

**PCB
CODE OF ETHICAL
CONDUCT**

PREAMBLE

The Pennsylvania Certification Board (referred to herein as "the Board" or "PCB") provides voluntary certification for substance abuse and other behavioral health professionals as a way of assuring competence to clients, to the public, and to employers. PCB is dedicated to the principle that individuals in the field of substance abuse and other behavioral health services must be held to the highest standards of ethical practice. To that end, the PCB has adopted this Code of Ethical Conduct, to be applied to all professionals certified by or seeking certification by the Board. Individuals are subject to this Code from the date of application to PCB by the applicant. The Code of Ethical Conduct exists for the protection of clients.

The Code is divided into three sections: (1) a Glossary of key terms used in the Code; (2) the Rules of Conduct, which set forth the standards which professionals are required to observe and discussions of selected standards; (3) the Disciplinary Procedures that will be followed by the Board in investigating alleged violations of the Rules. The Board is committed to investigate and sanction those who breach this Code. Certified professionals are, therefore, encouraged to thoroughly familiarize themselves with the Code and to guide their behavior according to the Rules set forth below.

Transparency or being visible about your professional behavior is paramount to maintaining the high standards set by PCB's code of ethical conduct and that is expected of certified professionals. Transparency is not an ethical principle in itself but a pro-ethical condition. Transparency is about information and it embodies honesty and open communication. You must be willing to share information when it is uncomfortable to do so. Transparency is an individual being honest with him/herself about the actions they are taking. It means keeping your actions aboveboard. A commitment to transparency demonstrates to the community, the agency, and the client that there is nothing to hide.

All certified professionals will eventually be faced with ethical dilemmas that are difficult to resolve and offer challenges to their professional practice. Ethical resolution is a critical process and all certified professionals are expected to engage in ethical decision-making that includes the evaluation of context of the situation, meaningful values, the appropriate ethical standards, is consultative in nature and includes a credible model for ethical decision-making. PCB, through its Ethics Committee, is available and willing to act in a consultative fashion to answer any questions pertaining to ethical conduct or dilemmas faced by certified professionals.

GLOSSARY

Appeals Committee: Three PCB board members appointed to hear an appeal.

Certified Professional: A person who holds or applies for a PCB credential classification.

Client: Any person(s) who, either currently or in the past, has received or is receiving services

Complainant: A person(s) who files a complaint with the PCB against a certified professional under PCB jurisdiction.

Ethics: A standard of behavior by which certified professionals must abide.

Ethics Committee: A PCB standing committee charged with the responsibility to review, investigate and sanction as determined appropriate to those who breach the Code of Ethical Conduct. The committee is comprised of PCB board members and/or its designees.

Hearing Panel: A panel comprised of PCB Ethics Committee members with a responsibility to hear and make recommendations in accordance with the Code of Ethical Conduct.

Hearing Officer: The PCB Ethics Committee Chairperson or Co-Chairperson who presides over an ethics hearing.

Counselor Credentials: Associate Addiction Counselor Level I and Level II, Certified Associate Addiction Counselor, Certified Alcohol and Drug Counselor, Certified Advanced Alcohol and Drug Counselor.

Prevention Credentials: Associate Prevention Specialist Level I and Level II, Certified Prevention Specialist.

Clinical Supervisor Credential: Certified Clinical Supervisor.

Allied Credential: Certified Allied Addiction Practitioner.

Case Manager Credentials: Certified Case Manager, Certified Case Manager Supervisor.

Criminal Justice Credential: Certified Criminal Justice Addictions Professional.

Co-Occurring Credentials: Certified Co-Occurring Disorders Professional, Certified Co-Occurring Disorders Professional Diplomate.

Recovery Credential: Certified Recovery Specialist.

Intervention Credential: Certified Intervention Professional.

Plagiarism: An act of appropriating the language, ideas, or thoughts from another person and representing them as one's own original work.

Public Reprimand: A sanction that is a formal, written, published reproof or warning to a Respondent who the Ethics Committee has determined to have breached the Code of Ethical Conduct.

Respondent: A certified professional against whom an ethical complaint has been filed.

Revocation: A sanction resulting in the complete and permanent forfeiture of PCB certification.

Score of Services: The range of services deemed appropriate and necessary for an individual client. Such services may include but are not limited to prevention, intervention, outreach, information and referral, detoxification, inpatient or outpatient, extended care, transitional living, aftercare and clinical supervision.

Suspension: A sanction resulting in the temporary forfeiture of PCB certification for a period of time to be determined by the PCB Ethics Committee.

Written Caution: The least restrictive disciplinary action that a Respondent may receive due to breaching the Code of Ethical Conduct. This sanction is a formal, private, non-published letter of warning to the Respondent that cautions the Respondent against certain conduct or behavior.

RULES OF CONDUCT

The following Rules of Conduct, adopted by the PCB, set forth the minimum standards of conduct which all certified professionals are expected to honor. Failure to comply with an obligation or prohibition set forth in the rules may result in discipline by the PCB.

Discussion sections accompany some of the rules. These discussions are intended to interpret, explain, or illustrate the meaning of the rules, but the rules themselves remain the authoritative standards of the conduct for which disciplinary action may be imposed.

UNLAWFUL CONDUCT

Rule 1.1: Once certified, a professional shall not be cited, arrested, or convicted for any summary offense, misdemeanor or felony relating to the individual's ability to provide substance abuse and other behavioral health services or that reflects conduct unbecoming a professional as determined by PCB.

Discussion: A certificate of conviction shall be deemed conclusive evidence of an individual's guilt of the felony or misdemeanor for which he or she has been charged. If the citation, arrest, or conviction relates to the individual's ability to provide substance abuse and other behavioral health services or reflects conduct unbecoming a certified professional, as determined by PCB, this shall be deemed a violation of this Rule. Some of the specific examples within this section include but are not limited to crimes involving violence, use or sale of any controlled or psychoactive substance, driving while intoxicated/impaired, fraud, theft, and sexual misconduct. PCB may choose to allow pending charges against the certified professional to be settled through the judicial system before rendering their decision on an ethics complaint.

ROMANTIC/SEXUAL MISCONDUCT

Rule 2.1: A certified professional shall, under no circumstances, engage in romantic/sexual activities or romantic/sexual contact with clients, whether such contact is consensual or forced. This prohibition applies to both in person and electronic interactions or relationships.

Rule 2.2: A certified professional shall not engage in romantic/sexual activities or romantic/sexual contact with clients' relatives or other individuals with whom clients maintain a close personal relationship when there is a risk of exploitation or potential harm to the client. This prohibition applies to both in person and electronic interactions or relationships.

Discussion: Romantic/sexual activities or romantic/sexual contact with clients' relatives or other individuals with whom clients maintain a personal relationship has the potential to be harmful to the client and may make it difficult for the certified professional and client to maintain appropriate professional boundaries. Certified professionals, not their clients, their clients' relatives, or other individuals with whom the client maintains a personal relationship, assume the full burden of setting clear, appropriate, and culturally responsive boundaries. Romantic activities are oftentimes non-sexual in nature and may include emotional attraction toward another person such as love, intimacy, compassion, appreciation and affinity.

Rule 2.3: A certified professional shall not engage in romantic/sexual activities or romantic/sexual contact with former clients because of the potential harm to the client. This prohibition applies to both in person and electronic interactions or relationships.

Discussion: If certified professionals engage in conduct contrary to this prohibition or claim that an exception to this prohibition is warranted because of extraordinary circumstances, it is certified professionals, not their clients, who assume the full burden of demonstrating that the former client has not been exploited, coerced, or manipulated, intentionally or unintentionally.

Rule 2.4: A certified professional shall not provide clinical services to individuals with whom they have had a prior romantic/sexual relationship. This prohibition applies to both in person and electronic interactions or relationships.

Discussion: Providing clinical services to a former romantic/sexual partner has the potential to be harmful to the individual and is likely to make it difficult for the certified professional and individual to maintain appropriate professional boundaries.

FRAUD-RELATED CONDUCT

Rule 3.1: A certified professional shall not: 1) present or cause to be presented a false or fraudulent claim, or any

proof in support of such claim, to be paid under any contract or certificate of insurance; 2) prepare, make, or subscribe to a false or fraudulent account, certificate, affidavit, proof of loss, or other document or writing, with knowledge that the same may be presented or used in support of a claim for payment under a policy of insurance; or 3) present or cause to be presented a false or fraudulent claim or benefit application, or any false or fraudulent proof in support of such a claim or benefit application, or false or fraudulent information, which would affect a future claim or benefit application, or be paid under any employee benefit program; 4) seek to have an employee commit fraud or assist in an act of commission or omission to aid fraud related behavior.

Discussion: The term "fraudulent claim" includes but is not limited to charging a client or a third-party payor for a service not performed or submitting an account or charge for services that is false or misleading. It does not include charging for an unkept appointment when the original verbal or written contract for services allows for such a charge.

Rule 3.2: An individual shall not use misrepresentation in the procurement of certification or recertification, or assist another in the preparation or procurement of certification or recertification through misrepresentation. The term misrepresentation includes but is not limited to the misrepresentation of professional qualifications, education, certification, accreditation, affiliations, employment experience, the plagiarism of application and recertification materials, or the falsification of references.

Rule 3.3: An individual shall not use a title designation, credential or license, firm name, letterhead, publication, term, title, or document which states or implies an ability, relationship, or qualification that does not exist and to which they are not entitled.

Rule 3.4: A certified professional shall not sign or issue, in their professional capacity, a document or a statement that the professional knows or should have known to contain a false or misleading statement.

Rule 3.5: A certified professional shall not produce, publish, create, or participate in the creation of any false, fraudulent, deceptive, or misleading advertisement.

Rule 3.6: A certified professional who participates in the writing, editing, or publication of professional papers, media resources, brochures or books must act to preserve the integrity of the profession by acknowledging and documenting any materials and/or techniques or people (i.e. co-authors, researchers, etc.) used in creating their opinions/papers, books, etc.

Discussion: Any work that is copied prior to receipt of approval by the author is discouraged. Whenever and wherever possible, the certified professional should seek permission from the author/creator of such materials. The use of copyrighted materials without first receiving author approval is against the law and, therefore, in violation of this Rule.

DUAL RELATIONSHIPS/EXPLOITATION OF CLIENTS

Rule 4.1: A certified professional shall not initiate, develop, and/or maintain dual/exploitative relationships with clients and/or family members of clients. This prohibition applies to both in person and electronic interactions or relationships.

Discussion: Ethical problems are often raised when those persons providing services blend their professional relationships with another kind of relationship. Dual relationships can take many forms and are inherent in the work of all helping professions regardless of their setting or client population. The nature of the professional-client relationship is such that the client remains vulnerable to the real or perceived influences of the professional.

Dual relationships may make it difficult for the professional to maintain appropriate professional boundaries. It is the professional's responsibility to assume the full burden for setting clear, appropriate, and culturally responsive boundaries. Examples of dual or multiple relationships that are potentially exploitive through the violation of

professional boundaries include but are not limited to: romantic/sexual relationships, bartering arrangements, business arrangements, counseling ones' own family members, friendship, and social networking with clients and/or family members of clients. Social networking shall be defined to include but not limited to blogs, podcasts, wikis, pictures, email, instant messaging, forums, chat rooms, Facebook, MySpace, Twitter, texting, etc.

Unavoidable or potentially helpful dual relationships should be discussed with a supervisor and documented prior to the interaction when feasible.

Rule 4.2: A certified professional shall not misappropriate property from clients and/or family members of clients.

Rule 4.3: A certified professional shall not enter into or maintain a financial dual relationship that results in financial gain to the certified professional, client or a third party.

Rule 4.4: A certified professional shall not promote to a client for their personal gain any treatment, procedure, product, or service.

Rule 4.5: A certified professional shall not ask for nor accept gifts or favors from clients and/or family members of clients.

Discussion: When a certified professional "plays" or "preys" upon the client's gratitude for services or covertly or overtly implies or states that the client remains indebted and should "repay" him or her through gifts or other favors, violates this rule. The unique position of trust and responsibility with the client not only becomes jeopardized, but the certified professional has also engaged in unethical actions.

Rule 4.6: A certified professional shall not offer, give, or receive commissions, rebates, or any other forms of remuneration for a client referral.

Discussion: Notwithstanding this provision, a certified professional may pay an independent advertising or marketing agent compensation for advertising or marketing services rendered on their behalf by such agent. Included in this would be compensation for referrals of clients identified through such services on a per client basis.

PROFESSIONAL STANDARDS

Rule 5.1: A certified professional shall not in any way participate in discrimination on the basis of race, ethnicity, gender, sexual orientation, age, religion, national origin, socio-economic status, political belief, psychiatric or psychological impairment, or physical disability.

Discussion: The certified professional who promotes, condones, or engages in discriminatory conduct towards a client, a client's family, or a client's significant other(s) during the course of the professional activities creates an atmosphere that constitutes conduct contrary to the principles of the profession.

Rule 5.2: A certified professional who fails to seek therapy for any psychoactive substance abuse or dependence, psychiatric or psychological impairment, emotional distress, or for any other physical health related adversity that interferes with their professional functioning shall be in violation of this rule. Where any such conditions exist and impede their ability to function competently, a certified professional must request inactive status of their PCB credential for medical reasons for as long as necessary.

Rule 5.3: A certified professional shall meet and comply with all terms, conditions, or limitations of a certification or license.

Rule 5.4: A certified professional shall not perform services outside of their area of training, expertise, competence, or scope of practice.

Discussion: A certified professional must continually enrich his or her professional knowledge and must competently

comprehend the domains of the credential. They shall not perform any client services in a manner that falls below the minimum standards of competence for the substance abuse and other behavioral health profession.

It is recognized that honest disagreements may exist between professionals as to the best form of service for a given client. Competency does not mean perfection; nor is incompetence normally established by the showing of an isolated instance in which performance has been inadequate. However, when a professional demonstrates multiple inadequacies in performance, or when their behavior portrays a gross neglect of a client's rights and condition, a finding of incompetence will be warranted and disciplinary action imposed.

A certified professional should not use a modality or a technique if they do not have supervision/consultation, education, training, or skills to perform in a competent or qualified manner.

Rule 5.5: A certified professional shall not reveal confidential information obtained as the result of a professional relationship, without the prior written consent from the recipient of services, except as authorized or required by law.

Rule 5.6: The certified professional shall not permit publication of photographs, disclosure of client names or records, or the nature of services being provided without securing all requisite releases from the client, or parents or legal guardians of the clients.

Discussion: The certified professional can unwittingly compromise a client's right to confidentiality by permitting photographs and articles in publications that identify clients and/or the nature of services being provided without securing releases.

Rule 5.7: The certified professional shall not discontinue professional services to a client nor shall they abandon the client without facilitating an appropriate closure of professional services for the client.

Discussion: In the case of a certified professional who has direct care responsibilities, this person shall not discontinue professional services to a client unless 1) services have been completed; 2) the client requests the discontinuation; 3) alternative or replacement services are arranged, or the client is given reasonable opportunity to arrange alternative or replacement services.

Rule 5.8: A certified professional shall seek consultation or make appropriate referral when the person's problem is beyond their area of training, expertise, competence, or scope of practice.

Discussion: Certified professionals should strive to achieve and maintain the highest level of professional competence. In order to provide the highest standard of service for clients, they must maintain the commitment to assess their own personal strengths, limitations, biases, and effectiveness. When a certified professional recognizes that a client's needs exceed their education, training, and capabilities, they must pursue advice and counsel from colleagues and supervisors. When a client's issues are outside the professional's level of functioning or scope of service, they must refer the client to another professional who will provide the appropriate service.

SAFETY & WELFARE

Rule 6.1: When a condition of clear and imminent danger exists that a client may inflict serious bodily harm on another person or persons, a certified professional shall, consistent with federal and state confidentiality laws, take reasonable steps to warn any likely victims of the client's potential behavior.

Discussion: If during the course of treating the client, a certified professional becomes aware that a client intends or is likely to commit some act which may result in serious bodily harm to another person or persons and there is a clear and imminent danger of such harm occurring, the certified professional has a duty to take reasonable steps to warn such persons. In doing so, the certified professional should be aware that state and federal regulations set forth rules concerning the confidentiality of certified professional-client or person seeking certification-client communications

and client records and identifying information. In cases where the threat is of the commission of a crime on agency premises or against agency personnel, the rules may allow disclosure of the circumstances of the threatened crime and identity of the consumer directly to law enforcement officers. In some instances, however, in order to warn the likely victims of the client's actions it may be necessary for the certified professional or the agency to make an emergency application to a court for an order permitting disclosure of information concerning the client or communications from the client before such information can be disclosed.

Rule 6.2: When a condition of clear and imminent danger exists that a client may inflict serious bodily self-harm, the certified professional shall, consistent with federal and state confidentiality laws, take reasonable steps to protect the client.

Discussion: If during the course of treating a client, certified professional becomes aware that a client intends or is likely to inflict serious bodily harm to himself or herself and that there is a clear and imminent danger of such harm occurring, the certified professional has a duty to take reasonable steps to protect the client. The certified professional should be aware that state and federal regulations set forth rules concerning confidentiality.

Under those rules, it may be permissible in some cases to communicate information about an individual if done in a manner that does not disclose the individual's status as a client in treatment. In other cases, however, in order to protect the client, it may be necessary for the certified professional or their agency to make an emergency application to a court for an order permitting disclosure of information concerning the client or communication from the client before such information can be disclosed.

Rule 6.3: All certified professionals are mandated child abuse reporters.

Discussion: Certified professionals are encouraged to be familiar with all applicable state child abuse reporting laws.

RECORD KEEPING

Rule 7.1: A certified professional shall not falsify, amend, or knowingly make incorrect entries or fail to make timely essential entries into the client record.

ASSISTING UNQUALIFIED/UNLICENSED PRACTICE

Rule 8.1: A certified professional shall not refer a client to a person that he/she knows or should have known is not qualified by training, experience, certification, or license to perform the delegated professional responsibility.

DISCIPLINE IN OTHER JURISDICTIONS

Rule 9.1: A certified professional holding a certification, license, or other authorization to practice issued by any certification authority or any state, province, territory, tribe, or federal government whose certification or license has been suspended, revoked, placed on probation, or other restriction or discipline shall promptly alert PCB of such disciplinary action.

COOPERATION WITH THE BOARD

Rule 10.1: A certified professional shall cooperate in any investigation conducted pursuant to this Code of Ethical Conduct and shall not interfere with an investigation or a disciplinary proceeding or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed. Interference attempts may include but are not limited to:

the willful misrepresentation of facts before the disciplining authority or its authorized representative; the use of threats or harassment against, or an inducement to, any client or witness in an effort to prevent them from providing evidence in a disciplinary proceeding or any other legal action; the use of threats or harassment against, or an inducement to, any person in an effort to prevent or attempt to prevent a disciplinary proceeding or other legal

action from being filed, prosecuted or completed; refusing to accept and/or respond to a letter of complaint, allowing a credential to lapse while an ethics complaint is pending, or attempting to resign a credential while an ethics complaint is pending. Violation of this rule under these circumstances will result in the immediate and indefinite suspension of the certified professional's credential until the ethical complaint is resolved.

Rule 10.2: A certified professional shall not make a false statement to the PCB or any other disciplinary authority; promptly alert colleagues informally to potentially unethical behavior; report violations of professional conduct of other certified professionals to the appropriate licensing/disciplinary authority when he/she knows or should have known that another certified professional has violated ethical standards and has failed to take corrective action after informal intervention.

Rule 10.3: A certified professional with firsthand knowledge of the actions of a respondent or a complainant shall cooperate with the PCB investigation or disciplinary proceeding. Failure or an unwillingness to cooperate in the PCB investigation or disciplinary proceeding shall be grounds for disciplinary action.

Rule 10.4: A certified professional shall not file a complaint or provide information to the PCB which he/she knows or should have known is false or misleading.

Rule 10.5: In submitting information to PCB, a certified professional shall comply with any requirements pertaining to the disclosure of client information established by the federal or state government.

DISCIPLINARY PROCEDURES

CONFIDENTIALITY OF PROCEEDINGS

Except as is otherwise provided herein, all information received and all reports, decisions files, transcripts, or any other documents of any kind generated or received during the course of a disciplinary proceeding, shall be kept confidential by the PCB and the respondent.

POSSIBLE SANCTIONS FOR VIOLATION OF THE CODE OF ETHICAL CONDUCT

Possible sanctions for violation of the Code of Ethical Conduct include but are not limited to: denial of an application for certification; written caution; public reprimand; suspension of a credential; revocation of a credential.

Revocation of certification shall be construed as lasting a lifetime without the possibility of reinstatement.

The PCB may impose educational, supervisory, training, and treatment requirements in conjunction with any of the above disciplinary actions.

Past disciplinary actions taken against a certified professional may be considered in setting sanctions. Two or more written cautions or reprimands issued against a certified professional in a two-year period shall result in a suspension or a revocation of the credential.

Except as may be provided in a consent order, in all cases where a public reprimand, suspension, or revocation is issued by the PCB, there shall be cited in the PCB Newsletter and the PCB web site the name of the respondent, the sanction imposed, and the violated Rule(s). The same information shall be referred to the IC&RC. Further, PCB reserves the right to disclose information relative to disciplinary actions to other pertinent organizations such as but not limited to the PA Department of Health, the PA Department of Public Welfare, the PA Department of State, and other appropriate certifying bodies.

Sealed records will only be opened with a court order.

COMPLAINTS

Persons wishing to file a complaint against a certified professional or against a person under PCB jurisdiction seeking certification may do so by detailing their complaint, in writing, to the PCB. Verbal complaints and anonymous action complaints will not be considered for investigation with the exception of publicly available information, such as but not limited to, newspaper articles, court records, or information on web sites that is made available to or secured by PCB.

All complaints must contain the complainant's full name, address, and a phone number where the complainant can be contacted. The complainant must sign and date the complaint document.

In order for ethical complaints to be considered by PCB, all complaints must be filed within four (4) years from date offense occurs.

Complaints shall be sent in an envelope marked "Confidential" to:

Ethics Committee
Attention: Executive Director
Pennsylvania Certification Board
298 S. Progress Avenue
Harrisburg, PA 17109

INVESTIGATION PROCESS

The Executive Director shall conduct an initial review of all complaints filed with the PCB and shall initiate and direct an investigation, to the extent the Executive Director deems sufficient, of all instances of possible professional misconduct by a certified professional. In supervising investigations, the Executive Director may use investigators where deemed appropriate. Except as otherwise provided herein, all PCB investigatory information remains confidential. If during the course of the investigation it appears that criminal behavior may have occurred, the PCB's Executive Director may report the alleged criminal behavior to the appropriate authority.

If a complaint has been filed, the Executive Director may, at his or her discretion, proceed with an investigation even if the complainant subsequently requests that the complaint be withdrawn.

If cases where, upon initial review, the Executive Director deems that no violation has occurred and that no further investigation is warranted, this conclusion shall be reported to the Ethics Committee for their review within ten working days of the completion of the investigation. The Ethics Committee shall either return the matter to the Executive Director for investigation or affirm the Executive Director's decision. If there is no further investigation, the Executive Director shall send a notice to the complainant, informing him or her that the complaint is dismissed.

The Executive Director shall, at the outset of the investigation, send the respondent a copy of the complaint through both certified and regular first class mail, thereby notifying said respondent of the name of the complainant(s) and the alleged violation(s) pertaining to this PCB Code of Ethical Conduct. The Executive Director shall call upon the respondent to submit a typed response within 30 days from the date of the notice. The Executive Director may allow a respondent additional time if such is requested.

During the investigation, the respondent shall disclose all facts and circumstances pertaining to the alleged misconduct, as well as the respondent's interpretation of the situation or conduct which is the subject of the investigation. Misrepresentation by a respondent, failure to provide information, or failure to cooperate with the investigation shall be independent grounds for disciplinary action.

In cases in which an investigation has been conducted, the Executive Director shall, no sooner than 30 days after mailing of the request for response to the respondent, submit an investigation summary report to the Ethics Committee inclusive of the following: any and all written materials associated with the investigation; a summary of any further communications with either the complainant or the respondent; an outline of alleged code violation(s), if any; and a recommendation for dismissal, sanction or sanctions to be imposed, or a recommendation for an ethics hearing. At the conclusion of the review of the evidence provided in the case, the Ethics Committee will make their final decision by majority vote for dismissal, imposition of a sanction, or to convene a hearing.

In those cases, wherein the findings support a decision by the Ethics Committee to impose a sanction or sanctions upon the respondent, PCB will forward to the respondent a written document summarizing the rule(s) violated, the findings of fact, and the disciplinary action being taken. The respondent will sign the document indicating a voluntary acceptance of the sanction and return the document to the PCB within 10 business days of receipt.

HEARING PROCESS

A hearing may be held at any point in the investigatory or decision-making process at the discretion of the Ethics Committee. The hearing is typically undertaken in those cases wherein there is sufficient evidence for the allegation of an ethics code violation but there remain undetermined details of the case that the committee believes might be resolved through the hearing process. A hearing may also be requested by a respondent after exhausting the appeal process (see appeal process). Should a respondent request a hearing in response to the decision of the Appeal Committee, a one-time hearing fee of \$250.00 will be charged to the respondent. This fee must be received by the PCB before the hearing process will be initiated. In either event, a notice of hearing shall advise the respondent and the complainant of the following:

1. The date, time, and the location of the hearing.
2. Both the respondent and the complainant may be represented by counsel at the hearing at their own expense.
3. Both parties to the complaint may present and rebut evidence and present and cross-examine witnesses.
4. The Hearing Panel shall not be bound by common law or statutory rules of evidence, and the Hearing Panel may consider all evidence having reasonable probative value, but a decision to impose discipline may not be based solely on a declarant's oral hearsay statement unless it would be admissible under common law or statutory rules of evidence.
5. The Hearing Panel will base its decision as to whether a violation of the Code of Ethical Conduct has occurred solely upon the evidence presented at the hearing and gathered during the investigatory process.
6. At the respondent's own expense, the respondent may have a registered court reporter present to transcribe the proceedings, provided that the PCB is notified of such election at least 5 days prior to the hearing and is supplied with a copy of the transcript at no cost.
7. No discovery shall be permitted, and no access to PCB files shall be allowed to the respondent, the complainant, or their representatives.
8. Except in the most emergent of circumstances, no postponement requested less than 48 hours prior to a scheduled hearing will be considered.
9. There shall be no contact prior to the hearing between the complainant and the respondent, nor shall the complainant or the respondent be in contact with any PCB member for the purpose of discussing in any way the complaint or influencing the decision of the Hearing Panel.
10. The hearing shall be presided over by a Hearing Officer, and the Officer shall resolve objections concerning evidence.
11. The hearing shall be closed to the public.

Failure of either the complainant or the respondent to attend the hearing shall be deemed a waiver of their right to a hearing. In such cases, the hearing may proceed with disciplinary action being taken or be dismissed as determined by PCB. The Hearing Panel shall make a decision based on the evidence presented through the investigatory process.

Within 30 days after the completion of the hearing, the Hearing Panel shall prepare a written decision containing Findings of Fact and a Conclusion as to whether any of the ethical principles or rules of the Code of Ethical Conduct have been breached. If the Hearing Panel determines that the respondent did breach the Code of Ethical Conduct, the panel shall impose a disciplinary sanction, which shall be specified in the panel's decision. The Hearing Panel shall mail a copy of the decision to the respondent and the complainant by certified mail and regular first class mail. The decision of the Hearing Panel shall be deemed that of the PCB, shall be effective upon issuance or at such date as the Hearing Panel shall specify, and shall be final, without further action by the PCB.

ACTION BY THE ETHICS COMMITTEE

Within 30 days of a hearing or a recommendation for dismissal from the Executive Director, the Ethics Committee shall issue a decision concerning the complaint, based on the materials provided by the Executive Director or gleaned from the hearing.

The decision shall include Findings of Fact, a Conclusion as to which Rules of Conduct, if any, have been violated, and any sanction to be imposed. The decision shall recite the nature of the complaint, the investigation conducted, and the respondent's rebuttal to the complaint. Within 7 days after the issuance of the Hearing Panel's decision, the Executive Director shall mail a copy to the respondent, by certified mail and regular first class mail, together with a notice of the right to appeal any Hearing Panel's decision which calls for disciplinary action.

If a request for an appeal is timely filed, any disciplinary action imposed by the Hearing Panel shall be stayed pending the decision of the Appeal Committee. However, in the event that a request for appeal is not filed within the time

period prescribed hereafter, the decision of the Hearing Panel shall be final, and any disciplinary action imposed shall take effect upon passage of the prescribed time period. When any disciplinary action takes effect, the Executive Director shall notify the complainant of the results of the disciplinary process.

APPEAL PROCESS

If disciplinary action is taken, the respondent may appeal the decision by submitting a request for an appeal to the PCB. Request for an appeal must state reason for the appeal. Such requests shall be mailed to the PCB by certified mail and postmarked no later than 30 days after receipt of the decision. Appeal requests should be addressed to:

President, Board of Directors
Pennsylvania Certification Board
298 S. Progress Avenue
Harrisburg, PA 17109

If a timely request for an appeal is submitted to the PCB, the Board shall appoint from the PCB a three-person Appeal Committee. No member of the Appeal Committee shall be a member of the Ethics Committee, nor shall anyone be appointed to the Appeal Committee who has a potential conflict of interest with either the complainant or the respondent. All potential conflicts of interest will be discussed prior to the appointment. Within 30 days after the PCB receives a request for an appeal, a review into the facts contained in the decision of the Hearing Panel shall be scheduled. The review shall be scheduled no less than 31 days or more than 45 days from the date of receipt of the request.

Such review shall be limited to the issues and charges contained in the decision of the Hearing Panel previously served on the respondent and procedural issues relevant to the case. Within 30 days of the decision by the Appeal Committee, respondent will be notified in writing of said decision. The decision of the Appeal Committee will be considered final.

PROCEDURES AND REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

If a respondent's PCB credential has been suspended or revoked and the respondent does not appeal the Hearing Panel's decision, or if the Appeal Committee upholds the respondent's suspension or revocation, the respondent shall return his or her credential certificate to the PCB Office no later than 21 days after the suspension or revocation takes effect. The PCB credential certificate remains the property of the PCB.

PCB credential reinstatement following a suspension: Upon expiration of the suspension period, the Ethics Committee shall authorize reinstatement of the professional for the balance of his/her certification period, unless:

1. another suspension or revocation of the respondent's certification has occurred; or
2. the respondent has committed another violation of the Code of Ethical Conduct; or
3. the respondent has failed to remit the recertification fees or make an application for recertification in a timely manner, according to the respondent's recertification date; or
4. the respondent has failed to comply fully with the terms of his or her suspension.

Revocation shall be construed as lasting a lifetime without the possibility for reinstatement.

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