



## **NCCAOM® Procedures for Upholding Professional Conduct**

### **Section 1. Definitions and General Information**

- 1.1. “PEDC” shall mean the Professional Ethics and Disciplinary Committee of the National Certification Commission for Acupuncture and Oriental Medicine (hereinafter “NCCAOM®”). The PEDC has the authority and responsibility to review and investigate misconduct complaints and disciplinary matters (hereinafter referred to as “Complaint”) against Respondents (defined in Section 1.3), issue and enforce disciplinary decisions and impose and publish sanctions or actions.
  - 1.1.1. Composition. The PEDC shall be composed of no less than five (5) and no more than nine (9) voting members. At least one (1) and no more than two (2) of whom currently serves on the Board; and at least one (1) PEDC member shall be a public member. Non-voting members may also be seated on the PEDC at the discretion of the PEDC Chair.
  - 1.1.2. Voting. All final determinations made by the PEDC pertaining to Complaints shall require a majority vote of the majority of the PEDC.
  - 1.1.3. Conflicts of Interest. PEDC members who have or have had a close personal relationship with Respondents shall notify the Chair and voluntarily recuse themselves from voting on Complaints pertaining to those individuals. A past or present acquaintance with a Respondent shall not necessarily be deemed a conflict of interest. The Chair shall make the final determination on whether or not a PEDC member has a conflict of interest.
- 1.2. “Board” or “Commissioners” shall mean the NCCAOM® Board of Commissioners.
- 1.3. “Respondent” shall mean an individual who is the subject of a Complaint and may include either:
  - 1.3.1. Applicants for examination, certification or recertification
  - 1.3.2. PDA applicants
  - 1.3.3. PDA Providers
  - 1.3.4. Lapsed Diplomates
  - 1.3.5. Diplomates (Active and Inactive)



1.3.6. Former Diplomates who Voluntarily Surrendered certification

1.4. “Complainant” shall mean any individual, without limitation or restriction, whether aggrieved or not, who initiates or files a written or verbal Complaint against a Respondent.

1.5. A “PEDC Meeting” shall mean a regular or special meeting called by the PEDC Chair where members of the PEDC shall attend by phone, in person or via online conference. All meetings pertaining to Complaints shall be confidential and for the purpose of determining: 1. whether or not a Respondent has violated a NCCAOM Ground(s) for Professional Discipline; and, if so, 2. what sanction(s) and/or action(s) are warranted. PEDC meetings shall not encompass trial-type hearings, witnesses, cross-examinations, appearance by Respondent or counsel, formal legal rules of evidence or rules of hearsay.

1.6. The “Grounds for Professional Discipline” shall mean the *NCCAOM® Grounds for Professional Discipline* which shall be incorporated by reference herein.

## Section 2. Disciplinary Process

2.1. **Initiation of a Complaint.** The NCCAOM does not limit or restrict the source or manner by which a Complaint may be initiated. Written or verbal complaints are typically initiated via the following:

2.1.1 A Complainant\*

2.1.2. A report from a governmental agency or educational institution

2.1.3. An application for certification or recertification

2.1.4. NCCAOM staff or Committee research

2.1.5. Background checks

2.1.6. Pursuant to a self-reporting requirement

\*NOTE: Generally, a Complaint will not proceed if it is initiated anonymously; however, upon request by a Complainant his/her identity may be kept confidential in special circumstances as determined by the Chair, even if the Complainant’s identity is requested by a Respondent.

2.2. **Staff Review and Investigation.** Staff shall be responsible for conducting a preliminary review, researching and gathering all relevant information in order to investigate a Complaint. All investigations shall be conducted objectively, with no prejudice; however any relevant issue contained in a Complaint or any potential issue that arises during the investigation of a Complaint that is potentially relevant to



a violation of a Ground for Professional Discipline may be fully investigated by Staff without limitation or restriction.

- 2.2.1. If at any time during the preliminary review or the investigation of a Complaint, Staff in consultation with the Chair of the PEDC determines the Complaint contains either: substantially unreliable material information or allegations; or the matter is frivolous or inconsequential; or the matter raises an issue that is not within the scope of the Grounds for Professional Discipline, then no further action or investigation will be taken and the Complaint will not proceed to PEDC review or a meeting. If an issue presented in a Complaint or gathered by Staff during its investigation contains reliable evidence or allegations of a violation or potential violation of a Ground for Professional Discipline, then Staff will proceed with further investigation of the Complaint subject to the oversight by the Chair of the PEDC. During the course of its investigation, Staff may seek assistance from legal counsel, independent investigators, state regulators and any other appropriate individuals to assist in the completion of an investigation.
- 2.2.2. An individual who voluntarily surrenders his/her NCCAOM certification or PDA providership after the commission of conduct that is thereafter determined by the PEDC to be a violation of the Grounds for Professional Discipline shall be automatically and permanently ineligible for future NCCAOM certification or PDA providership. Nothing contained in this section shall limit the PEDC from proceeding with a Complaint against any individual who has voluntarily surrendered their certification or PDA providership for any reason (See Section 1.3.6.) and publishing its decisions pursuant to Section 3.1.1.
- 2.2.3. Once an investigation is complete, Staff shall compile all relevant information and documentation pertaining to a Complaint for presentation to the PEDC who shall each thoroughly review the matter prior to a meeting.
- 2.2.4. Respondents are required to cooperate fully and promptly with any request for written personal statement, information, documentation, written answers, and/or clarification made by the PEDC or staff in connection with a Complaint investigation or the lifting or downgrading of a PEDC sanction. Failure to comply with a PEDC request shall be considered a violation of Ground for Professional Discipline #1.
- 2.2.5. Staff and PEDC members shall use its best efforts to maintain the confidentiality of the Respondent during the investigation to the extent possible while conducting a complete and thorough investigation. This policy shall not apply in the event a



sanction or action is taken by the PEDC against a Respondent (See Section 3.1.1)

### **2.3. Notice of Complaint; Mandatory Cooperation; Unrestricted Opportunity to be Heard**

- 2.3.1. During either a Staff preliminary review or investigation of a Complaint, the Respondent who is the subject of the Complaint shall be sent written notice in letter format advising him/her of the issues or potential issues or violations contained in the Complaint (the "Notice of Complaint"). A Notice of Complaint may contain a request for specific documentation and/or written responses from a Respondent which he/she shall be required to respond to and cooperate fully with within thirty (30) days from receipt of a Notice of a Complaint or face potential additional sanctions for failure to do so (See Grounds for Professional Discipline #1). Regardless of whether or not a request for information or documentation from the Respondent is contained in the Notice of a Complaint, Respondent shall still be granted an opportunity to respond in writing to any allegations contained in a Complaint within thirty (30) days of receipt of a Notice of a Complaint. All received written responses from a Respondent, whether relevant or not, pertaining to a specific or general request or not, shall be presented to the PEDC for its consideration and review.
- 2.3.2. A Notice of a Complaint shall be considered served to Respondent if it is sent via tracked mail or electronic mail to the Respondent's addresses on file with NCCAOM. It is the on-going responsibility of the Respondent to maintain current addresses on file with NCCAOM at all times and a failure to do so shall not constitute a valid defense or defect pertaining to the receipt of or service of a Notice of a Complaint. Staff may extend the period for one additional thirty (30) day period upon a timely written request by a Respondent within the initial thirty (30) day period.

### **2.4. PEDC Review and Vote.**

If, after review of a Complaint and its file, the PEDC decides by majority vote at a meeting there is no violation of the Grounds for Professional Discipline, the Complaint shall be dismissed and written notice shall be sent to the Respondent. If the PEDC determines that a Ground(s) for Professional Discipline were violated by majority vote at a meeting and imposes a sanction or action for said violation(s), the PEDC will issue its decision in writing to the Respondent. If the PEDC decides that a final decision on any issue within a Complaint



cannot be made at the time of its meeting, for any reason, the Chair of the PEDC shall postpone the matter until it is ripe for final deliberation and PEDC vote. Nothing contained in this paragraph shall restrict the PEDC from imposing an interim sanction or action against a Respondent until a final vote may be made on a Complaint.

### Section 3. Sanctions or Actions

If the PEDC determines a Ground(s) for Professional Discipline have been violated, it may impose and publish (unless stated otherwise) any of the following sanctions or actions or combination thereof:

1. Withholding examination results.
2. Requiring recertification under new applicant requirements.
3. Temporary and/or conditional certification or recertification.
4. Written reprimand (i.e., formal expression of disapproval retained in the Respondent's file but not publicly announced).
5. Censure (i.e., formal expression of misconduct that is publicly announced).
6. Probation
7. Compliance with monitoring, counseling, treatment, evaluation and/or remedial education.
8. Suspension (definite or indefinite)\*
9. Revocation (permanent only)\*
10. Permanent bar to certification or re-certification in cases of serious violent felonies.
11. Emergency Suspension by the Chair prior to a PEDC meeting (only in extraordinary circumstances of egregious and/or dangerous misconduct)
12. Any other conditions, fines, sanctions or actions the PEDC deems appropriate under the circumstances\*\*

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

**\*\*Summary of PEDC Substance Abuse Policy Statement:** A Respondent whose capacity to safely and effectively treat patients has been diminished as a result of drug or alcohol abuse which has not resulted in harm to a patient, may temporarily and voluntarily surrender NCCAOM certification by forwarding his/her certificate to NCCAOM and temporarily withdrawing from practicing in order to complete an agreed upon treatment plan as decided by the PEDC. Upon the PEDC's receipt of a certificate of disposition from the pre-approved treatment facility, Respondent shall be returned their



NCCAOM certificate and resume practice. A surrender of certification under this provision shall be confidential and shall not be considered an admission of abuse, disability or a violation of the Ground for Professional Discipline # 19. However, this surrender shall not confer immunity upon Respondent with respect to any other Grounds for Professional Discipline and is unilaterally revocable by PEDC in the event the agreed treatment was not completed or harm to a patient has occurred.

- 3.1.1. NCCAOM shall publically disclose and publish any actions or sanctions taken by the PEDC against a Respondent, without any limitation or restriction as to time, detail and scope. NCCAOM shall re-publish or share PEDC actions or sanctions to whatever extent it deems appropriate and necessary in order to inform and/or protect the public, including but not limited to; informing state or federal boards or healthcare regulatory agencies, employers, schools, insurers and permanently listing the in NCCAOM publications and media.

#### **Section 4. Appeal Process**

A Respondent may appeal a final decision of the PEDC to the Board of Commissioners by submitting a written appeal form provided it meets one of the two appeal criteria contained in this paragraph (Section 4.1.2) and it is received within thirty (30) calendar days of receipt of the decision from the PEDC. If a PEDC decision is not appealed within thirty calendar (30) days and/or it does not meet one of the two appeal criteria stated below (Section 4.1.2) the actions/sanctions of the PEDC shall be deemed final and no appeal can be made.

- 4.1.1. An Appeal Board shall consist of no less than three (3) Board of Commissioners. Any Board of Commissioner who serves on the PEDC shall not vote on an appeal matter. Commissioners who have or may have had a conflict of interest (as stated in 1.1.3) will recuse themselves from serving on an Appeal Board.
- 4.1.2. An Appeal Board shall not conduct further investigation, dismiss or revise a determination made by the PEDC on a Complaint. Appeals shall be considered by an Appeal Board only if one of the following criteria is sufficiently demonstrated by the Respondent in the appeal form: (1) New material facts or information exists that were not known to the PEDC at the time of its meeting and said facts or information were not withheld by or undisclosed by the Respondent during his/her opportunity to do so in the course of the PEDC investigation; or, (2) Failure of the PEDC or Staff to conform to notices and procedures set forth herein. If a majority of the Appeal Board votes that either of the aforementioned criteria have been sufficiently met, the Appeal Board shall not change the PEDC determination or rule on the Complaint itself but shall remand the matter back to



the PEDC, which shall reconsider the Complaint based upon either: (1) the new material facts or information previously unknown to the PEDC at the time of its original determination, or (2) after proper notices have been served to Respondent and procedures set forth herein have been satisfactorily met in connection with the Complaint. In either event the PEDC may or may not change its original decision upon reconsideration of the new material facts or compliance with the notices and procedures set forth herein.