

NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE & BODYWORK

**RULES AND PROCEDURES REGARDING
SCHOOL COMPLIANCE COMPLAINTS AND INTERNAL INVESTIGATIONS**

As of November 9, 2016

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I. Definitions.

Appeal Request. A written request to appeal the Department's decision against a School in accordance with Article V. of these Rules and Procedures.

Assigned School. The term Certificant shall mean an entity approved by NCBTMB to teach core curriculum.

Assigned School Code. The term Code shall mean the NCBTMB Assigned School Code issued to Schools.

Chief Executive Officer. The term Chief Executive Officer shall mean the Chief Executive Officer of NCBTMB.

Complainant. The term Complainant shall mean an individual, group of individuals, or an organization including NCBTMB, that files a complaint with NCBTMB against a School in accordance with Section 3.2.

Complaint. The term Complaint shall mean a complaint filed against a School in accordance with Section 3.2.

Compliance Manager School. The term Compliance Manager shall mean the NCBTMB senior staff employee with that or a similar title responsible for managing, coordinating, and investigating the Complaint and Internal Query process. If the Compliance Manager is unavailable the NCBTMB Chief Executive Officer may designate an NCBTMB staff employee to act as the Compliance Manager for the purposes set forth in the Rules and Procedures.

Department. The term Department shall refer to the School Outreach Department.

Form. The term Form shall refer to the Assigned School Code Request Form.

Internal Query. The term Internal Query shall mean an investigation initiated by the Department based on information provided by the School or its representatives, or inconsistent information discovered by the Department during the application or renewal process, or during an internal review of the School.

NCBTMB. The term NCBTMB shall mean the National Certification Board for Therapeutic Massage & Bodywork.

Rules and Procedures. The term Rules and Procedures shall refer to these Rule and Procedures Regarding School Compliance Complaints and Internal Investigations.

School. The term School shall mean a massage school that is applying or has obtained a Code,

II. Purposes and Authority of the School Outreach Department.

2.1 Purposes. The purposes of the Department are:

- A. To enforce the requirements and conditions set forth in the Form;
- B. To serve as a means for evaluating the educational and/or operational structure of a School in comparison to NCBTMB's requirements;
- C. To serve as a means for evaluating the incoming data of a School to ensure consistency and accuracy;
- D. To assist in protecting the public against Schools that do not meet NCBTMB's educational and/or operational requirements;
- E. To investigate Internal Queries and legitimate Complaints as determined by the Department.

2.2 Authority. The authority of the Department is:

- A. Receive, review, evaluate, and respond to legitimate Complaints against Schools and determine sanctions, if any.
- B. Receive, review and evaluate a School's Form and renewal application to determine if the School meets NCBTMB's educational and/or operational requirements.
- C. Investigate any Internal Queries, and determine proper sanctions for non-compliant Schools.
- D. Conduct all Department affairs in a manner and atmosphere free of discrimination based on race, color, gender, sexual orientation, ethnicity, national origin, religion, disability, and marital status, as defined and prohibited by applicable law.
- E. Conduct all Department affairs in a manner which upholds the standards of NCBTMB, which has no authority of law.

III. Submission, Review, and Disposition of Complaints

3.1 Parties That May Submit Complaints. A Complaint against a School may be submitted to the Department by:

- A. Any party witnessing or having knowledge of a School not meeting the educational and/or operational requirements set forth in the Form;

- B. Any party witnessing or having knowledge of a School engaging in fraudulent or unethical behavior;
- C. Any licensing or certifying authority; or
- D. The Department.

The Department may not act solely on the basis of an anonymous Complaint or a Complaint by a Complainant who does not want his or her name to be disclosed to the School who is the subject of the Complaint.

3.2 Contents of a Complaint. All legitimate Complaints must include the following information:

- A. The name, address and telephone number of the Complainant;
- B. The name and address of the School on which the Complaint is based;
- C. A detailed description of the facts that support the Complaint;
- D. The Complainant's approval for the Department to disclose all information to the School, NCBTMB staff, legal counsel, and experts handling the Complaint; and,
- E. The Complainant's signature, when applicable.

Copies of these Rules and Procedures may be provided to the Complainant to assist the Complainant in drafting a Complaint and with complying with these Rules and Procedures.

3.3 Initial Evaluation of a Complaint. Within thirty (30) days of receiving a legitimate Complaint in compliance with Article 3.2, the Department shall evaluate the Complaint and determine whether the allegation in the Complaint, if accurate, would constitute a violation of the terms and conditions set forth in the Form or constitute fraudulent or unethical activity at the School. If the Department determines that the School's conduct would constitute a violation, the School shall be investigated in accordance with Article 3.6. If the Department determines it would not constitute a violation, the Department shall notify the Complainant within thirty (30) days of such determination.

3.4 Informing a School of an Investigation. The Department must inform the School of its decision to investigate the Complaint within fifteen (15) days of such determination. The correspondence to the School must include:

- A. A copy of the Complaint;
- B. Copies of the Rules and Procedures; and
- C. A letter of inquiry requesting the School respond in writing, submitting all requested documentation, as required by Article 3.5, and the consequences of failing to respond, as set forth in Article 3.5.

- 3.5 School's Response to an Investigation.** The School must respond, in writing, with all requested supporting documents and additional information, to the allegations contained in the Complaint within fifteen (15) days of receiving the Complaint. The response shall include: (i) a detailed description of the facts surrounding the allegations contained in the Complaint; (ii) all additional materials requested by NCBTMB; and (iii) a description of situation giving rise to the Complaint if applicable. Failure to respond to the Complaint shall not constitute a waiver of the School's right to appeal any sanction imposed by the Department. Moreover, the School's failure to fully respond shall not prevent the Department from completing its investigation or prevent the Department from taking action based on the information available.
- 3.6 Investigation by Department.** The Department shall conduct an investigation of the allegations contained in the Complaint using all reasonable methods, including without limitation conducting internet research, reviewing applicant and graduate information and information provided by the School, conducting telephone interviews, and drafting written requests for information and/or documentation. The Department may consult with any individual who may have information regarding the allegations or concerns contained in the Complaint.
- 3.7 Department Actions Regarding Schools.** Once the Department has concluded its investigation, it may take one (1) or more of the following actions, as appropriate:
- A. No action;
 - B. Permanent revocation of the Code;
 - C. Denial of a new Code; or
 - D. Such other action as deemed appropriate.
- 3.8 Revocation of an Approved Provider Status.** In the event that the School is also an NCBTMB Approved Provider, a copy of the Department's final decision letter regarding the School shall be provided to the NCBTMB Approved Provider staff liaison. If the School's Code is revoked or denied, the School's Approved Provider Status may also be revoked. The revocation of the Approved Provider Status shall be effective as of the date the Code is revoked. Formal notification will be made to the staff liaison to the Approved Provider Committee.
- 3.9 Voluntary Withdrawal of an Assigned School Code.** In the event the School voluntarily withdraws its Code or Form during the investigation of the School or prior to a formal finding:
- A. The School's Code shall be revoked;
 - B. The School may not reapply for a Code in the future; and

- C. The School's graduates may be deemed ineligible for Board Certification if it is determined that the School was involved in fraud, or unethical or illegal actions during the time when the graduates attended the School.

3.10 Notice of Action. The Department shall provide written notice to the School within fifteen (15) days of the Department decision under Article 3.7 or 4.2. The notice shall include the findings for the action, and information about the process for appealing the Department's action.

IV. Internal Query

4.1 Determination to Open an Investigation. During: (i) the initial submission of a Form; (ii) the renewal process; or (ii) an internal review of a School; NCBTMB may initiate an Internal Query. Reasons for instituting an Internal Query include but are not limited to:

- A. Inaccurate and/or fraudulent information on the Form or renewal application;
- B. Inconsistent supporting documents submitted for review in accordance with the Form or at the request of the Department;
- C. Supporting documents containing program information from other Schools in a revoked or suspended status;
- D. Instructors/program directors/supportive staff that attended Schools in a revoked or suspended status;
- E. Instructors with qualifications from other Schools in a revoked or suspended status;
- F. Other credible evidence which indicates the School is not meeting NCBTMB's educational and/or operational guidelines or engaging in fraudulent, illegal or unethical behavior.

4.2 Informing a School of an Internal Query Within fifteen (15) days after: (i) receiving a Form, (ii) receiving a renewal request from a School; or (iii) completing an internal review, NCBTMB may send the School an inquiry letter, stating the reason for the Internal Query, and requesting additional information for review (the "Request Letter"). The School will have fifteen (15) days to fully respond to Inquiry Letter and submit the additional requested documentation. Absent strong public policy or safety concerns, the School's Code shall remain in good standing during the investigation. Within thirty (30) days of receiving the School's response to the Request Letter, NCBTMB shall (i) request additional information from the School, in which case such information must be submitted and reviewed within the timeframes set forth above; (ii) continue processing the School's documentation; or (iii) sanction the School pursuant to Article 3.7.

V. **Appeal Procedure.**

- 5.1 Request for Appeal.** A School shall have fifteen (15) days following receipt of a notice pursuant to Article 3.10 to file a written Appeal Request. The Appeal Request shall be sent to the Chief Executive Officer by certified mail, overnight express mail, or such other delivery method containing written verification of its delivery. The Chief Executive Officer shall notify the Department about the Appeal Request.
- 5.2 Waiver by Failure to Request an Appeal.** Absent extraordinary circumstances, in the event that a School fails to properly submit the Appeal Request within the time and manner specified in Article 5.1, the School shall be deemed to have waived the right to such appeal. The Department's action there thereupon be final.
- 5.3 Requirements for an Appeal Request.** The School must demonstrate in its written Appeal Request that, from a preponderance of the evidence: (1) the violations found by the Department lacked a factual basis, or (2) the resulting sanction, the basis of the Department's decision or the conclusion drawn there from are arbitrary, unreasonable, or capricious. The Appeal Request must include all evidence that is to be considered by the Chief Executive Officer or the Chief Executive Officer's All such evidence must be new and different than the evidence considered by the Department and must set forth adequate reason why such evidence was not provided to the Department. If the School does not adequately address one or both of the requirements, the Appeal Request will be denied and the Department's decision will be final.
- 5.4 Granting of an Appeal Request.** Within fifteen (15) days from the Chief Executive Officer's receipt of the Appeal Request, and after consultation with NCBTMB's legal counsel, the Chief Executive Officer shall determine if the Appeal Request is likely to meet the requirements set forth in Section ____ and, within five (5) days from such determination, the Chief Executive Officer shall notify: (i) the party filing the Appeal Request; and (ii) the Department. If the Chief Executive Officer determines that the Appeal Request is likely to meet the requirements of Article 5.3, the Chief Executive Officer shall review the Appeal Request.
- 5.6 Burden of Proof.** The Chief Executive Officer shall reverse or modify the Department's recommended sanction only in the event that the written Appeal Request shows, by clear and convincing evidence, that the grounds for the Department's sanction lack a factual basis or that such bases or the conclusion drawn therefrom is arbitrary, unreasonable, or capricious.
- 5.7 Appeal Decision.** Within fifteen (15) days of the date of the consideration of the Appeal Request, the Chief Executive Officer shall notify the Department, in writing, of its decision and action. The Chief Executive Officer's decision is final and can not be appealed. The Chief Executive Officer shall provide copies of the written report to the School.

VI. **Notification of Final Action.**

- 6.1 Inclusion in NCBTMB Database.** All final actions are recorded in the Database of Record.
- 6.2 School.** If the School does not file an Appeal Request, the Department’s decision letter shall serve as the Final Action. The revocation shall be effective as of the date of the decision letter.
- 6.3 Monthly Compliance Chart.** The publication of the Monthly Compliance Chart is handled by the Chief Executive Officer’s executive assistant. All changes and updates to the Monthly Compliance Chart shall be executed and sent in email form in excel format by the last day of the month, previous to the publication month. Included, shall be reasons for the Revocation or Voluntary Withdrawal of the Code and the date of the original suspension if applicable.
- 6.4 Distribution of Action.** The final action against a School, may be disclosed to interested private, public, governmental, quasi-governmental, regulatory bodies, and law enforcement at the discretion of NCBTMB.

VII. Reapplication After Revocation.

- 7.1 Eligibility to Reapply for an Assigned School Code.** A School whose Code has been denied for fraudulent or unethical actions or revoked shall not be permitted to reapply for a Code
- 7.2 Eligibility to Reapply for an Approved Provider Code.** A School whose Approved Provider Code has been revoked shall not be permitted to reapply for a new Approved Provider Code.