



# Policy and Procedures for Disciplinary Matters

## I. DISCIPLINARY POLICY

Certified PAs, PAs seeking certification, and PAs with the PA-C Emeritus designation may be subject to disciplinary action for matters stemming from irregular behavior; fraudulent credentials; legal, regulatory and credentialing actions; or violation of the National Commission on Certification of Physician Assistants (NCCPA) **Code of Conduct for Certified and Certifying PAs (the "Code of Conduct")**, as described below. NCCPA retains the right to impose discipline under this policy even if the PA's certification expires or the PA retires from practice, provided that the violation triggering the disciplinary proceeding occurred when the PA was certified, seeking certification, or applying for or holding the PA-C Emeritus designation.

### A. Irregular Behavior

NCCPA may, at its discretion, deny, or revoke a PA's eligibility, certification, recertification, Certificate of Added Qualification, or PA-C Emeritus designation permanently or for such time as may be determined by NCCPA; issue a letter of censure; issue a non-reportable letter of concern; and/or take such other actions as may be deemed appropriate, including taking legal action, if NCCPA determines that the PA engaged in "irregular behavior" as defined and described below. In general, any behavior that in the sole discretion of NCCPA, undermines or threatens the integrity or validity of the application, assessment or certification processes of NCCPA, whether it occurs before, during or after an exam, shall constitute irregular behavior.

#### 1. In Connection With An Examination or Examination Questions

The behavior of all PAs taking an examination will be monitored by test center personnel. Test center personnel will notify NCCPA of any candidate who appears to give or receive assistance, or otherwise engages in, or assists another in engaging in, dishonest or other irregular behavior during the examination.

For purposes of this policy, "irregular behavior" in connection with an examination or examination questions shall include engaging in, or assisting another individual in engaging in:

- Cheating or other dishonest behavior.
- Compromising the security of an examination.
- Removal or attempted removal of testing materials from the test center, or stealing exam materials.
- Reproducing, distributing, displaying or otherwise misusing a test question or any part of a test question from an examination, including copying answers from someone else or allowing one's answers to be copied, making notes during a

computer-based exam administration other than on the white board provided by the test center, copying or memorizing and reproducing test items.

- Possessing unauthorized materials during a computer-based exam (e.g., including, but not limited to, recording devices, photographic materials, reference material, etc.).
- Having or seeking access to exam materials before the exam.
- Impersonating an examinee or engaging someone else to take the exam by proxy.
- Altering or misrepresenting scores.
- Other behavior which may cast doubt on the exam results of the individual or another person.
- In connection with serving as an item writer for an NCCPA examination, submitting to NCCPA items that are identical or substantially the same as items published by other sources.

## **2. In Connection with a CME Audit**

- Failing a CME Audit.
- Failing to comply with the CME Audit Policy.
- Altering or falsifying documents submitted to NCCPA.

## **3. In Connection with Failure to Report**

- A negative response to one or more questions when an affirmative response should have been submitted.
- Failure to report to NCCPA any adverse regulatory or credentialing action within 30 days of revocation, suspension, surrender, lapse, loss or denial of or any restrictions imposed on a license, authorization, or credential to practice as a health care provider (including authorization to practice as an employee of the federal government or in a jurisdiction not requiring licensure), whether such adverse action is by decision, consent order, stipulation, or agreement.
- Failure to report to NCCPA any adverse legal action within 30 days of conviction of (including a guilty plea or no contest plea) (i) any felony; (ii) any misdemeanor related to health care practice, violence, drug offenses, sex offenses, or fraud; or (iii) any other misdemeanor with a minimum penalty of more than 30 days in jail, except for traffic infractions, first-time DUI offenses, disorderly conduct, obscenity, tax violations, or trespassing.

## **4. In Connection with Communications or Transactions with NCCPA or NCCPA's Agents, Including Test Center Personnel**

- Making any fraudulent or knowingly false statement to NCCPA.

- Submitting fraudulent documents to NCCPA.
- Engaging in violent, threatening or abusive communications with NCCPA or NCCPA's agents.

#### **5. In Connection with NCCPA PA-C Emeritus Status**

- Failing to notify NCCPA within 30 days of returning to clinical practice.
- Using the PA-C Emeritus designation in any clinical setting or in the context of any clinically-related interaction, including clinical volunteer service.

#### **B. Use of Fraudulent Credentials**

NCCPA may, at its discretion, deny, or revoke a PA's eligibility, certification, recertification, Certificate of Added Qualification, or PA-C Emeritus designation permanently or for such time as may be determined by NCCPA; issue a letter of censure; issue a non-reportable letter of concern, and/or take such other actions as may be deemed appropriate, including taking legal action, if NCCPA determines that the PA engaged in the use of a "fraudulent credential."

For purposes of this policy, use of "fraudulent credentials" shall include:

- Manufacturing, modifying, reproducing, distributing, using, or submitting to NCCPA a fraudulent or otherwise unauthorized NCCPA certificate, PA-C designation, CME document, Certificate of Added Qualifications, or other NCCPA document or designation.
- Altering or falsifying NCCPA certification documents.
- Making the false representation that one is certified by NCCPA by using the legally-protected marks, PA-C® or Physician Assistant-Certified® or has attained a CAQ certificate or Emeritus designation by any other means.
- Otherwise falsely claiming to be certified by NCCPA.
- Obtaining or attempting to obtain eligibility, certification, recertification, Certificate of Added Qualification, or PA-C Emeritus designation by deceptive means, including but not limited to submitting or assisting another person to submit to NCCPA any document which contains a material misstatement of fact or omits to state a material fact.
- Assisting another individual to do any of the above.

#### **C. Legal, Regulatory, or Credentialing Action or Violation of NCCPA's Code of Conduct**

##### **1. Automatic Denial or Revocation**

NCCPA will automatically deny or revoke a PA's eligibility, certification, recertification, Certificate of Added Qualification, or PA-C Emeritus designation permanently or for such

time as may be determined by NCCPA, if NCCPA determines that the PA is the subject of any of the following:

- Adjudication by a court, licensing board, or federal employer that the PA is mentally incompetent.
- Conviction of or pleading no contest to a felony that is related to physician assistant practice.
- Violation of the Uniform Code of Military Justice that is related to physician assistant practice.
- Loss or denial, for a minimum period of six (6) months or longer, of the PA's license or authorization to practice, including as an employee of the federal government or in a jurisdiction not requiring licensure, due to behavior that is related to physician assistant practice.
- Surrender or lapse, for a minimum period of six (6) months or longer, of the PA's license to practice in lieu of further administrative or disciplinary action that is related to physician assistant practice.
- Suspension of PA license and/or abeyance of authorization to practice, including as an employee of the federal government or in a jurisdiction not requiring licensure, for a minimum period of six (6) months or longer, due to behavior that is related to physician assistant practice.
- Changing residence to avoid loss of a health care license, or disciplinary action by a state licensing agency for health care professions or to avoid prosecution that is related to PA practice.
- Violation of a regulatory agency's order that is related to PA practice.

## **2. Discretionary Denial, Revocation, Censure, or Concern**

NCCPA may, at its discretion, deny, or revoke a PA's eligibility, certification, recertification, Certificate of Added Qualification, or PA-C Emeritus designation permanently or for such time as may be determined by NCCPA; issue a letter of censure; issue a non-reportable letter of concern, and/or take such other actions as may be deemed appropriate if NCCPA determines that the PA is the subject of any of the following:

- Conviction of or pleading no contest to a felony.
- Conviction of or pleading no contest to (i) any misdemeanor related to health care practice, violence, drug offenses, sex offenses, or fraud, or (ii) any other misdemeanor with a minimum penalty of more than 30 days in jail, except for traffic infractions, first-time DUI offenses, disorderly conduct, obscenity, tax violations, or trespassing.
- Violation of the Uniform Code of Military Justice.

- Loss or denial of the individual’s license or authorization to practice as a health care provider, including as an employee of the federal government or in a jurisdiction not requiring licensure.
- Surrender or lapse of the PA’s license or authorization to practice in lieu of further administrative or disciplinary action.
- Suspension of PA license and/or abeyance of authorization to practice, including as an employee of the federal government or in a jurisdiction not requiring licensure.
- Changing residence to avoid prosecution, loss of license, or disciplinary action by a state licensing agency.
- Violation of regulatory or credentialing agency’s order.
- Documented evidence of gross incompetence, unprofessional conduct, or unethical conduct.
- Violation of the NCCPA *Code of Conduct*.
- Irregular behavior at any time.
- Use of fraudulent credentials.

## II. DISCIPLINARY PROCEDURES

### A. Notification of Disciplinary Proceeding

1. NCCPA shall issue a Notice of Disciplinary Proceeding to the PA describing the allegations of irregular behavior or fraudulent credentials against him or her, or the receipt of information relating to a legal, regulatory, or credentialing action, or violation of NCCPA’s *Code of Conduct*.
2. The Notice of Disciplinary Proceeding shall inform the PA that disciplinary actions may be taken by NCCPA.
3. The Notice of Disciplinary Proceeding also shall inform the PA that he or she must submit a written response to the allegation within 30 calendar days.
4. NCCPA shall make a reasonable effort to determine the facts of the matter. Based on the available facts, including a statement from the PA if submitted, NCCPA shall determine what, if any, disciplinary action is warranted.

### B. Possible Actions and Notification of Decision

#### 1. Possible Actions

NCCPA may take a combination of any of the actions listed or such other action that may be deemed appropriate in the particular circumstance before it if NCCPA determines that allegations of irregular behavior or fraudulent credentials against the PA are true; that the PA is the subject of a legal, regulatory, or credentialing action; or that the PA has violated NCCPA’s Code of Conduct.

NCCPA may take any of the following disciplinary actions or such other action as NCCPA in its discretion deems appropriate:

- Deny or revoke the PA's eligibility, certification, recertification, Certificate of Added Qualification, or PA-C Emeritus designation permanently or for such time as may be determined by NCCPA. If NCCPA staff determines that permanent revocation of eligibility or certification is warranted, the matter will be automatically referred to the NCCPA Review Committee for decision.
- Issue a reportable Letter of Censure.
- Issue a non-reportable Letter of Concern.
- Issue a non-reportable Letter of Suspension for failure to respond to an NCCPA request for information.
- Order the PA to retake an examination at a time and place and in a format to be determined by NCCPA.
- Refuse to release the score of the PA and, thereby, deny his or her current application for certification, recertification, or Certificate of Added Qualification.
- Require the PA to wait a specified period of time before reapplying to take any NCCPA examination.
- Assess a disciplinary fine.
- Recommend to NCCPA's Board of Directors that legal action be taken.

## 2. Notification of Decision

NCCPA communicates directly with PAs regarding disciplinary investigations and outcome decisions. If NCCPA receives a request for information regarding a disciplinary investigation or outcome, communication is conducted as specified in NCCPA's *Information Disclosure Policy*.

- If NCCPA determines that **no action** should be taken, NCCPA shall issue a written Notice of Decision to the PA advising the PA that no action shall be taken and the matter shall be closed.
- When NCCPA determines that a **non-reportable disciplinary action**, such as the issuance of a Letter of Concern, should be taken, NCCPA shall issue a written Notice of Decision to the PA.
  - a. The Notice of Decision shall describe (a) the basis for and nature of the disciplinary action, and, if appropriate, (b) the applicable section of NCCPA's *Policy and Procedures for Disciplinary Matters*.
  - b. The Notice of Decision also shall inform the PA that the decision is a non-reportable action is not subject to Review or Discretionary Appeal, and is the final decision of NCCPA.

- If NCCPA determines that a **reportable disciplinary action** should be taken, such as the issuance of a Letter of Censure, NCCPA shall issue a written Notice of Adverse Decision to the PA.
  - a. The Notice of Adverse Decision shall describe (a) the basis for disciplinary action (b) the applicable section of NCCPA's *Policy and Procedures for Disciplinary Matters* and (c) the reportable disciplinary action taken in the matter.
  - b. The Notice of Adverse Decision shall also inform the PA that he or she may accept the disciplinary action or submit a timely Request for Review in accordance with NCCPA's *Review and Appeal Policies and Procedures*. If the PA does not submit a written Request for Review in accordance with NCCPA's *Review and Appeal Policies and Procedures*, the decision of NCCPA shall be the final decision of NCCPA on the matter and shall not be subject to any subsequent Review or Discretionary Appeal absent extraordinary circumstances, as determined solely by NCCPA.
  - c. The Notice of Adverse Decision shall also inform the PA that after a final adverse disciplinary decision has been reached, NCCPA may, as deemed appropriate, report the disciplinary action and the underlying facts thereof to interested parties. Such reporting may include providing a copy of the Final Decision Letter to the Federation of State Medical Boards, any state licensing authority with which the PA holds or has held a license to practice as a PA, the federal government, the PA's employer and other interested parties, including individuals seeking information about the PA's certification status, as solely determined by NCCPA. It also may be published on NCCPA's web site.

**C. Review of Adverse Decisions**

Adverse Decisions are subject to Review pursuant to NCCPA's *Review and Appeal Policies and Procedures*.

**D. Application for Reestablishment of Eligibility Following Disciplinary Action**

1. Applications to reestablish eligibility shall be considered and acted upon at the discretion of NCCPA, except in such cases where the revocation is permanent or the period of revocation is expressly limited to a specific period of time.
2. A PA whose eligibility, certification, recertification or Certificate of Added Qualification, or Emeritus designation has been denied or revoked by NCCPA for a specified time period may apply to reestablish eligibility with NCCPA following expiration of such time period.
3. To re-establish eligibility, a PA must submit a full statement that includes relevant details that pertain to his or her circumstances. If NCCPA's decision related to a criminal or military justice conviction, the individual may not apply to reestablish eligibility until all sentences have been served and, unless the Review Committee grants an exception, until all judgments have been satisfied. If NCCPA's decision was based on loss or denial of licensure or authorization to practice, though it is not necessary for the license or authorization itself to be restored, the individual may not apply to reestablish eligibility until the situation

*underlying* the loss or denial of licensure or authorization has been addressed or remedied to the satisfaction of the NCCPA.

The PA's statement should include:

- An acknowledgement of the PA's actions and a statement of why NCCPA should consider the request for reestablishment.
- An attestation indicating that no new *Code of Conduct* violations have occurred since revocation.
- A description of how he or she has met any NCCPA stipulations.
- An attestation indicating that a state licensing board or federal employer considering the PA's credentials has been made aware of NCCPA's certification revocation and of the underlying cause(s) that led to the revocation.

PAs must also submit relevant supporting documentation that will be verified by NCCPA. Examples of supporting documentation to be provided by PAs include, depending on the underlying issue:

- Written notice from a licensing board indicating that the PA would be considered for licensure, including the ability to prescribe controlled dangerous substances, if the PA passes an NCCPA exam.
- Written notice from a federal employer indicating the PA would be considered for clinical privileges/credentialing if the PA passes an NCCPA exam, or proof of current, active privileges.
- Written notice that any criminal sentences or probationary periods have been served, or other legal requirements have been met.
- Written notice from the DEA that certification has been restored.
- Written notice from the OIG that participation in Medicare, Medicaid, or other federal programs has been restored.
- Documents (e.g. CME certificates, proof of attendance of an ethics/ professional boundaries course) meeting requirements stipulated by NCCPA.

#### **E. Responsibility for Notification of Address Changes**

PAs are solely responsible for ensuring that their NCCPA account includes the PA's current mailing and email address. If the PA does not receive notice(s) from NCCPA related to disciplinary review or action due to his or her failure to notify NCCPA in a timely manner of a change of address, that lack of notification shall not be considered as the basis for an appeal or reconsideration of any decision in the matter.

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