

NATIONAL CERTIFICATION COMMISSION FOR ACUPUNCTURE AND ORIENTAL MEDICINE

Procedures for Upholding Professional Conduct

Effective as of 1/22/2006

Section 1. Introduction

The National Certification Commission for Acupuncture and Oriental Medicine (“NCCAOM”) certifies individuals in the fields of acupuncture, Chinese herbology, Oriental medicine and Asian bodywork therapy (“Diplomates”). NCCAOM certification indicates to employers, patients, and peers that one has met and maintains national standards for the safe and competent practice in their field of certification as defined by the profession. The mission of the NCCAOM is to establish, assess and promote recognized standards of competence and safety in acupuncture and Oriental medicine for the protection and benefit of the public.

The NCCAOM has adopted ethical guidelines which include (1) the Code of Ethics and (2) the Grounds for Professional Discipline (hereinafter collectively “Ethical Guidelines”)

The Procedures for Upholding Professional Conduct (“Procedures”) have been adopted to uphold the Ethical Guidelines and comport with the principles of due process.

Section 2. Ethical Guidelines: Code of Ethics and Grounds for Discipline

The Code of Ethics sets out the ethical tenets by which Diplomates agree to abide (“Code of Ethics”). The Code of Ethics is published on the NCCAOM website, www.nccaom.org, (the “Website”) and attached as Appendix A.

In furtherance of and in addition to the Code of Ethics, the “Grounds for Professional Discipline” lists examples of unethical conduct, legal and disciplinary matters, incompetence, and impairment that may give rise to actions under these Procedures. Diplomates agree not to engage in conduct that falls within the Grounds for Professional Discipline. The Grounds for Professional Discipline are published on the Website and attached as Appendix B.

All references to “Diplomate” in the Procedures shall include those individuals who have applied for certification by the NCCAOM (“Applicant”) and those Applicants whose

applications have been approved by the NCCAOM but who have not yet become certified (“Candidate”).

Section 3. Professional Ethics and Disciplinary Committee

The Professional Ethics and Disciplinary Committee of the NCCAOM (the “PEDC”) has the authority to evaluate complaints against Diplomates, issue decisions and impose sanctions. The PEDC is composed of no more than seven members, no more than three of whom serve on the NCCAOM Board of Commissioners (the “Board”). At least one member of the PEDC shall be a public member. PEDC members who may have a conflict of interest in connection with a complaint will recuse themselves in accordance with NCCAOM policies.

Section 4. Disciplinary Process

4.1 Initiation of a Complaint

A complaint arises when it appears that a Diplomate’s conduct may have violated the Ethical Guidelines (“Complaint”). Such information commonly comes to the attention of the NCCAOM in the following ways:

- 4.1.1 A complaint by an individual
- 4.1.2 A report from a governmental agency or educational institution
- 4.1.3 An application for certification or recertification
- 4.1.4 A receipt of information by NCCAOM staff (“Staff”)
- 4.1.5 A report of an examination irregularity
- 4.1.6 A notice from a Diplomate pursuant to a reporting requirement

4.2 Preliminary Staff Review

Staff compiles all the information for each Complaint and conducts a preliminary review of the matter. If Staff determines that (1) the matter is frivolous or inconsequential; (2) the Complaint contains unreliable or insufficient information; or (3) the matter is not within the scope of the Ethical Guidelines or the NCCAOM’s jurisdiction, then no further action will be taken and the Complaint will be dismissed. Staff may, in their discretion, notify a complainant of the dismissal of a Complaint. If the information presented or reviewed by Staff raises or leads to a potential issue within the scope of the Ethical Guidelines then the Staff will proceed with further investigation of the Complaint, subject to oversight by the Chair of the PEDC.

4.3 Notice to Diplomate and Response from Diplomate

Upon decision by Staff to further investigate a Complaint, the Diplomate who is the subject of the Complaint is sent written notice. The Diplomate will have thirty (30) days from receipt of notice to submit a written response to the Complaint and/or present any additional evidence in support of his or her position. Failure by a Diplomate to respond to the notice of a Complaint within the thirty (30) days will be sufficient grounds to impose sanctions. Staff may extend the period for the Diplomate's response, upon a timely written request by a Diplomate containing a reasonable explanation of the need for an extension.

4.4 Investigation by Staff

Any aspect of the Complaint that is potentially relevant may be investigated by Staff to clarify, expand, and/or corroborate the Complaint. During the course of its investigation, Staff may seek assistance from legal counsel, independent investigators, and any other appropriate individuals or organizations, including a complainant, subject to oversight by the Chair of the PEDC. All investigations are conducted objectively, with no prejudgment. Staff maintains confidentiality to the extent possible while conducting a thorough investigation.

4.5 Review by the PEDC

Upon completion of the investigation, Staff submits the Complaint, supporting documentation and its findings to the PEDC. Complaints will be considered without hearings, trial-type proceedings, witnesses, cross-examinations, appearance by Diplomate, formal legal rules of evidence and hearsay. Decisions by the PEDC are based entirely on the written record.

If the PEDC decides there is no violation of the Ethical Guidelines, the Complaint is dismissed with written notice to the Diplomate. If the PEDC makes a determination that the Ethical Guidelines were violated and imposes a sanction, the PEDC will issue its decision in writing to the Diplomate. If the PEDC decides that a final decision is not appropriate, the PEDC may request further information and/or issue the Diplomate a conditional certification or recertification.

Section 5. Sanctions

The PEDC may impose any sanctions it deems appropriate with respect to any and all NCCAOM certifications held by the Diplomate including:

1. Withholding of examination scores or results
2. Forfeiture of application or examination fees
3. Ineligibility for certification or recertification

4. Requiring sanctioned Diplomate to apply for certification or recertification as a new Applicant
5. Remedial education
6. Written reprimand (i.e., formal expression of disapproval retained in the Diplomate's file but not publicly announced)
7. Censure (i.e., formal expression of disapproval that is publicly announced)
8. Probation pending completion of specified conditions such as monitoring, counseling and/or remedial education
9. Suspension of certification for a designated period
10. Revocation of certification
11. Any other conditions or sanctions, in the sole discretion of the PEDC

In the event of suspension or revocation of certification, the Diplomate must return his or her certificate(s) to NCCAOM within thirty (30) days of notice of the sanction. If the certificate(s) is lost or misplaced, the Diplomate must submit a signed and sworn statement to that effect.

Section 6. Conditional Certification or Recertification

In special or extraordinary circumstances and in the event the PEDC decides that a final determination is not yet appropriate due to circumstances such as, but not limited to, related proceedings, pending litigation or state disciplinary action, the PEDC may grant a Diplomate a conditional certification or recertification in addition to any other actions.

A conditional certification or recertification is deemed the same as certification or recertification for licensing and other purposes, except that the time period for the conditional certification or recertification may be shorter than that of an unencumbered certification or recertification and additional reporting requirements and conditions may be imposed by the PEDC.

Section 7. Voluntary Surrender of Certificate

A Diplomate who is the subject of a Complaint may voluntarily surrender his or her certificate at any time before the PEDC renders a final decision. Upon surrender, the Complaint will be dismissed without any further action by the PEDC. The NCCAOM may communicate with any state licensing board or regulatory agency, or any other appropriate party concerning the circumstances that led to the surrender. Voluntary surrender of certification renders a Diplomate permanently ineligible for recertification and ineligible for an appeal of the matter.

Section 8. Certification or Recertification after Sanction

In order for any individual to become certified or recertified as a Diplomate after being sanctioned, he or she must (1) successfully complete all conditions imposed by NCCAOM,

(2) demonstrate with reasonable assurance that the conduct that gave rise to the sanction is not likely to recur in the future, and (3) be free from any impediments to certification.

An individual will not be certified or recertified as a Diplomate after revocation of his or her certification.

Section 9. Appeal Process

A Diplomate may appeal a final decision of the PEDC to the Board in writing within thirty (30) days of receipt of the decision. If the decision of the PEDC is not appealed within thirty (30) days, the action of the PEDC is final.

Members of the Board who also serve on the PEDC will not participate in the consideration of any appeal. Board members who may have a conflict of interest with respect to the Diplomate who submitted the appeal will recuse themselves in accordance with NCCAOM policies.

The Board will review the written record to determine whether the decision was inappropriate because of (1) material errors of fact that provided the basis for the decision, or (2) failure of the PEDC or Staff to conform to published criteria, policies, or procedures. The Board will not conduct further investigations or reevaluate the decision as to whether there has been a violation of the Ethical Guidelines. The Board's decision affirms, modifies, remands or overrules the PEDC's decision. The Board will notify the Diplomate of its decision in writing. Unless remanded, the decision of the Board is final and may not be appealed.

Section 10. Notice to Complainant and Publication

The NCCAOM may notify the Complainant of a determination by the Staff or PEDC at their discretion.

The sanctions of censure, probation, suspension, and revocation and any voluntary surrender of certificate shall be published in any manner and for any period of time deemed appropriate by the NCCAOM, including but not limited to notification in NCCAOM publications and on the Website. NCCAOM may disclose any sanction or action taken, in its sole discretion, in any way it deems appropriate or necessary to any governmental agency, employer, school, insurer or individual.