



## **REVIEW AND APPEAL PROCESS FOR ADVERSE DECISIONS**

### **I. DECISIONS SUBJECT TO REVIEW OR APPEAL**

The following adverse decisions by the National Commission on Certification of Physician Assistants (“NCCPA”) are subject to review or appeal:

#### **A. Adverse Administrative Decisions**

- (1) Denial of a request for extension of an established deadline or for exception to other administrative requirements.
- (2) Denial of a grievance regarding examination administration.

#### **B. Adverse Substantive Decisions**

- (1) Rejection of credentials for eligibility to sit for an NCCPA examination.
- (2) Revocation of eligibility to sit for an NCCPA examination.
- (3) Denial of certification, recertification, or proficiency recognition.
- (4) Revocation or suspension of certification, recertification, or proficiency recognition.
- (5) Other adverse actions that are reportable to third parties.

#### **C. Adverse Disciplinary Decisions based on:**

- (1) Irregular behavior before, during or after an NCCPA examination.
- (2) Manufacture or use of fraudulent NCCPA credentials.
- (3) Legal, regulatory or credentialing action.

**NO APPEAL may be taken from an adverse decision based on an individual’s receipt of a failing score on an NCCPA examination.**

## II. CONFLICT OF INTEREST POLICY

NCCPA Directors shall not participate in discussions of, or vote on, any review or appeal in which the Director has or has had a substantial personal or professional relationship with the physician assistant at issue.

## III. NOTICE OF ADVERSE DECISION

A physician assistant who has received an Adverse Decision shall be sent a prompt written Notice of Adverse Decision. The Notice shall state the reason(s) for the Adverse Decision and shall inform the physician assistant whether he or she has the right to seek review of the Adverse Decision by filing a timely written Request for Review with the NCCPA.

## IV. THE REVIEW PROCESS

### A. Composition and Role of the Review Panel

The Review Panel shall consist of seven current NCCPA Directors. No member of the Review Panel shall be a member of the Executive Committee; and the majority of the members of the Review Panel shall be physician assistants.

The Review Panel shall consider the Notice of Adverse Decision and the Request for Review, including any supporting documentation submitted by the physician assistant or prepared by NCCPA staff. The Review Panel also may, at its discretion, request or receive, and review, additional information. The foregoing shall constitute the Review Record. A copy of the Review Record shall be forwarded to the physician assistant at least 14 calendar days before the meeting of the Review Panel.

*The review shall be conducted pursuant to the procedures set forth in Section IV.D. (for administrative decisions) or Section IV.E. (for substantive and disciplinary decisions).*

### B. Request for Review

To be valid, a Request for Review must be postmarked within 30 calendar days after the date of the Notice of Adverse Decision. The Request must contain a statement of why the physician assistant believes that the Adverse Decision was improper, must include any supporting documentation that the physician assistant wishes to have considered as part of the review, and must be accompanied by a Review Fee in the form of a check for \$100.00 made payable to the NCCPA. (This fee will be waived for physician assistants who request review of a decision based on a legal, regulatory or credentialing action.) Additionally, if the physician assistant desires a hearing before the Review Panel, as described more fully in Section II.C, the physician assistant's intent to appear personally before the Review Panel or to address the Review Panel by telephone must be expressed in the Request for Review.

**If a Request for Review is not postmarked within 30 calendar days, the Adverse Decision shall constitute the final decision of the NCCPA on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by the NCCPA.**

### C. Telephonic or In-Person Hearings

A physician assistant requesting review of an adverse decision may submit a timely request for a hearing before the Review Panel. The hearing may be conducted in person or by telephone. Not

less than 30 calendar days prior to the scheduled date of the hearing, the NCCPA shall notify the physician assistant in writing of the date, time, and place of the hearing.

If the physician assistant will be accompanied by legal counsel, NCCPA must be so notified in writing no less than 7 calendar days prior to the date of the hearing.

A physician assistant who chooses to appear before the Review Panel in person or by telephone shall be given the opportunity to make a statement summarizing the physician assistant's position. At the discretion of the Review Panel, the physician assistant's legal counsel may make an opening or closing statement. At the conclusion of the physician assistant's statement, members of the Review Panel and NCCPA legal counsel may ask the physician assistant to respond to questions. The Review Panel shall not be bound by technical rules of evidence usually employed in legal proceedings, but may consider any evidence it deems appropriate.

All expenses incurred by the physician assistant in connection with the hearing shall be borne by the physician assistant. If the physician assistant requests a hearing and, without good cause, fails to appear or fails to advise the NCCPA in writing more than 7 calendar days before the scheduled date of the hearing that he or she will not appear at the hearing, the physician assistant may forfeit his or her opportunity for a hearing, and the Review Panel may proceed with its deliberations in the matter.

Following the hearing, the Review Panel shall determine, by majority vote of those members present, whether to ratify, reverse, or modify the Adverse Decision. The physician assistant shall be notified in writing of the decision, including the reasons therefor, within 14 calendar days after the Review Panel reaches its decision.

#### **D. Final Review of Administrative Decisions**

A timely Request for Review of a denial of an extension of an established deadline, an exception to any other administrative requirement, or a denial of remedy requested based on a grievance regarding the administration of an NCCPA examination, will be finally reviewed by the NCCPA Review Panel at its next regularly scheduled meeting occurring at least 30 calendar days after receipt of the Request for Review.

Based on its review of the Review Record, the Review Panel may, at its discretion, take one of the following actions:

- (1) Affirm the Adverse Decision,
- (2) Modify the Adverse Decision, or
- (3) Reverse the Adverse Decision.

The physician assistant shall be notified in writing of the Review Panel's action, including the reasons therefor, within 14 calendar days after the Review Panel reaches its decision.

**THE REVIEW PANEL'S DECISION ON ADMINISTRATIVE MATTERS SHALL CONSTITUTE THE FINAL DECISION OF THE NCCPA ON THE MATTER AND SHALL NOT BE SUBJECT TO APPEAL ABSENT EXTRAORDINARY CIRCUMSTANCES, AS DETERMINED SOLELY BY THE NCCPA.**

**E. Review of Adverse Substantive or Disciplinary Decisions**

A timely Request for Review of an adverse substantive or disciplinary decision shall be considered by the NCCPA Review Panel at its next regularly scheduled meeting occurring at least 30 calendar days after receipt of the Request for Review. Based on its review of the Review Record and consideration of testimony provided during a hearing, if any, the Review Panel may, at its discretion, take one of the following actions:

- (1) Affirm the Adverse Decision,
- (2) Modify the Adverse Decision, or
- (3) Reverse the Adverse Decision, in which event the decision of the Review Panel shall constitute the final decision of the NCCPA on the matter.

The physician assistant shall be notified in writing of the Review Panel’s action, including the reasons therefor, within 14 calendar days after the Review Panel reaches its decision.

**V. THE APPEAL PROCESS**

**A. Request for Discretionary Appeal**

A physician assistant who has received notice that an adverse substantive decision has been affirmed or modified by the Review Panel may appeal to the Executive Committee by filing a written Request for Appeal with the NCCPA. To be valid, the Request for Appeal must be postmarked within 30 calendar days after the date of the notice of decision and must state with specificity the grounds on which the physician assistant is requesting the appeal. The information submitted in the Request for Appeal shall be limited to that submitted to the Review Panel. New information shall not be considered on appeal. If such information was not available at the time of the Review Panel’s review, but becomes available within 30 calendar days after the date of the notice of the Review Panel’s decision (“Valid New Information”), the physician assistant may submit such Valid New Information for reconsideration by the Review Panel.

**If a Request for Appeal is not postmarked within 30 calendar days, the Adverse Decision shall constitute the final decision of the NCCPA on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by the NCCPA.**

**B. Standard of Review**

The Executive Committee’s review shall be limited to a determination of whether (1) a procedural error may have contributed to the Review Panel’s decision or (2) the Review Panel’s decision was arbitrary and capricious.

Any member of the Executive Committee who was a member of the Review Panel and participated in prior consideration of the Adverse Decision shall not participate in deliberations regarding, or vote on, the matter.

**C. Consideration of a Discretionary Appeal**

A timely Request for Appeal from an adverse substantive or disciplinary decision affirmed or modified by the Review Panel shall be considered by the Chairman of the Executive Committee.

**The decision to grant an Appeal is at the sole discretion of the Chairman of the Executive Committee who shall seek advice of counsel.**

If the Chairman determines that the specific grounds on which the physician assistant has requested an appeal raise a question of a procedural error or an arbitrary and capricious decision, he or she may grant the Appeal. In such event, the appeal will be heard by the Executive Committee at its next regularly scheduled meeting occurring at least 30 calendar days after receipt of the Request for Appeal.

**D. Appeal Procedure**

The Executive Committee shall consider the Review Record, the Notice of Affirmation or Modification of Adverse Decision, the Request for Appeal, the record of the hearing if one was conducted before the Review Panel, and the information conveyed by the appellant during the telephonic appearance, if any. The Executive Committee also shall receive and review a statement from the Chair of the Review Panel that took the adverse disciplinary action. The foregoing shall constitute the Appeal Record.

The Executive Committee shall base its review solely on the Appeal Record and shall determine by majority vote of those members present whether to (1) ratify, reverse or modify the Adverse Decision; or (2) remand the matter back to the Review Panel for correction of a procedural error. If during the course of its review, the Executive Committee finds Valid New Information, it shall discontinue the review and remand the matter back to the Review Panel for reconsideration.

**A DECISION BY THE EXECUTIVE COMMITTEE TO RATIFY, REVERSE, OR MODIFY AN ADVERSE DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE NCCPA ON THE MATTER.**

**IF THE REVIEW PANEL , ON REMAND, CORRECTS THE PROCEDURAL ERROR BUT REACHES THE SAME DECISION, THAT DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE NCCPA ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.**

The physician assistant shall be notified in writing of the final decision, including the reasons therefor, within 14 calendar days after the Executive Committee or the Review Panel reaches its decision.

## VI. SUBMISSIONS TO THE NCCPA

Whenever there is a requirement for a written notice, request or other writing to be submitted to the NCCPA, such writing shall be addressed to the following:

Appeals Department  
National Commission on Certification of Physician Assistants  
12000 Findley Rd.  
Suite 200  
Duluth, Georgia 30097  
Tel: (678) 417-8121  
Fax: (678) 417-8135

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The procedures set forth above for the review and appeal of Adverse Decisions may be subject to an expedited schedule when deemed necessary by the NCCPA.

Approved by NCCPA Board of Directors: November 10, 2006