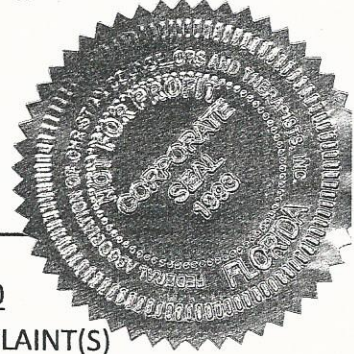


Federal Association of Christian Counselors & Therapists (FACCT) Disciplinary Code:



The 1993 FACCT Codes of Discipline

<u>Title</u>	<u>Chapter 390.000</u>
PROTOCOL FOR HANDLING COMPLAINTS BROUGHT AGAINST FACCT LICENSED MEMBERS	PROCEDURES OF COMPLAINT(S)

FACCT Chapter 390.000 Protocol for handling complaints brought against FACCT licensed members.--

- (1) The following is a Procedure of Complaint(s), standard protocol in handling complaints brought against any FACCT licensed member, hereby specified in FACCT Chapter 390.000:
 - (a) All complaints are directed to the Chairman of the Disciplinary Board. The complaint(s) must be filed in written form, and must include the following information: the accused member's name, credentials, address, phone number, email address, the reason for the complaint, the date of the infraction or incident, and any other pertinent information, such as a background check. Also, the names, addresses, phone numbers, and ages of all those involved in the infraction or incident must be provided in the written complaint.
 - (b) The Discipline Chair shall make a decision to disregard complaint or find a cause to proceed with the investigation. Upon proceeding, the Discipline chair will address complaint with the Discipline Board. The Discipline Chair shall also inform the License Board Chairman of the complaint.
 - (c) Should the Disciplinary Board find just cause to act upon the complaint(s), the Discipline Chair shall inform the Licensing Board of their findings and recommendations.
 - (d) The Licensing Board shall inform the accused in writing of the levied complaint(s) brought against him or her, and allow the accused up to 60 days to respond in writing to defend himself or herself of the charges.
 - (e) After the accused and the Licensing Board reach a final decision the accused, if found guilty, has the option to be heard on appeal before the Executive Board of FACCT. Following the appeal, the Executive Board's decision is final.
 - (f) Any and all information received from any source is confidential to the FACCT Boards until a final decision or acceptance of a decision is made.
 - (g) All complaints that are unfounded, or those without cause will remain confidential.

- (h) Any person(s) found making a false or misleading statement or complaint shall be reprimanded by the FACCT Licensing Board and may be subject to legal action(s) taken against them.
- (i) Any person(s) who, after their license or certificate has been voided or suspended, and continues to display or reference them as if they are still active, shall be disciplined according to the recommendation of the Discipline Board if the offender is a FACCT member, or pursued legally if not a FACCT member.
- (j) All disciplinary actions will be approved by our FACCT attorney.

The 1993 FACCT Codes of Discipline

Title
REGULATION OF PROFESSIONS
AND OCCUPATIONS

Chapter 391.000
CLINICAL, COUNSELING AND
PSYCHOTHERAPY SERVICES

FACCT Chapter 391.000 Grounds for denial of licensure; disciplinary action.--

- (1) The following acts constitute grounds for denial of a license or disciplinary action, hereby specified in FACCT Chapter 391.000:
 - (a) Attempting to obtain, obtaining, or renewing a license, registration, or certificate under this Chapter by bribery, fraudulent misrepresentation, or through an error of the Board.
 - (b) Having a license, registration, or certificate to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.
 - (c) Being convicted or found guilty of, regardless of adjudication, or having entered a plea of nolo contendere, a crime in any jurisdiction which directly relates to the practice of his or her profession, or the ability to practice his or her profession. However, in the case of a plea of nolo contendere, the board shall allow the person who is subject of the disciplinary proceeding to present evidence in mitigation relevant to the underlying charges and circumstances surrounding the plea.
 - (d) False, deceptive, or misleading advertising, or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.
 - (e) Advertising, practicing, or attempting to practice under a name other than one's own.
 - (f) Maintaining a professional association with any person who the applicant, licensee, registered intern, or certificate-holder knows, or has reason to believe, is in violation of this chapter or of a rule of the Board.
 - (g) Knowingly aiding, assisting, procuring, or advising any non-licensed, nonregistered, or noncertified person to hold himself or herself out as licensed, registered, or certified under this chapter.
 - (h) Failing to perform any statutory or legal obligation placed upon a person licensed, registered, or certified under this chapter.
 - (i) Willfully making or filing a false report or record; failing to file a report or required record; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed, registered, or certified under this chapter.

- (j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.
- (k) Committing any act upon a patient or client which would constitute sexual battery, or which would constitute sexual misconduct.
- (l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed, registered, or certified under this chapter.
- (m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.
- (n) Failing to make available to a patient or client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee, registered intern, or certificate-holder which have been prepared for and paid for by the patient or client.
- (o) Failing to respond within 30 days to a written communication from the Board concerning any investigation by the board, or failing to make available any relevant records with respect to any investigation about the licensee's, registered intern's, or certificate-holder's conduct or background.
- (p) Being unable to practice the profession for which he or she is licensed, registered, or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness, or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, if the Board finds that probable cause exists to believe that the licensee, registered intern, or certificate-holder is unable to practice the profession because of the reasons stated in this paragraph, the Board shall have the authority to compel a licensee, registered intern, or certificate-holder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the Board. If the licensee, registered intern, or certificate-holder refuses to comply with such an order, the Board's order directing the examination may be enforced by filing a petition for enforcement to the Executive Board where the licensee, registered intern, or certificate-holder resides or does business. The licensee, registered intern, or certificate-holder against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The board shall be entitled to the summary procedure.
- (q) Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.
- (r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee, registered intern, or certificate-holder is not qualified by training or experience.

- (s) Delegating professional responsibilities to a person whom the licensee, registered intern, or certificate-holder knows or has reason to know is not qualified by training or experience to perform such responsibilities.
 - (t) Violating a rule relating to the regulation of the profession, or a lawful order of the Board previously entered in a disciplinary hearing.
 - (u) Failure of the licensee, registered intern, or certificate-holder to maintain in confidence a communication made by a patient or client in the context of such services.
 - (v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.
 - (w) Violating any provision of this Chapter, or any rules adopted pursuant thereto.
- (2) The Board may enter an order denying licensure or impose any of the penalties of this code against any applicant for licensure or licensee who is found guilty of violating any of the provisions in subsection (1) above.

The 1993 FACCT Codes of Discipline

Title
REGULATION OF PROFESSIONS
AND OCCUPATIONS

Chapter 392.000
HEALTH PROFESSIONS AND
OCCUPATIONS: GENERAL PROVISIONS

FACCT Chapter 392.000 Grounds for discipline; penalties; enforcement.--

- (1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:
 - (a) Making misleading, deceptive, or fraudulent representations in, or related to, the practice of the licensee's profession.
 - (b) Intentionally violating any rule adopted by the Board, as appropriate.
 - (c) Being convicted, found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.
 - (d) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome (AIDS).
 - (e) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under FACCT. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement offered in response to, or in anticipation of, the filing of charges against the license, shall be construed as action against the license.
 - (f) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the Board against another licensee.
 - (g) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the Board.
 - (h) As provided, failing to report to the department any person who the licensee knows is in violation of this Chapter, the Chapter regulating the alleged violator, or the rules of the Board.
 - (i) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this Chapter, the Chapter regulating the profession, or the rules of the Board.
 - (j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this Chapter, the Chapter regulating the profession, or the rules of the Board.

- (k) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.
- (l) Making deceptive, untrue, or fraudulent representations in, or related to, the practice of a profession or employing a trick or scheme, in or related to, the practice of a profession.
- (m) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.
- (n) Practicing or offering to practice beyond the scope permitted by accepting and performing professional responsibilities the licensee knows, or has reason to know, they are not competent to perform.
- (o) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.
- (p) Violating a lawful order of the Board, or failing to comply with a lawfully issued subpoena of the Board.
- (q) Improperly interfering with an investigation or authorized inspection, or with any disciplinary proceeding.
- (r) Failing to comply with the requirements to provide patients with information about their patient rights and how to file a patient complaint.
- (s) Engaging or attempting to engage in sexual misconduct with the patient or client.
- (t) Failing to comply with the requirements for profiling and credentialing including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or on an initial or renewal licensure application.
- (u) Failing to report to the Board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the Board.
- (v) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition. The Board reserves the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the Board. If the licensee refuses to comply with the order, the Board's order directing the examination may be enforced by filing a petition for enforcement in the circuit where the licensee resides or does business. The Board shall be entitled to the summary procedure provided. A licensee or certificate-holder affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

- (w) Testing positive for any drug on any confirmed pre-employment or employer-ordered drug screening test when the practitioner does not have a lawful prescription and a legitimate medical reason for using the drug.
 - (x) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, relating to the Medicaid program.
 - (y) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.
 - (z) Failure to comply with controlled substance prescribing requirements.
 - (aa) Violating any of the provisions of this Chapter.
- (2) When the Board finds any person guilty of the grounds set forth in subsection (1), or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1), or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:
- (a) Refusal to certify, or to certify with restrictions, an application for a license.
 - (b) Suspension or permanent revocation of a license.
 - (c) Restriction of practice or license including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare.
 - (d) Issuance of a reprimand or letter of concern.
 - (e) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonable tailored to the violations found.
 - (f) Corrective action as deemed appropriate by the Board.
 - (g) Imposition of an administrative fine for violations regarding patient rights.
 - (h) Refund of fees billed and collected from the patient or a third party on behalf of the patient.
 - (i) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the Board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

- (3) (a) If the ground for disciplinary action is the first-time failure of the licensee to satisfy continuing education requirements established by the Board, the Board, as applicable, shall issue a citation and assess a fine, as determined by the Board by rule. In addition, for each hour of continuing education not completed or completed late, the Board, as applicable, may require the licensee to take 1 additional hour of continuing education for each hour not completed or completed late.
- (b) If the ground for disciplinary action is the first-time violation of a practice act for unprofessional conduct, and no actual harm to the patient occurred, the Board, as applicable, shall issue a citation and assess a penalty as determined by rule of the Board.

(4) In addition to any other discipline imposed through final order, or citation, under this section or discipline imposed through final order, or citation, for a violation of any practice act, the Board shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the Board for the case. The Board shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. In any case where the Board imposes a fine or assessment and the fine or assessment is not paid within a reasonable time (the reasonable time being prescribed in the rules of the Board), the Board may choose to bring action to recover the fine or assessment.

(5) In addition to, or in lieu of, any other remedy, the Board may file a proceeding in the name of FACCT, seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this Chapter, or any provision of law with respect to professions regulated by the Board therein, or the rules adopted pursuant thereto.

(6) If the Board determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the Board may establish by rule requirements for reapplication by applicants whose licenses have been permanently revoked. The requirements may include, but are not limited to, satisfying current requirements for an initial license.

(7) The purpose of this section is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

