



NATIONAL COMMISSION ON FORENSIC SCIENCE



National Code of Ethics and Professional Responsibility for the Forensic Sciences

Type of Work Product

Directive recommendation developed by the Interim Solutions Subcommittee.

Recommendation

The US Attorney General should direct the forensic science and forensic medicine service providers within the Department of Justice to adopt the National Code of Ethics and Professional Responsibility for Forensic Science and Forensic Medicine Service Providers, that the Code be annually reviewed and signed by all forensic science and forensic medicine service providers, and that steps be defined to enforce violations.

Statement of the Issue

The 2009 National Research Council of the National Academies report entitled *Strengthening Forensic Science in the United States: A Path Forward* ("NAS Report") recommended a national code of ethics for all forensic science disciplines and encouraged professional forensic science societies to incorporate the national code into their own code of professional responsibility and code of ethics. The NAS Report also recommended exploring mechanisms to enforce serious ethical violations.

In 2010, the Education, Ethics, and Terminology Inter-Agency Working Group (EETIWG) of the National Science and Technology Council's Subcommittee on Forensic Science developed a National Code of Ethics and Professional Responsibility for the Forensic Sciences (NCEPRFS). Further the working group recommended that all practitioners "who provide reports and expert opinion testimony with respect to forensic evidence in United States courts of law, adopt the NCEPRFS." Unfortunately, this recommendation was not acted upon and no NCEPRFS exists today.

Background

The EETIWG conducted a thorough review of codes of ethics in use by forensic science organizations. While they noted the lack of a single code of ethics that covered all forensic disciplines, the working group identified four major categories addressed by every code of ethics they reviewed: 1) working within professional competence, 2) providing clear and objective testimony, 3) avoiding conflicts of interest, and 4) avoiding bias and influence, real or perceived.

The EETIWG found that the most broadly applicable code of ethics that would best serve as the NCEPRFS was the code of ethics in the ASCLD/LAB *International* Supplemental document. The working group found that the principles in this document were appropriate to the work conducted in the federal forensic laboratories, and ultimately proposed that the ASCLD/LAB document be adopted as the NCEPRFS. The Interim Solutions Subcommittee of the National Commission on Forensic Sciences utilized the EETIWG's NCEPRFS as the starting point for a revised National Code of Professional Responsibility ("Code") for all forensic science and forensic medicine service providers. The subcommittee chose professional responsibility rather than ethics as a title because ethics is a much broader term referring to many issues beyond those directly associated with forensic science and forensic medicine service providers' professional responsibilities.

Perhaps the key element lacking from the proposed NCEPRFS is the enforcement of serious ethical violations, as recommended in the NAS Report. Oversight is critical to establishing compliance; otherwise the deterrent value for preventing violations of the code is substantially reduced.

Most practitioners in forensic science and forensic medicine are committed, hard-working, ethical professionals; however, education and guidance on professional responsibility is uneven and there is no enforceable universal code of professional responsibility. In addition, when an adverse event occurs (whether an unintended mistake or a breach of ethical, legal, or scientific standards), there must be a process in place to manage the reporting of and the corrective action to remediate the adverse event.

THE CODE

The National Code of Professional Responsibility for Forensic Science and Forensic Medicine Service Providers

The National Code of Professional Responsibility ("Code") defines a framework for promoting integrity and respect for the scientific process and encouraging a research-based culture. To increase public confidence in the quality of forensic services, each forensic science and forensic medicine service provider must meet the requirements enumerated below:

1. Accurately represent his/her education, training, experience, and areas of expertise.
2. Pursue professional competency through training, proficiency testing, certification, and presentation and publication of research findings.
3. Commit to continuous learning in the forensic disciplines and stay abreast of new findings, equipment and techniques.
4. Promote validation and incorporation of new technologies, guarding against the use of non-valid methods in casework and the misapplication of validated methods.
5. Avoid tampering, adulteration, loss, or unnecessary consumption of evidentiary materials.
6. Avoid participation in any case where there are personal, financial, employment-related or other conflicts of interest.

7. Conduct full, fair and unbiased examinations, leading to independent, impartial, and objective opinions and conclusions.
8. Make and retain full, contemporaneous, clear and accurate written records of all examinations and tests conducted and conclusions drawn, in sufficient detail to allow meaningful review and assessment by an independent person competent in the field.
9. Base conclusions on generally-accepted procedures supported by sufficient data, standards and controls, not on political pressure or other outside influence.
10. Do not render conclusions that are outside one's expertise.
11. Prepare reports in unambiguous terms, clearly distinguishing data from interpretations and opinions, and disclosing all known associated limitations that prevent invalid inferences or mislead the judge or jury.
12. Do not alter reports or other records, or withhold information from reports for strategic or tactical litigation advantage.
13. Present accurate and complete data in reports, oral and written presentations and testimony based on good scientific practices and validated methods.
14. Communicate honestly and fully, once a report is issued, with all parties (investigators, prosecutors, defense attorneys, and other expert witnesses), unless prohibited by law.
15. Document and notify management or quality assurance personnel of adverse events, such as an unintended mistake or a breach of ethical, legal, scientific standards, or questionable conduct.
16. Ensure reporting, through proper management channels, to all impacted scientific and legal parties of any adverse event that affects a previously issued report or testimony.

Recommendations for Implementation

The National Commission on Forensic Science recommends that all forensic science and forensic medicine service providers, associated certification and accrediting bodies, and professional societies adopt the Code, that the Code be annually reviewed and signed by all forensic science and forensic medicine service providers, and that steps be defined to enforce ethical violations. In addition, when an adverse event occurs (whether an unintended mistake or a breach of ethical, legal, or scientific standards), there must be a process in place for all forensic science and forensic medical service providers to manage the reporting of and the corrective action to remediate the adverse event.