

# HTCC Disciplinary Policy for Certified Hand Therapists

## Disciplinary Policy for Certified Hand Therapists

The mission of the Hand Therapy Certification Commission (“HTCC”) is to support a high level of competence in the practice of hand therapy and to advance the specialty through a formal credentialing process. HTCC adopted this Disciplinary Policy to articulate standards of conduct for individuals seeking certification and recertification, and holding certification. This Disciplinary Policy was also adopted to establish a fair process for addressing noncompliance. Matters are investigated by a Disciplinary Review Committee and presented for judgment before a Disciplinary Hearing Committee. These committees operate independently of one another. The HTCC Board of Directors is available to hear appeals of Disciplinary Hearing Committee decisions and is the final decision-maker on behalf of HTCC.

### A. General Principles.

#### Individuals must:

1. be truthful, forthcoming, prompt, and cooperative in their dealings with HTCC;
2. be in continuous compliance with HTCC rules (as amended from time to time by HTCC);
3. respect HTCC’s intellectual property rights;
4. abide by HTCC’s reasonable test administration rules;
5. abide by laws related to occupational therapy, physical therapy, and hand therapy, and to general public health and safety; and
6. carry out their professional work in a competent and objective manner.

### B. Grounds for Disciplinary Action.

#### Grounds for disciplinary action include:

1. Providing fraudulent or misleading information to HTCC;
2. Ineligibility for certification, regardless of when the ineligibility is discovered;
3. An irregular event in connection with an examination;
4. Unauthorized possession or misuse of HTCC’s credentials, examinations, and other intellectual property;
5. Misrepresentation of certification status;
6. Failure to provide requested information in a timely manner;
7. Failure to inform HTCC of changes or adverse actions;
8. Gross negligence or willful misconduct in professional work;
9. Failure to maintain a current professional credential as required by the jurisdiction in which the individual practices (this may be a license, certificate, or registration);
10. The conviction of, plea of guilty to, or plea of no contest (nolo contendere) to a felony or misdemeanor related to public health and safety, occupational therapy, physical therapy, or hand therapy;
11. Disciplinary action by a licensing board or professional organization other than HTCC; and
12. Other failure to maintain continuous compliance with HTCC’s standards, policies, and procedures.

### C. Compliance with HTCC Standards, Policies and Procedures.

An individual must be in continuous compliance with all HTCC standards, policies and procedures. Each individual bears the burden for demonstrating and maintaining compliance at all times.

## **D. Complaints.**

1. Persons concerned with possible violation of HTCC rules are encouraged to contact HTCC. The person should submit a written statement identifying the persons alleged to be involved and the facts concerning the alleged conduct in detail, and the statement should be accompanied by any available documentation. The statement should also identify others who may have knowledge of the facts and circumstances concerning the alleged conduct. The person making the complaint should identify him-/herself by name, address, email address, and telephone number. However, HTCC will consider anonymous complaints.
2. Actions taken under this Disciplinary Policy do not constitute enforcement of the law. Individuals bringing complaints under this Disciplinary Policy are not entitled to any relief or damages by virtue of this process.

## **E. Contact Information Changes.**

An individual must notify HTCC within ninety (90) calendar days of any change in name, address, telephone number, or email address.

## **F. Adverse Actions.**

An individual must notify HTCC of any development bearing on certification. Developments that must be reported to HTCC include (but are not limited to) arrests, complaints, inquiries, indictments, and charges pending against the individual before a state or federal regulatory agency, professional certification organization, or judicial body directly relating to public health and safety, occupational therapy, physical therapy, hand therapy, or any matter described in Section B, above. An individual must report events such as (but not limited to) suspension, revocation, or expiration of a state license to practice, being sued by a patient, or being investigated or reprimanded by a state regulatory board. The individual must notify HTCC within ninety (90) calendar days after he/she first learns of the development, and must provide documentation of the resolution of the matter within ninety (90) calendar days after resolution.

## **G. Disciplinary Review Procedures.**

1. Initial Evaluation by Executive Director.
  - i. Upon receipt of a complaint or an adverse action notice, the Executive Director will confer with the Chair of the Disciplinary Review Committee. The Chair or the Executive Director may request supplemental information.
  - ii. If the Executive Director and Chair determine that the complaint is frivolous, that the adverse action is not relevant to certification, or that HTCC lacks jurisdiction over the complaint or the person(s) who are the subject of the complaint, no further action will be taken.
  - iii. If the Executive Director and Chair determine that the complaint is not frivolous or that the adverse action may be relevant to certification, it will be forwarded to the Disciplinary Review Committee for investigation.
  - iv. If the Executive Director and Chair determine that a matter is beyond the jurisdiction of HTCC, they may refer the matter to the appropriate governmental agency or another entity engaged in the administration of law.
  - v. Individuals submitting adverse action notices and persons submitting complaints will be notified of the decision of the Executive Director and Chair.

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## 2. Audits.

HTCC may conduct one or more compliance audits. If HTCC discovers a possible violation of HTCC rules, the Executive Director will confer with the Chair of the Disciplinary Review Committee to determine whether the allegation will be forwarded to the Disciplinary Review Committee for investigation.

## 3. Disciplinary Review Committee.

- i. A Disciplinary Review Committee will be established as provided in the Bylaws to investigate alleged violations of this Disciplinary Policy or any other HTCC standard, policy, or procedure. A Disciplinary Review Committee member may not: (a) serve on the Disciplinary Hearing Committee, (b) review any matter in which his/her impartiality might reasonably be questioned, or (c) review any matter which presents an actual, apparent, or potential conflict of interest. When a committee member is unavailable, the President will designate another individual to serve as an interim member. Committee action is determined by majority vote.
- ii. The Disciplinary Review Committee may contact the individual who submitted the complaint, the individual in question, and others who may have knowledge of the facts and circumstances surrounding the allegations.
- iii. If the Committee determines after its investigation that the facts are inadequate to sustain a finding of a violation of HTCC's rules, no further action will be taken. Individuals submitting adverse action notices and persons submitting complaints will be notified of this decision.
- iv. If the Committee finds that good cause exists to question whether a violation of a HTCC rule has occurred, the Committee will transmit a statement of the allegations to the individual by traceable mail or delivery service setting forth:
  - a. the applicable rule;
  - b. the facts constituting the alleged violation;
  - c. that the individual may request an oral hearing (in person or by phone) or a review by written briefing for the disposition of the matter, with the individual bearing his or her own expenses;
  - d. that the individual has thirty (30) calendar days after receipt of the statement to notify the Chair of the Disciplinary Review Committee if he/she disputes the allegations, has comments on available sanctions, and/or requests an oral hearing in person, an oral hearing by phone, or a review by written briefing;
  - e. that, in the event of an oral hearing in person or by phone, the individual may appear in person with or without the assistance of counsel, may examine and cross-examine any witness under oath, and produce evidence on his/her behalf;
  - f. that the truth of the allegations or failure to respond may result in sanctions including revocation; and
  - g. that if the individual does not dispute the allegations or request a review or hearing, the individual consents to the Disciplinary Review Committee rendering a decision on the evidence before it and applying available sanctions.
- v. The Disciplinary Review Committee may offer the individual the opportunity to negotiate a specific sanction in lieu of proceeding with a written review or hearing. The individual may ask the Disciplinary Review Committee to modify its offer, and the Committee may do so in its sole discretion. Any agreed-upon sanction must be documented in writing and signed by HTCC and the individual. If the individual is unwilling to accept the Disciplinary Review Committee's offer, the requested review or hearing will proceed as provided below.

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4. Disciplinary Hearing Committee.
  - i. The Board of Directors will appoint a Disciplinary Hearing Committee to consider the allegation. This Committee is composed of three (3) members drawn from current certificants. A Disciplinary Hearing Committee member may not: (a) serve on the Disciplinary Review Committee, (b) review any matter in which his/her impartiality might reasonably be questioned, or (c) review any matter which presents an actual, apparent, or potential conflict of interest. When a committee member is unavailable, the President will designate another individual to serve as an interim member. Committee action is determined by majority vote.
  - ii. Written Review. If the individual requests a review by written briefing, the Disciplinary Review Committee will forward the allegations and response of the individual to the Disciplinary Hearing Committee. Written briefing may be submitted within thirty (30) calendar days following receipt of the written review request by the Disciplinary Hearing Committee. The Disciplinary Hearing Committee will render a decision based on the record below and written briefs (if any) without an oral hearing.
  - iii. Oral Hearing. If the individual requests a hearing:
    - a. The Disciplinary Review Committee will:
      - (1) forward the allegations and response of the individual to the Disciplinary Hearing Committee; and
      - (2) designate one of its members to present the allegations and any substantiating evidence, examine and cross-examine witnesses, and otherwise present the matter during the hearing.
    - b. The Disciplinary Hearing Committee will:
      - (1) schedule a hearing after the request is received, allowing for an adequate period of time for preparation; and
      - (2) send by traceable mail or delivery service a Notice of Hearing to the individual. The Notice of Hearing will include a statement of the time and place selected by the Disciplinary Hearing Committee. The individual may request modification of the time and place for good cause. Failure to respond to the Notice of Hearing or failure to appear without good cause will be deemed to be the individual's consent for the Disciplinary Hearing Committee to administer any sanction which it considers appropriate.
    - c. The Disciplinary Hearing Committee will maintain a verbatim oral or written transcript.
    - d. HTCC and the individual may consult with and be represented by counsel, make opening statements, present documents and testimony, examine and cross-examine witnesses under oath, make closing statements and present written briefs as scheduled by the Disciplinary Hearing Committee.
    - e. The Disciplinary Hearing Committee will determine all matters related to the hearing. Formal rules of evidence do not apply. Relevant evidence may be admitted. Disputed questions will be determined by the Disciplinary Hearing Committee.
  - iv. In all written reviews and oral hearings:
    - a. The Disciplinary Hearing Committee may accept, reject, or modify the recommendation of the Disciplinary Review Committee, either with respect to the determination of a violation or the recommended sanction.

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- b. Proof is by preponderance of the evidence.
  - c. Whenever mental or physical disability is alleged, the individual may be required to undergo a physical or mental examination at the individual's expense. The examination report may be admitted as evidence.
  - d. The Disciplinary Hearing Committee will issue a written decision following the review or hearing and any briefing. The decision will contain factual findings, conclusions regarding HTCC rules that provide the basis for its decision, and any sanctions applied. It will be mailed promptly by traceable mail or delivery service to the individual.
5. If the decision rendered by the Disciplinary Hearing Committee finds that the allegation is not established, no further action on the matter will occur.
6. If the decision rendered by the Disciplinary Hearing Committee is not favorable to the individual, the individual may appeal the decision to the Board of Directors.
7. Individuals submitting adverse action notices and persons submitting complaints will be notified of the decision of the Disciplinary Hearing Committee.

## H. Board of Directors.

1. A Director may not: (a) review a matter at the appeal stage if he/she investigated the matter as a member of the Disciplinary Review Committee or heard the matter as a member of the Disciplinary Hearing Committee; (b) review any matter in which his/her impartiality might reasonably be questioned, or (c) review any matter which presents an actual, apparent, or potential conflict of interest.
2. The individual may request an appeal within thirty (30) calendar days after his/her receipt of the Disciplinary Hearing Committee's decision. After this time, the individual may not request an appeal.
3. All appeals must be submitted in writing and sent to HTCC by traceable mail or delivery service.
4. The appeal must specify a valid basis for the appeal.
5. The Disciplinary Review Committee may file a written response to the appeal request.
6. Written briefing may be submitted within thirty (30) calendar days following receipt of the appeal request by the Board of Directors.
7. The Board of Directors will render a decision based on the record below and written briefs (if any) without an oral hearing. Alternatively, the Board of Directors may choose to conduct a new in-depth review of all the facts and rules (a "de novo" review). Only facts and conditions up to and including the time of the Disciplinary Hearing Committee's determination are considered during an appeal.
8. In all reviews:
  - i. The Board of Directors may affirm or overrule and remand the determination of the Disciplinary Hearing Committee.
  - ii. In order to overturn a decision of the Disciplinary Hearing Committee, the individual must demonstrate that the Committee's decision was incorrect because of a material error of fact or a failure to follow HTCC's published standards, policies, or procedures. Proof is by preponderance of the evidence.
  - iii. The Board of Directors will issue a written decision following the review and any briefing. The decision will contain factual findings, conclusions regarding HTCC rules that provide the basis for its decision, and any sanctions applied. It will be mailed promptly by traceable mail or delivery service to the individual.
9. A decision rendered by the Board of Directors is final.
10. Individuals submitting appeals and persons submitting complaints will be notified of the decision of the Board of Directors.

## I. Summary Procedure.

If the Executive Director and Chair of the Disciplinary Review Committee determine that there is cause to believe that a threat of immediate and irreparable injury to the public exists, they will forward the allegations to the Board of Directors. The Board of Directors will review the matter immediately, and provide telephonic or other expedited notice and review procedures to the individual. If the Board of Directors determines (following this notice and opportunity to be heard) that a threat of immediate and irreparable injury to the public exists, certification may be suspended for up to ninety (90) calendar days pending a full review as provided above.

## J. Sanctions.

1. HTCC may impose one or more of the following sanctions for a violation of this Disciplinary Policy:
  - i. Denial or suspension of eligibility;
  - ii. Denial or suspension of certification;
  - iii. Revocation of certification;
  - iv. Non-renewal of certification;
  - v. Reprimand;
  - vi. Probation;
  - vii. Notification of other legitimately interested parties; or
  - viii. Other corrective action.
2. The sanction must reasonably relate to the nature and severity of the violation, focusing on reformation of the conduct of the individual and deterrence of similar conduct by others. The sanction decision may also take into account aggravating circumstances, prior disciplinary history, and mitigating circumstances. No single sanction will be appropriate in all situations.
3. Non-payment of fees when due results in automatic termination of certification.

## K. Probation

- A. As provided above, HTCC may impose probation as a sanction for the violation of any HTCC standard, policy, or procedure. Probation is a corrective action that follows a finding of a violation. Failure of the individual to comply with each and every condition of probation may result in further disciplinary action by HTCC.
- B. An individual on probation is required to suspend use of and reference to HTCC certification, and meet other conditions as may be specified by HTCC. A certificant on probation may make no claim to CHT certification except to note that the certificant is on probation.
- C. The specific conditions of probation will be determined by HTCC, and may vary depending on the facts of the violation. Potential conditions include, but are not limited to: monitoring; education; training; supervision; counseling; mental and/or physical examinations; limitations on a particular conduct or activity; reexamination; notification; and/or reporting.
- D. The probation period may be either a definite or indefinite term. If the probation is for an indefinite term, HTCC shall establish a minimum probation period and at the conclusion of that period consider whether the individual has fulfilled the conditions of probation.

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- E. Upon completion of the term and conditions of probation, HTCC shall make a determination whether the conditions of probation have been completed successfully. The individual may be required to demonstrate successful rehabilitation to the satisfaction of HTCC. If probation is determined to have been successfully completed, then the individual will have sixty (60) calendar days to fulfill all of the requirements for continuing and/or renewing certification. Upon a showing that such requirements have been fulfilled, HTCC shall permit the individual to resume active certification status. If probation is determined not to have been successfully completed, then HTCC may impose further disciplinary sanctions.
- F. HTCC may stipulate that the probation is reciprocal, that is, may be imposed pursuant to a similar action (e.g., probation, suspension, practice limitation, etc.) taken by a state licensing agency, other regulatory body, or a professional organization other than HTCC. If HTCC imposes reciprocal probation, then it is the responsibility of the individual to report to HTCC as frequently as to the third party imposing probation. The individual shall also report to HTCC the final result determined by the third party. Such reporting shall include, but not be limited to, providing HTCC with copies of official paperwork and personal narratives detailing how the individual is meeting each and every condition of probation. HTCC reserves the right, in its sole discretion, to render its own decision and take independent action based on the progress or results of reciprocal probation.

## **L. Period of Ineligibility Following Revocation.**

- 1. If certification is revoked based on noncompliance with this Disciplinary Policy, then the individual is automatically ineligible to apply for certification or recertification for the periods of time listed below:
  - i. in the event of a felony conviction directly related to public health and safety, occupational therapy, physical therapy, or hand therapy, no earlier than three (3) years from the exhaustion of appeals, final release from confinement (if any), or the end of probation, whichever is later;
  - ii. in any other event, no earlier than three (3) years from the final decision of revocation.
- 2. After these periods of time, eligibility will be considered as set forth in HTCC's Eligibility Review and Appeal Policy.

## **M. Continuing Jurisdiction.**

HTCC retains jurisdiction to review and issue decisions regarding any matter which occurred prior to the termination, expiration, or relinquishment of certification.

## **N. Inactive Status.**

- 1. HTCC may take action with respect to eligibility, certification, recertification, or a disciplinary matter while an individual is on inactive status.
- 2. Individuals whose certification expires while undergoing disciplinary review may apply for inactive status and HTCC may allow the individual to be on inactive status until the individual's right to appeal the matter has been exhausted.