

DISCIPLINARY POLICY AND PROCEDURES

ASSOCIATION OF CHRISTIAN RELIGIOUS PRACTITIONERS (ACRP)

1. Inquiries into Charges of Misconduct

- 1.1 The Board of the Professional Body (ACRP) shall have power to institute an inquiry into any complaint or allegation of unprofessional conduct against any person registered, and, on finding such person guilty of such conduct, to impose penalties, provided that in the case of a complaint, charge or allegation which forms the subject of a criminal case in a court of law, the Board may postpone the holding of an inquiry until such case has been determined.
- 1.2 The Board may, whenever it is in doubt as to whether an inquiry should be held in connection with the complaint, charge or allegation in question, consult with or seek information from any person, including the person against whom the complaint, charge or allegation has been lodged.

2. Manner in which Certain Investigations may be Instituted

- 2.1 The General Manager/ACRP Office may on receipt of a charge, complaint or allegation, confirmed upon oath, with the approval of the Board, instruct the Ethics and Disciplinary Committee as investigating authority.
- 2.2 If the General Manager/ACRP Office deems it necessary, he may, with the approval of the Board and on such conditions as the Board may determine, appoint any person(s) other than the members of the Ethics and Disciplinary Committee of the Board, who is not in the full-time employment of the Professional Body, as investigating officer(s) for a particular investigation, or to assist the Ethics and Disciplinary Committee for a particular investigation.
- 2.3 The General Manager/ACRP Office shall issue to every person involved with the investigation a certificate to the effect that he has been appointed for such investigation and in the exercise of his powers and the carrying out of his duties that person shall on demand produce a certificate.
- 2.4 If the General Manager/ACRP Office deems it necessary he may institute or cause to be instituted, an investigation:
 - 2.4.1 into an alleged contravention of, or failure to comply with, any provision of the the Scope of Practice, the Ethical Values and Standards and the Rules of Conduct for ACRP;
 - 2.4.2 in order to determine if any provision of the Professional Body applies to a registered person;

- 2.4.3 into a charge, complaint or allegation of improper or disgraceful conduct by a registered person;
- 2.4.4 into the affairs or conduct of a registered person, if requested to do so by a person by any reason of allegations confirmed upon oath.
- 2.5 The General Manager/ACRP Office or investigating officer who carries out an investigation in terms of this section may:
 - 2.5.1 at any time reasonable for the proper performance of the duty, with the approval of the Board and without prior notice, enter and search any premises and carry out such an investigation and make enquiries as he may deem necessary.
 - 2.5.2 while he is on the premises or at any other time, request any person found on the premises to immediately or at a time and place determined by the Board or investigating officer:
 - 2.5.2.1 to produce to him, on reasonable grounds, any book, document or anything relating to the matter which he is investigating, and which is or was on the premises, or in possession or custody or under the control of that person or his employee or agent;
 - 2.5.2.2 to furnish such explanations to him as he may require in respect of any such book, document or anything.
 - 2.5.3 at any time and at any place request any person who has or is suspected on reasonable grounds of having in his possession or custody or under his control any book, document or anything relating to the matter which he is investigating, to produce it immediately or at a time and place determined by the investigator or investigating officer. He may examine such book, document or anything, make extracts from and copies of the book or document, and request any person to furnish such explanations to him as he may require in respect of an entry in that book or document.
- 2.6 The General Manager/ACRP Office or the investigating officer, who carries out an investigation, shall compile a report of the investigation, which shall be submitted to the Board.
 - 2.6.1 If such report reveals *prima facie* evidence of improper or disgraceful conduct contemplated by the Scope of Practice, the Ethical Values and Standards and the Rules of Conduct and no complaint, charge or allegation regarding the conduct in question has been made for the purpose of an inquiry, such report shall be deemed to be a complaint made for that purpose and the Board shall serve a copy thereof on the registered person concerned.
 - 2.6.2 If such a report reveals *prima facie* evidence which, in the opinion of the Board, makes it desirable that an enquiry be instituted, the Board shall serve a copy thereof on the registered person concerned.

- 2.6.3 If such report does not reveal *prima facie* evidence of unprofessional conduct, the Board shall serve a copy thereof to the registered person concerned.
- 2.6.4 To the extent that such a report contains statements of witnesses which would have been admissible as oral evidence at an inquiry, the Criminal Procedure Act 51 of 1977, shall apply *mutatis mutandis* in respect of those statements at such inquiry.
- 2.6.5 A person who carries out or assists with the carrying out of an investigation, shall keep or assist in preserving secrecy in respect of all facts which come to his notice in the performance of his functions and shall not disclose any such fact to any person except to the Board or the public prosecutor concerned in the case of an offence or by order of the court.
- 2.6.6 No personal particulars of the person shall be disclosed to any person except by order of a court with the consent of the investigating officer.
- 2.6.7 Such order shall be executed as if it were a judgement in a civil case in a magistrate's court.
- 2.6.8 Any person who-
- 2.6.8.1 refuses or neglects to produce any book, document or anything to any person who is authorised to ask therefor;
- 2.6.8.2 hinders or obstructs the Board or an investigating officer in the exercise of his powers or carrying out his duties;
- 2.6.8.3 pretends that he is a member of the Professional Body or an investigating officer;
- 2.6.8.4 contravenes a provision of the Professional Body;
- shall be guilty of an offence and liable to conviction.
- 2.7 The provisions of the Professional Body shall be without prejudice to the power of any authority to institute an investigation into any alleged contravention, or failure to comply with the provisions of the Professional Body.

3. Matters for and Procedure at inquiry by the Professional Body

- 3.1 Every person registered who, after an inquiry held by the Board, is found guilty of improper or disgraceful conduct, shall be liable to one or other of the following penalties-
- 3.1.1 A caution or reprimand or a reprimand and a caution; or

- 3.1.2 Suspension from practicing for a specified period or performing acts specially pertaining to his profession; or
 - 3.1.3 Removal of his name from the register; or
 - 3.1.4 A fine not exceeding R1 000; or
 - 3.1.5 Payment of the costs of the proceedings or restitution.
- 3.2 Every person whose conduct is the subject of an inquiry shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and being heard in his defence.
- 3.3 For the purposes of an inquiry the Board may take evidence and may, under the hand of the Chairperson of the Professional Body, summon witnesses and require the production of any book, record, document or anything and may, through the person presiding at the inquiry, administer an oath to any witness or accept an affirmation from him, and may examine any book, record, document or anything which any witness had been required to produce.
- 3.4 A summons to appear before the Board as a witness or to produce to it any book, document or anything shall be, as nearly as practicable, in the prescribed form, signed by the presiding person and shall be served either by registered letter sent through the post or in the same manner it would have served if it were a subpoena issued by a magistrate's court.
- 3.5 Every person summoned in terms of the provisions of the Professional Body shall be bound to obey the summons and any person who, having been summoned-
- 3.5.1 refuses, or without sufficient cause, fails to attend and give evidence relevant to the inquiry at the time and place specified by the summons;
 - 3.5.2 refuses to take the oath or to make an affirmation when required by the Board to do so;
 - 3.5.3 refuses to produce any book, record, document or anything which has in terms of the summons been required to produce;
- shall be guilty of an offence and on conviction liable to a fine as determined by the Board, provided that every person so summoned shall be entitled to all privileges to which a witness subpoenaed to give evidence is entitled.
- 3.6 The Chairperson of the Professional Body, where the Board itself holds an inquiry, may appoint a person with adequate experience in the administration of justice to be present as an assessor at such an inquiry and to advise the Board on matters of the law, procedure or evidence.
- 3.7 The Board may, if it deems fit, and subject to such conditions as it may determine-

- 3.7.1 terminate any suspension before the expiry of the specific period, or
- 3.7.2 on payment of the prescribed fee, restore to the register any name which has been removed therefrom.
- 3.8 If the person registered is alleged to be guilty of unprofessional conduct and the Board on reasonable grounds is of the opinion that it shall impose a fine, the Board may issue a summons as prescribed on which an endorsement is made by the Board that the accused may admit that he is guilty of the said conduct and that he may pay the penalty stipulated without appearing at the said inquiry.
- 3.9 Any penalty imposed, excluding an admission of guilt fine, shall be paid to the Professional Body within 14 days after such imposition.

4. Postponement of Imposition of Penalty and Suspension of Operation of Penalty

- 4.1 Where the Board finds a person guilty of unprofessional conduct, it may-
 - 4.1.1 postpone for such period on such conditions as may be determined by it, the imposition of the penalty; or
 - 4.1.2 impose any penalty as determined, but order the execution of such penalty or any part to be suspended for such period and on such conditions as may be determined by it.
- 4.2 If at the end of the period for which the imposition of a penalty has been postponed, the Board is satisfied that the person concerned has observed all relevant conditions, the Board shall inform the person concerned that no penalty will be imposed upon him.
- 4.3 If the execution of a penalty or any part of a penalty has been suspended, and the Board is satisfied that the person concerned has observed all relevant conditions, the Board shall inform such person that such penalty or part thereof will not be executed.
- 4.4 If the execution of a penalty or any part thereof has been suspended and the person concerned fails to observe any of the conditions of suspension, the Board shall put such penalty or part thereof into operation, unless such person satisfies the Board that the non-observance of the condition concerned was due to circumstances beyond his control.

5. Effect of Suspension or Removal from Register

- 5.1 Every person who has been suspended or whose name has been removed from the register shall be disqualified from carrying on his profession under the auspices of the Professional Body.

5.2 As a member of the Professional Body, his registration shall be deemed to be cancelled until the period of suspension has expired or until his name has been restored to the register by the Board.

6. Cognizance by the Professional Body of Conduct of Registered Persons under Certain Circumstances

6.1 Every registered person who, either before or after registration, has been convicted of any offence by a court of law may be dealt with by the Board in terms of the provisions of the Professional Body. If the Board is of the opinion that such offence constitutes unprofessional conduct, the person shall be liable on proof of the conviction to one or other of the penalties according to the provisions of the Professional Body, provided that, before imposition of any penalty, such person shall be afforded an opportunity of tendering an explanation to the Board in extenuation of the conduct in question.

6.2 Whenever in the course of any proceedings before any court of law it appears to the court that there is *prima facie* proof of unprofessional conduct on the part of a registered person, the court shall direct that a copy of the record of such proceedings or such portion thereof as is material to the issue, shall be transmitted to the Board.

7. Penalty for False Evidence

Any registered person, who gives false evidence on oath at any inquiry held under the provisions of the Professional Body, knowing such evidence to be false, shall be guilty of an offence and liable to conviction to the penalties prescribed by law for the crime of perjury.

8. Professional Body Rules Relating to Offences

The Professional Body shall from time to time make rules specifying the acts or omissions in respect of which the Professional Body may take disciplinary steps according to provisions of the Professional Body, provided that the powers of the Professional Body to inquire into and deal with any complaint, charge or allegation relating to the registered person, shall not be limited to the acts or omission so specified.

9. Regulations relating to Inquiries in Respect of Impaired Persons

The Professional Body may make regulations relating to:

- 9.1 inquiries in respect of persons registered who appear to be impaired;
- 9.2 the assessment of their condition;
- 9.3 the conditions to be imposed on their registration or practice;
- 9.4 suspension or removal from practicing under the auspices of the Professional Body;

- 9.5 revocation of conditions; and
- 9.6 acts of unprofessional conduct committed before or during assessment or investigation.

10. Right to Appeal

- 10.1 Any person who is aggrieved by any decision of the Board may appeal towards the ACRP Board against such decision.
- 10.2 Note of appeal must be given within one month from the date on which such decision was given notice of.
- 10.3 If an appeal is lodged against a penalty or suspension from practice, such penalty shall remain effective until the appeal is heard.

11. Care and Counselling during and after Disciplinary Process.

The Ethics and Disciplinary Committee must provide a caregiver to debrief and mentor the practitioner concerned.