

NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE & BODYWORK

**RULES AND PROCEDURES REGARDING
ETHICAL AND PROFESSIONAL DISCIPLINE COMPLAINTS**

As of: May 2, 2022

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NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE & BODYWORK

RULES AND PROCEDURES REGARDING ETHICAL AND PROFESSIONAL DISCIPLINE COMPLAINTS

1. Definitions.

- 1.1. **Appeal Request:** A written request to appeal the committee's decision by a BCTMB® certificant or applicant in accordance with Sections 6 and 7 of these rules and procedures; or a written request to appeal the denial of an applicant's board certification application or a BCTMB® certificant's board certification renewal application in accordance with Section 10 of these rules and procedures.
- 1.2. **Applicant:** An individual who has a complete, active application to become certified on file with NCBTMB but has not yet become a BCTMB® certificant.
- 1.3. **Certification Board:** The certification board of NCBTMB.
- 1.4. **Board Liaison:** The president of the certification board and/or his or her designee in his or her role as a member of the committee pursuant to 3.1.
- 1.5. **BCTMB® Certificant:** An individual certified by NCBTMB.
- 1.6. **Chief Executive Officer:** The chief executive officer of NCBTMB.
- 1.7. **Code:** The NCBTMB Code of Ethics.
- 1.8. **Committee:** The NCBTMB Ethics and Standards Committee, which is a peer review committee.
- 1.9. **Complainant:** An individual, group of individuals, or an organization, including NCBTMB, that files a Complaint with NCBTMB against a BCTMB® certificant or applicant in accordance with Section 4.
- 1.10. **Complaint:** A complaint filed against a BCTMB® certificant or applicant in accordance with Section 4.3.
- 1.11. **Investigative Team:** A group of two (2) or three (3) committee members designated to investigate a Complaint in accordance with Section 5.3.
- 1.12. **NCBTMB:** The National Certification Board for Therapeutic Massage & Bodywork. Inc.
- 1.13. **President:** The president of the NCBTMB certification board.
- 1.14. **Rules and Procedures:** Rules and Procedures Regarding Ethical and Professional Discipline Complaints.
- 1.15. **Standards:** The NCBTMB Standards of Practice.
- 1.16. **Unethical Conduct:** Conduct that violates the Code and/or the Standards.

2. Purposes, Authority, and Structure of the Committee.

- 2.1 **Purposes.** The purposes of the committee are:

- 2.1.1 To enforce NCBTMB's Code of Ethics, Standards of Practice, and these rules and procedures.
- 2.1.2 To serve as a peer group evaluating body regarding ethical and procedural questions relating to applicants and BCTMB® certificants.
- 2.1.3 To assist in safeguarding the public against unprofessional and unethical conduct by applicants and BCTMB® certificants.
- 2.1.4 Specifically, the Ethics and Standards Committee makes decisions regarding the following complaints: when an applicant's eligibility to sit for the exam has been denied; when staff has denied a BCTMB® certificant's renewal application; or when a complaint is brought against a BCTMB® certificant, based on violations of the NCBTMB's Code of Ethics and Standards of Practice.

2.2 Authority. The authority of the committee is to:

- 2.2.1 Receive, review, evaluate, initiate, investigate and respond to legitimate complaints against BCTMB® certificants and applicants.
- 2.2.2 Review, evaluate and investigate any cases of exam misconduct.
- 2.2.3 Receive, review, evaluate and respond to appeals regarding NCBTMB's denial of an applicant's board certification application or a BCTMB® certificant's board certification renewal application.
- 2.2.4 Review these Rules And Procedures, Standards, and Code of Ethics to recommend changes to the board for the board's consideration.
- 2.2.5 Conduct all committee affairs in a manner and atmosphere free of discrimination based on race, color, gender, age, sexual orientation, ethnicity, national origin, religion, disability, and marital status, as defined and prohibited by applicable law.
- 2.2.6 Conduct training sessions regarding the committee's responsibilities under these rules and procedures.
- 2.2.7 Perform other tasks commensurate with the committee's purposes as requested by the board.

3. Structure.

- 3.1. **Composition.** The committee will consist of five to nine voting members, a majority of whom will be BCTMB® certificants in good standing. A public member may be added to a committee as deemed necessary by the board. The president or their designee will be added to the committee as a board liaison. The board liaison may attend all committee meetings as an ex-officio, nonvoting member. The NCBTMB chief executive officer will appoint a staff member to serve as staff liaison. The staff liaison will attend all committee meetings as a non-voting participant and will serve as secretary to the committee.
- 3.2. **Qualifications.** Committee members who are BCTMB® certificants must possess thorough knowledge and understanding of the protocol of massage therapy and bodywork. Committee members who are BCTMB® certificants shall have a minimum of five (5) years of experience in the profession. Committee members who are BCTMB® certificants shall have adequate experience with professional standards. Public

member(s) of the committee may have some experience in the field of massage therapy and/or bodywork and shall have adequate experience with professional standards.

- 3.3. **Selection.** The certification board president shall appoint the committee chair with the approval of the certification board. The chair shall interview, evaluate and select the members of the committee. All committee members must be approved by the president.
- 3.4. **Meetings.** The committee will meet at reasonable intervals, as needed to carry out its responsibilities, but in any event not fewer than four times each year. Except as determined by the president, all meetings will be conducted via teleconference or videoconference. Minutes shall be kept for each meeting as a record of the committee's activities. Committee members must be given at least three days' advance notice of any teleconference/videoconference committee meeting, or 14 days' notice of any in-person meeting, except that such notice may be waived by attendance at the meeting. The presence of a majority of the voting membership of the committee shall constitute a quorum for meetings of the committee. Committee decisions shall be made by a majority vote of a quorum present at a meeting.

4. **Submission and Receipt of Complaints.**

- 4.1. **Parties That May Submit Complaints.** A complaint against a BCTMB® certificant or applicant may be submitted to the committee by:
 - 4.1.1. any party claiming to have been harmed by the unethical conduct of a BCTMB® certificant or applicant;
 - 4.1.2. a BCTMB® certificant or applicant self-reporting unethical conduct;
 - 4.1.3. any BCTMB® certificant or applicant who, in good faith, believes that another BCTMB® certificant or applicant engaged in unprofessional conduct in violation of the Code and/or Standards;
 - 4.1.4. any national, regional, state, or local professional association of massage therapists and bodyworkers of which the BCTMB® certificant or applicant is a member;
 - 4.1.5. any licensing or certifying authority; or
 - 4.1.6. the committee.
- 4.2. **Anonymous Complaint.** The committee 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 BCTMB® certificant or applicant who is the subject of the complaint.
- 4.3. **Contents of a Complaint.** All legitimate complaints must include the following information:
 - 4.3.1. the name, address, and telephone number of the BCTMB® certificant or applicant;
 - 4.3.2. the name, address, and telephone number of the complainant;
 - 4.3.3. a detailed description of the facts supporting the complaint;
 - 4.3.4. a description of any steps that have been taken to address the situation explained in the complaint, and the results thereof;

- 4.3.5. the specific sections of the Code and/or Standards alleged to have been violated and an explanation as to how the sections were violated;
 - 4.3.6. the complainant's approval for the committee to disclose all information to the BCTMB® certificant, applicant, the committee, NCBTMB staff, legal counsel, and experts involved in handling the complaint; and
 - 4.3.7. the complainant's signature.
- 4.4. **Materials.** Copies of these Rules And Procedures, the Code, and the Standards may be provided to the complainant to assist the complainant in drafting a complaint and with complying with these rules and procedures.
- 4.5. **Receipt of Complaint.** Upon receipt of a complaint, a notice will be sent to the complainant informing them that the complaint has been received and that it will be processed according to the rules and procedures of the Ethics and Standards Committee.
- 4.6. **Initial Evaluation of Complaint.** Within forty-five (45) days of receiving a legitimate complaint in compliance with Section 4.3, the committee shall evaluate the complaint and determine whether the allegations in the complaint, if true, would constitute unethical conduct. If the committee determines that the allegations, if true, would constitute unethical conduct, the complaint shall be investigated in accordance with Section 5. No committee member shall consider, evaluate or help determine the validity or disposition of a complaint if such committee member sufficiently knows any material party to the complaint, is in direct competition with the complainant, BCTMB® certificant or applicant, or otherwise should be recused due to an existing or potential conflict of interest.
5. **Investigative Procedure.**
- 5.1. **Initial Evaluation of a Complaint.** When a complaint is brought against a BCTMB® certificant, the staff liaison will send the complaint information to NCBTMB legal counsel. Counsel will review the information submitted for relevancy and direct the staff liaison to send the appropriate information to the committee.
- 5.2. **Informing BCTMB® Certificant of Investigation.** The chief executive officer must inform the BCTMB® certificant or applicant of the committee's decision that the complaint warrants investigation within fifteen (15) days of such determination. The correspondence to the BCTMB® certificant or applicant must include:
- 5.2.1. a copy of the complaint;
 - 5.2.2. copies of these rules and procedures, the Code, and the Standards; and
 - 5.2.3. a request that the BCTMB® certificant or applicant respond in writing.
- 5.3. **BCTMB® Certificant's or Applicant's Response to Complaint.** The BCTMB® certificant or applicant must respond, in writing, to the allegations contained in the complaint within thirty (30) days of receiving the complaint. The response shall include a detailed description of the facts surrounding the allegations contained in the complaint and the situation giving rise to the complaint. Failure to respond to the complaint will not constitute a waiver of the BCTMB® certificant's or applicant's right to appeal any sanction imposed by the committee in response to the complaint. Failure to respond may be considered as a factor by the committee when considering the merits of the complaint. Moreover, the BCTMB® certificant's or

applicant's, failure to respond shall not prevent the investigative team from completing its investigation or prevent the committee from taking action based on the information available.

- 5.4. Assignment to Investigative Team.** In the event that the committee determines that a complaint warrants investigation, such complaint shall be investigated by an investigative team of which the chair shall assign members. The committee may indicate key questions and issues that it identified in its review of the complaint to the investigative team though the investigative team shall not be required to limit its investigation solely to these questions and issues. In these cases, the staff liaison will work with NCBTMB legal counsel to develop a list of information needed from the involved parties. Legal counsel will review the submitted information for relevancy before the staff liaison submits the documents to the committee.
- 5.5. Conflict of Interest.** No investigative team member shall consider, evaluate or help determine the disposition of a complaint if such investigative team member sufficiently knows any material party to the complaint, is in direct competition with the complainant, BCTMB® certificant or applicant, or otherwise should be recused due to an existing or potential conflict of interest.
- 5.6. Investigation by Investigative Team.** The investigative team shall conduct an investigation of the allegations contained in the complaint using reasonable methods including, without limitation, written requests for information or documentation and/or telephone interviews. The investigative team may consult with any individuals who may have information regarding the allegations contained in the complaint. With the consent of the chair, the investigative team may consult with experts, as necessary. Such experts shall agree in writing to be bound by the confidentiality obligations in Section 12.1.
- 5.7. Interview with the BCTMB® Certificant or Applicant.** Upon the request of the investigative team, the BCTMB® certificant or applicant shall participate in a telephone interview with the investigative team prior to the investigative team submitting the report to the committee as described in Section 5.8 below. During the interview, the BCTMB® certificant or applicant will be informed of the general nature of the evidence supporting the complaint and shall be invited to discuss, explain, or refute the complaint. The interview shall be informal in nature. Failure by a BCTMB® certificant or applicant to participate in an interview with the investigative team shall not constitute waiver of any right to appeal under these rules and procedures. The BCTMB® certificant's failure to participate in the interview may be considered as a factor by the investigative team. A summary of the interview will be made by the investigative team and shall be included with the investigative team report to the committee. The BCTMB® certificant's or applicant's failure to participate in a telephone interview shall not prevent the investigative team from submitting its report to the committee or prevent the committee from taking action based on the information available.
- 5.8. Report to Committee.** Upon the completion of its investigation, the investigative team shall submit a written report of the investigation to the committee. The report must include the names of the committee members who participated in the investigation, a description of the facts of the situation that gave rise to the complaint, a description of the unethical conduct, if any, and the Code sections and/or Standards violated, if any. Within sixty (60) days of receiving the report, the committee shall review the report.

6. Disposition of Complaint.

- 6.1. Committee Actions Regarding BCTMB® Certificants and Applicants.** Upon either: (i) a determination by the committee that it has sufficient information to make a decision; or (ii) the receipt and acceptance of the Investigative team report, the committee shall review the relevant information, including any investigative team report and take one (1) or more of the following actions, as appropriate:

- 6.1.1.** no action;

- 6.1.2. issuance of a written warning;
 - 6.1.3. issuance of a letter of reprimand;
 - 6.1.4. imposition of terms of probation, which may include a requirement for the BCTMB® certificant to take appropriate continuing education course(s);
 - 6.1.5. suspension of a BCTMB® certificant’s certification for a defined period of time;
 - 6.1.6. permanent revocation of a BCTMB® certificant’s certification;
 - 6.1.7. denial of an applicant’s application;
 - 6.1.8. such other action as it deems appropriate.
- 6.2. **Notice of Action.** The chief executive officer shall provide written notice to the BCTMB® certificant or applicant within fifteen (15) days of the committee’s action under Section 6.1. The notice shall include a brief description of the reasons for the action, the unethical conduct, the Code section and/or Standard violated, and information about the process for appealing the committee’s action.
- 6.3. **Request for Appeal.** A BCTMB® certificant or applicant shall have thirty (30) days from the date of the written notice pursuant to Section 6.2 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 verification of its delivery. By requesting an appeal, the BCTMB® certificant or applicant agrees to be bound by the provisions of these rules and procedures in all matters relating thereto. the chief executive officer shall notify the chair of the committee, the president and the staff liaison about the appeal request.
- 6.4. **Waiver by Failure to Request an Appeal.** Absent extraordinary circumstances, in the event that a BCTMB® certificant or applicant fails to properly submit the appeal request within the time and manner specified in Section 6.3, the BCTMB® certificant or applicant shall be deemed to have waived the right to such appeal. The committee’s action shall thereupon be final.
- 6.5. **Request for Reconsideration.** If a BCTMB® certificant’s certification has been suspended as a result of his or her failure to respond to a complaint, the BCTMB® certificant may petition the committee to reconsider the suspension for good cause. Such request for reconsideration must include an adequate and complete explanation of why the BCTMB® certificant failed to respond to the complaint, as well as the information required in Section 5.2. Based on the totality of the circumstances including, but not limited to, the reasons the BCTMB® certificant did not timely respond, the committee may, in its sole discretion, reconsider the suspension of the BCTMB® certificant’s certification and: (i) open an investigation into the underlying complaint, and/or (ii) impose a different sanction as set forth in Section 6.1.
7. **Appeal Procedure.**
- 7.1. **Requirements of an Appeal Request.** BCTMB® certificant or applicant must include in his or her written appeal request proof that the: (1) violations found by the committee lack a factual basis, and/or (2) resulting sanction, the basis of the committee’s decision, or the conclusions drawn therefrom are arbitrary, unreasonable, or capricious. The appeal request must include all evidence that is to be considered by the certification board. All such evidence must be new and different than the evidence considered by the committee and must set forth adequate reasons why such evidence was not provided to the committee. If the BCTMB® certificant or applicant’s appeal request does not adequately address one or both of these requirements, the appeal request will be denied, and the committee’s decision will be final.

- 7.2. Granting of an Appeal Request.** Within thirty (30) days from the chief executive officer's receipt of the appeal request, and after consultation with NCBTMB's legal counsel, it will be determined whether or not the appeal request is likely to meet the requirements set forth in Section 7.1. If it is determined the appeal request is likely to meet the requirements of Section 7.1, the certification board shall review the appeal request. If it is determined that the appeal request is not likely to meet the requirements for Section 7.1, the committee's decision shall be final. Within five (5) days from the determination, the staff liaison shall notify the: (i) BCTMB® certificant or applicant who submitted the appeal request; (ii) chief executive officer; (iii) chair of the committee and (iv) certification board president of the decision.
- 7.3. Background Information.** The chair of the committee or his or her designee shall provide the members of the certification board with all relevant information and materials collected during the investigative team's investigation and the committee's consideration. Such information shall include the investigative team's report, a record of the committee's final decision and sanction, correspondence, and any other relevant documents.
- 7.4. Consideration of New or Additional Matters.** New or additional matters not presented to the committee or investigative team during its review and not otherwise reflected in the record shall be used only in compliance with Section 7.1 above. The certification board, in its sole discretion, shall determine whether it is appropriate to consider such additional matters or evidence.
- 7.5. Burden of Proof.** The certification board shall reverse, remand or modify the committee's recommended sanction only in the event that the written appeal request shows, by clear and convincing evidence, that the grounds for the committee's sanction lack a factual basis or that such bases or the conclusion drawn therefrom are arbitrary, unreasonable, or capricious.
- 7.6. Certification Board Deliberations.** After reviewing the appeal request, the certification board shall conduct its deliberations. Upon the conclusion of those deliberations, the appellate review shall be declared finally adjourned.
- 7.7. Certification Board Decision.** The certification board's decision is final and cannot be appealed. The chief executive officer shall provide the BCTMB® certificant or applicant with written notification of the certification board's decision and shall provide copies of the board's written report to the chair of the committee. Upon request of the chair, the certification board president shall advise the chair, who shall likewise advise the committee, about the reasons for any variation between the board's decision and the committee's decision.
- 8. Notification of Final Action.**
- 8.1. Publication of Sanctions Against BCTMB® Certificants.** The following sanctions against a BCTMB® certificant shall be published: imposition of terms of probation, suspension of a BCTMB® certificant's certification, and revocation of a BCTMB® certificant's certification. The BCTMB® certificant's name, city, state of record and the BCTMB® certificant's certification number, the numerical references to the Code sections and/or the Standards violated, and the sanction(s) imposed shall be published on NCBTMB's website. This and additional information also may be disclosed to interested private, public, governmental, quasi-governmental, and regulatory bodies, and third party payors, at NCBTMB's sole discretion.
- 8.2. Inclusion in NCBTMB's Database.** All final actions taken against BCTMB® certificants and applicants pursuant to these rules and procedures shall be noted in NCBTMB's internal database of information.

9. Other Actions.

- 9.1. Felony Conviction or Guilty Plea While an Applicant or BCTMB® certificant.** If the committee finds that a BCTMB® certificant or applicant has been convicted of, or has plead guilty or nolo contendere to, a felony while an applicant or BCTMB® certificant, the committee shall review the relevant court records and may suspend or revoke the BCTMB® certificant’s certification or deny the applicant’s application without further proceedings, except that the BCTMB® certificant shall have the right to appeal the committee’s decision in accordance with Sections 6 and 7. The BCTMB® certificant or applicant may reapply for certification in accordance with Section 11.
- 9.2. Conviction of Crimes Involving Sexual Misconduct While an Applicant or BCTMB® Certificant.** If the committee finds that a BCTMB® certificant or applicant has been convicted of, or has plead guilty or nolo contendere to, a crime involving sexual misconduct while a BCTMB® certificant or applicant, the committee may review the relevant court records and shall revoke the BCTMB® certificant’s certification or deny the applicant’s application without further proceedings, except that the BCTMB® certificant shall have the right to appeal the committee’s decision in accordance with Sections 6 and 7. The BCTMB® certificant or applicant may reapply for certification in accordance with Section 11.
- 9.3. Loss of State Licensure, Certification or Registration Due to Revocation, Suspension, Denial or Voluntary Relinquishment While Under Investigation.** If the committee finds the following covered actions:
- 9.3.1.** BCTMB® certificant’s or applicant’s state license, certificate, or registration to practice massage therapy and/or bodywork has been denied, revoked or suspended, after final adjudication, on the basis of unprofessional conduct, as defined in Section 9.4; or
- 9.3.2.** BCTMB® certificant or applicant has voluntarily relinquished or surrendered his/her state license, certificate, or registration while under investigation for alleged unprofessional conduct, as defined in Section 9.4;
- 9.3.3.** The committee shall review the relevant records and may suspend or revoke the BCTMB® certificant’s certification or deny the applicant’s application without further proceedings, except that the BCTMB® certificant shall have the right to appeal the committee’s decision in accordance with Sections 6 and 7. The BCTMB® certificant or applicant may reapply for certification in accordance with Section 11.
- 9.4. Unprofessional Conduct.** Notwithstanding state law definitions of the term “unprofessional conduct,” for purposes of Sections 9.3 and 9.6, the term “unprofessional conduct” means and includes, but is not limited to, engaging in and/or offering to engage in sexual activity with a client; engaging in conduct that could result in harm or injury to the public; engaging in gross negligence or malpractice in the practice of therapeutic massage and bodywork; using drugs or alcohol to an extent that results in the inability to practice therapeutic massage and bodywork with reasonable judgment, skill, and safety; practicing beyond the individual’s scope of practice as a practitioner of therapeutic massage and bodywork; fraudulently or deceptively obtaining, attempting to obtain, or using a license, certificate, or registration to practice therapeutic massage and bodywork; using fraud or deceit in communications with the public or with health care professionals; charging grossly unreasonable or fraudulent fees for services performed or not performed; failing to cooperate with a lawful investigation conducted by a federal, state, local or other regulatory entity; failing to cooperate with a lawful investigation conducted by NCBTMB, and acting in a way that is inconsistent with generally accepted professional standards in the practice of massage therapy and bodywork.

- 9.5. Emergency Suspension or other Emergency Action against State License, Certification or Registration.** If an applicant's or BCTMB® certificant's state license, certification or registration has been suspended by a federal, state or local government or agency authority ("Body") on an emergency basis, or an emergency restriction has been placed on the applicant's or BCTMB® certificant's state license, certification or registration, the committee shall review the relevant records available to it, and may suspend the BCTMB® certificant's certification or deny the applicant's application without further proceedings until: (i) the relevant Body has made a final determination regarding the applicant's or BCTMB® certificant's state license, certification or registration, or (ii) the committee conducts its own investigation of the applicant or BCTMB® certificant pursuant to these Rules and Procedures, and a final action is issued by the committee or the board. This Section 9.5 does not require the committee to open an investigation of the BCTMB® certificant. Such decision shall be made on a case by case basis in the committee's sole discretion.
- 9.6. Other Revocation, Suspension or Denial of State Licensure, Certification, or Registration or Association Membership and Malpractice.** If the committee finds the following:
- 9.6.1.** BCTMB® certificant's or applicant's state licensure, certification, or registration to practice massage therapy and/or bodywork has been revoked, denied or suspended for reasons other than unprofessional conduct as defined in Section 9.4 above or a BCTMB® certificant or applicant has been placed on probation, reprimanded, or otherwise subjected to disciplinary action for any reason;
 - 9.6.2.** BCTMB® certificant or applicant has been expelled or suspended from a national, regional, state, or local professional massage therapists' and bodyworkers' association; or
 - 9.6.3.** BCTMB® certificant or applicant has been found, in a civil action, to have engaged in malpractice in the practice of therapeutic massage and bodywork, the committee may draft a Complaint against the BCTMB® certificant or applicant in accordance with Section 4.
- 10. Appeal of a Board Certification Application or Board Certification Renewal Application Denial.**
- 10.1. Request for an Appeal.** Within thirty (30) days of the date of notice that an applicant's certification application or a BCTMB® certificant's board certification renewal application has been denied, the applicant or BCTMB® certificant may file a written appeal request. The appeal request will be sent to the staff liaison and forwarded to the committee for its review, evaluation and final determination.
- 10.2. Waiver by Failure to Request an Appeal.** Absent extraordinary circumstances, in the event that a BCTMB® certificant or applicant fails to properly submit the appeal request within the time and manner specified herein, the BCTMB® certificant or applicant shall be deemed to have waived the right to such appeal.
- 10.3. Requirements of an Appeal Request.** An applicant or BCTMB® certificant must include in his or her written appeal request clear and convincing evidence that: (1) the denial lacked a factual basis, and/or (2) the basis of the denial or the conclusions drawn therefrom were arbitrary, unreasonable or capricious. The appeal request must include all evidence that is to be considered by the committee. All such evidence must be new and different than the evidence previously considered by NCBTMB and must set forth adequate reasons why such evidence was not previously provided to NCBTMB.
- 10.4. Evaluation of an Appeal Request.** Within forty-five (45) days of receiving an appeal request, the committee shall evaluate the appeal request and determine whether the appeal request meets the requirements of an appeal request in accordance with Article 10.3.

- 10.5. Determination of an Appeal Request.** Should the committee determine the appeal request does not meet the requirements of an appeal request as set forth in Article 10.3, the appeal request will be denied and NCBTMB's decision to deny the board certification application or the board certification renewal application will stand. In the event the appeal request shows, by clear and convincing evidence, that the grounds for denial lack a factual basis or that such basis or the conclusions drawn therefrom are arbitrary, unreasonable or capricious, the committee may reverse NCBTMB's denial of a board certification application or board certification renewal application and/or take other remedial action it deems appropriate. The Ethics and Standards Committee staff liaison shall inform the applicant or BCTMB® certificant of committee's determination within ten (10) days of such determination.
- 10.6. Appeals to the Board:** No later than 30 days after the date of the notice of the committee's decision, a certificant may submit a written notice of appeal of the decision of the Ethics and Standards Committee to the chief executive officer. The notice of appeal must state the reasons why the certificant believes the decision of the Ethics and Standards Committee was in error. The appeal will be considered by the board. In all cases, the decision of the board is final.
- 10.7. Unallowable Appeals:** There is no appeal allowed for the following:
- 10.7.1.** on the basis of an incomplete application.
 - 10.7.2.** on the basis of a candidate's failure to pass the board certification examination.
- 11. Reapplication After Denial.**
- 11.1. Eligibility to Reapply for an Applicant.** An applicant whose application has been denied shall not be eligible to reapply for NCBTMB certification until such time as determined by the committee. The committee shall determine whether to approve or deny an applicant's reapplication for certification with NCBTMB.
- 11.2. Processing of Reapplications.** Any reapplication under this Section 11 shall be processed as an initial application. The applicant shall submit such additional information requested by the committee.
- 12. Information and Processing.**
- 12.1. Confidentiality.** All information disclosed to the committee and certification board during the processes contained in these rules and procedures shall be maintained as confidential. Notwithstanding the above, NCBTMB may disclose such information when compelled by law. In addition, all information that is submitted to NCBTMB, including photographs, may be provided to law enforcement agencies and state, county, and/or local governmental agencies upon their request and at NCBTMB's discretion. NCBTMB also may disclose such information to parties essential to the processes contained in these rules and procedures, including NCBTMB staff, legal counsel, and experts. Experts must agree in writing to maintain all such information as confidential.
- 12.2. Recordkeeping.** Once a case is closed, the committee shall work with NCBTMB staff to ensure that the confidentiality of the record is maintained. Committee members and board members, in accordance with NCBTMB's document destruction policy, shall destroy or return to NCBTMB for destruction all information received and notes generated during the course of the procedures contained in these rules and procedures within ten (10) days from the date they are notified of the closing of the case. At the conclusion of a case, all members of the committee and the board shall use reasonable and commercially accepted

means to permanently delete and remove all information that is in electronic format and that is under their control and shall verify with NCBTMB staff that such efforts have been undertaken.

12.3. Time Periods for Processing. BCTMB® certificants, applicants, and complainants acknowledge that, while good faith efforts will be made to consider complaints and appeals in a reasonably timely manner and within the time periods specified in these rules and procedures, the specified time periods requiring committee action shall not be deemed to create any rights on the part of BCTMB® certificants, applicants, or complainants to have information processed within those periods. Failure of any body or individual to comply with the time periods shall in no event prevent continuation or conclusion of a proceeding.

13. Amendments.

13.1. By the Committee. The committee may propose written amendments to the rules and procedures in writing to the board at any time, provided that such amendments have been approved by a majority of committee members. Such amendments shall become effective only upon approval by the board.

13.2. By the Board. The board may amend the rules and procedures at any time it deems such amendment necessary to promote NCBTMB's best interests. Such amendments shall become effective only upon approval by the board.

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