify the educator who has been identified in the notice and provide a copy of any documents related to the notice, with redactions as appropriate, including a copy of this policy. Within 60 days after the review panel refers a case to the PEC, the PEC Chair shall appoint the Chair-Elect or a member of the Wellbeing Committee and four members of the PEC to serve on a Subcommittee ("Subcommittee")

¹ For purpose of this section, "intoxication" shall be defined as the state in which a person's normal capacity to act or reason is inhibited by alcohol or drugs or as otherwise defined by applicable state or federal law.

to manage the process set forth herein and to make a determination whether the educator is impaired. Efforts shall be made to appoint Subcommittee members who have experience and training in mental health or substance abuse issues and who match the demographic, racial and religious/spiritual traditions of the person subject to the notice of possible impairment.

The PEC Chair is a voting member and shall preside over said Subcommittee meetings. Two members of this Subcommittee (“Interviewers”) shall be appointed by the PEC Chair as non-voting members of the Subcommittee to conduct a preliminary assessment. Efforts will be made to appoint at least one interviewer who is a member of the Wellbeing Committee or who has experience and training in mental health or substance abuse issues. As part of the preliminary assessment, the interviewers shall receive copies of all documents relating to the allegations against the educator and shall:

- Interview the educator alleged to suffer from an impairment;
- Interview the individual or individuals notifying the PEC of the possible impairment and any other persons deemed to have relevant information regarding the incidents giving rise to the notice; and
- Review any documentation the PEC interviewers determine is relevant to the incidents prompting the impairment notification.
- Review, in coordination with the educator’s employer or work site, whether reasonable accommodations can be made or whether such accommodation would impose an undue hardship on the operation of the business of such employer or work site.

If there are insufficient PEC members who are available to serve as interviewers, the PEC Chair may select ACPE members to serve as interviewers who are not on the PEC but have training or experience in the ACPE/APC or Ethics Codes and Procedures.

H. After the preliminary assessment

Within 60 days after their appointment, the PEC interviewers shall report their findings from the preliminary assessment to the Subcommittee. The Subcommittee shall convene within 30 days after receiving the interviewer’s findings. If, after receiving this report, the Subcommittee determines that an educator may be impaired, it may:

1. Require the educator to undergo a health assessment. (see below in section “J”) The purpose of the health assessment is for the PEC to obtain independent expert advice about the educator’s health and its potential impact on the educator’s practice. The PEC shall consider this expert advice when determining if further action needs to be taken.
2. Determine that no further action is necessary based on either:
 - o a lack of evidence supporting the alleged incidents of impairment, or that
 - o a determination that the impairment does not pose a risk to the educator, students or others and sufficient steps have been taken to address the impairment.
3. After consultation with the Certification Commission Chair, immediately suspend or revoke the certification of an educator, impose conditions, or accept the voluntary suspension of the impaired person from a program for a period of 45 days. Any suspension or revocation of certification for a period longer than 45 days shall require a majority vote of the Professional Ethics Commission pursuant to current governance standards and voting rules.

The PEC Chair shall report its determinations to the educator within 30 days after receipt of the preliminary assessment, along with a copy of the appeals process set forth herein.

J. Health Assessment

1. If the preliminary assessment determines that the educator's impairment is shown to be job-related and consistent with business necessity, a health assessment shall be conducted by an experienced and appropriately qualified independent medical practitioner or psychologist. ACPE shall pay for the assessment. Information obtained regarding the medical condition or history of the educator shall be collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that members of the subcommittee may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations; The educator shall sign a release allowing the assessor to share the findings of the assessment with the PEC and appropriate ACPE Staff.
2. The PEC shall not disclose the assessment to others except as follows:
 - a. For the purposes of implementing regarding necessary restrictions on the work or duties of the employee and necessary accommodations of an educator's practice or membership in ACPE,
 - b. For purposes of referral to another commission or committee within ACPE for reviewing or addressing matters related to the educator where the findings of the assessment are pertinent, or
 - c. Protecting members of the public.
3. The educator who was assessed shall be given a copy of the report within 10 days after it has been received by the PEC Chair unless the report contains information that may be prejudicial to the educator's health or wellbeing. In this instance, the report shall be given to a medical practitioner or psychologist nominated by the educator. The educator may respond to the report in writing to the PEC within 20 days after receiving a copy of the report.
4. The PEC Subcommittee may require the educator who was assessed to discuss the report and ways of dealing with any adverse findings with the PEC interviewers. The PEC interviewers shall share any information received during this interview with the PEC Subcommittee.
5. The PEC Subcommittee shall consider the educator's responses, as set forth in this section, before undertaking any actions as set forth in section J.

K. Actions the PEC Subcommittee can take after health assessment

The PEC Subcommittee shall make one of the following actions or determinations within 45 days after the receipt of the health assessment. These actions include:

1. a decision to take no further action.
2. issuing a warning to the CPE educator, which warning shall be kept in the educator's file at the national ACPE headquarters.
3. In the case of an educator, referral to the Certification Commission for a Competency Review. The Certification Commission shall report its findings and determinations back to the PEC when completed.
4. Require the educator to submit to the PEC Subcommittee an action plan which may include:
 - o A time-specific plan for the educator to address the areas of concern, which may involve active and consistent participation in a recovery program, psychotherapy, or other intervention approved by the PEC Subcommittee.

- o Monitoring by a designated third party, who shall be approved by the PEC Subcommittee. The educator shall sign all necessary releases to allow any designated third party to disclose all pertinent information to the PEC.
 - o Any other conditions on the educator consistent with ACPE Standards.
5. The PEC may suspend the certification requirement that an educator supervise students if the educator is undergoing an approved action plan as set forth herein.
 6. Immediate suspension, if in the opinion of the PEC such action is necessary to protect the health and safety of the public.
 7. Prior to issuing its disposition, the PEC may consult with the individual conducting the health assessment or other qualified mental health professional for guidance and advice concerning any proposed disposition with regard to the educator.

L. Appeal of PEC decision

If the PEC's determination results in a restriction or condition of practice placed on an educator, the educator may appeal this determination provided it is made to the PEC Chair within 30 days from the date of the action taken by the PEC. The appeal must be in writing of no more than 5 pages. Such written statement shall identify the basis of the appeal and shall include any supporting documents and the names and contact information of any witnesses with information relevant to the appeal. Warnings or referrals to the Certification Commission for a Competency Review issued to an educator by the PEC are not subject to appeal.

The PEC findings or dispositions shall remain in effect during the appeal process. The PEC Chair shall appoint two appeal interviewers who were not selected as Subcommittee members in the initial determination and shall review the appeal documents and shall conduct a summary review of the appeal. If there are insufficient PEC members who are available to serve as interviewers, the PEC Chair may select ACPE members who are not members of the PEC but have training or experience in the ACPE/APC or Ethics Codes and Procedures. Said review, including the basis of the appeal, shall be guided by but is not required to strictly comply with the process set forth in Article XII and Article XV of the ACPE Professional Ethics Manual.

After concluding their summary review, the interviewers shall report their findings to the PEC and the educator appealing the PEC decision. The PEC may affirm, modify, or dismiss its initial findings or dispositions after reviewing the interviewers' report. The action of the PEC following any appeal process shall be final and binding.

M. Support for the impaired educator

CPE educators who have been notified of a possible impairment can find their dealings with the PEC to be very stressful. Educators are often concerned that their certification, religious endorsement, professional reputation, and livelihood may be at risk. They also fear that their private health information will be made public.

The PEC operates under the provisions of the ACPE Standards. Because of this, interactions with the PEC can seem formal and bureaucratic. While some of this cannot be avoided, PEC members and the ACPE Executive Director will work with the educators to explain the various processes and

requirements. Educators can expect that their dealings with the PEC and the ACPE Executive Director will be professional, confidential, respectful, and polite.

Educators who have been notified to the PEC are encouraged to seek assistance and support. This may include support from treating practitioners, doctors' health services, professional indemnity insurers or other legal advisors.

N. Cooperation requirement.

All educators are obligated to cooperate with this impairment process and policy and shall provide documents or other information requested by the PEC or the PEC interviewers. Refusal or failure to comply with any requirement of this policy at any point shall be grounds for dismissal from ACPE.

Notes

- The use of "educator" is meant to include any person engaged in the practice of clinical pastoral education as an educator at any level of certification.
- Time restrictions or requirements identified herein may be reasonably extended or modified by the PEC Chair as may be necessary due to scheduling or other factors.
- The ACPE Executive Director will maintain a list of respected clinicians, agencies and services for referral should they be needed.

*Adapted from Medical Board of Australia
March 2015*