



## ***CANONS OF ETHICAL CONDUCT***

### **I. PREAMBLE**

#### **C1.1 Introduction**

The practice of diabetes self-management education (“Profession”) is a recognized allied health profession. The Certified Diabetes Educator® (“CDE”®) assumes specific responsibilities to physicians or other licensed/registered health professionals, people with diabetes or prediabetes and their significant other(s), the public, associates, and to the Profession itself. These responsibilities must be discharged with honor and integrity to assure the maintenance of public confidence in the Profession and to protect the person with diabetes or prediabetes and his/her significant other[s]. For the purposes of these Canons of Ethical Conduct (“Canons”), the term “CDE” shall mean any person who has earned the certification offered by the National Certification Board for Diabetes Educators (the “Board”). As used herein, “Committee” refers to the Professional Discipline Committee of the Board.

The Profession exists for the primary purpose of recognizing and advancing the specialty practice of diabetes self-management education (DSME) and support. CDEs are responsible for maintaining and promoting ethical practice, including, without limitation, reporting unethical practices in accordance with these Canons. These Canons, adopted by the Board, shall be binding upon all CDEs and candidates approved to take the CDE certification examination.

#### **C1.2 Ethics, Custom and the Law**

Unethical conduct may involve violations of customs and usages of the Profession as well as actions that violate the law and regulations. Failure to conform to these Canons, including conduct that violates moral principles, customs and practices of the Profession, the law or regulations, may be subject to disciplinary action in accordance with the “Rules and Procedures Regarding the Canons of Ethical Conduct” (“Rules”). Disciplinary action depends on the particular circumstances involved and, without limitation, how the conduct in question reflects upon the dignity and integrity of the Profession.

The Committee will take appropriate action, if any, consistent with the Rules. Each CDE has a civic and professional obligation to report to the appropriate governmental body any and all evidence that may come to his/her attention involving the alleged criminal conduct of any CDE relating to the practice of DSME.

### **C1.3 Disclosure of Other Agency Actions**

Each CDE must promptly, fully and accurately disclose to the Board any and all investigations, findings, and actions by any government agency, quasi-government agency, licensing board, registration body, or other similar health related agency or body responsible for national, state or local licensing and/or oversight of diabetes education-related licenses, certifications, or the like (“Agencies”). The CDE’s disclosure requirement includes investigations by federal, state and/or private payors regarding existing or potential known or unknown billing malfeasance. Each CDE must make such disclosure to the Board within thirty (30) days from the date of the commencement of action by any Agency. Each CDE must promptly and fully cooperate with the Board and with the Agencies.

## **II. RESPONSIBILITIES TO THE PHYSICIAN AND/OR APPROPRIATELY LICENSED/REGISTERED HEALTH CARE PROVIDER**

### **C2.1 Provision of Services**

The CDE shall recognize the person’s freedom of choice in selection of diabetes treatment and education and his/her health care provider. Professional affiliations, including employment and referral relationships, may not adversely limit access to services and shall not adversely affect the decision-making process of the CDE. The CDE must adhere to the ethical principles of the Board which shall take preference over business relationships.

### **C2.2 Scope of Practice**

The Certification Examination for Diabetes Educators (“Examination”) is sensitive to areas of general practice and contemporary diabetes knowledge across multiple professional disciplines. Passing the Examination verifies core knowledge in the field of diabetes. Holding the CDE credential does not confer any permission to manage diabetes beyond the scope of the individual’s professional practice. The boundaries of professional practice are determined by state practice acts. Job descriptions and job functions are determined by employing agencies, not the CDE credential.

### **C2.3 Services Not Components of DSME**

The CDE shall only provide DSME as defined by the National Certification Board for Diabetes Educators. While other services may be provided in the management and treatment of a person with diabetes/prediabetes, they may not be promoted or provided as components of DSME.

## **III. RESPONSIBILITIES TO THE PERSON WITH DIABETES/PREDIABETES**

### **C3.1 Evaluation and Recommendation**

It is the responsibility of the CDE to recommend diabetes self-management plans specific to the needs of the individual and to provide appropriate educational and learning information to the person with diabetes/prediabetes, other healthcare professionals, the public, etc. The CDE shall recognize that each individual person is unique and deserves specific and responsive guidance from the CDE. The CDE shall be guided at all times by concern for the physical, emotional, social and economic welfare of the person. The needs, goals and life experiences of the person shall be taken into account. All decisions by the CDE must be made with the understanding and intent that the individual person's best interests are the primary concern.

### **C3.2 Confidential Information**

All information related to a person's identity, background, condition, treatment, management plan or education plan or any other information related to the CDE/person or people with diabetes/prediabetes is and shall always remain confidential and may not be communicated to any person or entity who is not providing direct medical care to the patient without the prior written consent of the patient or patient's legal guardian.

Information that may be derived from any CDE's peer review process shall be held and always remain confidential by all participants unless written permission to release the information is obtained from the person under the care of the CDE or that person's legal guardian. All information derived in a work place from a working relationship related to the care of a person with diabetes/prediabetes shall be held and always remain confidential by all parties. The confidentiality requirements set forth in this Canon C3.2 shall be strictly adhered to by all CDEs unless required otherwise by law or valid court order or subpoena, or if it becomes necessary to disclose such information to protect the welfare of the person with diabetes/pre-diabetes and/or the community. In such an event, any disclosure of confidential information shall be in accordance with applicable legal requirements.

### **C3.3 Trust and Honesty**

The CDE shall be truthful and honest.

### **C3.4 Fees and Compensation**

The CDE shall provide services based on the needs of the individual receiving the services and not solely for personal financial gain. The CDE shall not engage in false, misleading or deceptive actions in relation to the ultimate cost of the services undertaken or furnished. The CDE shall not over utilize or unnecessarily continue services beyond the point of benefit or by providing services more frequently than necessary.

The CDE shall not submit false or misleading information in requesting payment or reimbursement.

### **C3.5 Practice Arrangements**

The CDE shall not: (i) directly or indirectly request, receive or participate in dividing, transferring, assigning or rebating any funds derived from a referral of a patient to any other individual or entity, whether affiliated with the CDE or otherwise; or (ii) profit by means of a credit or other valuable consideration, such as an unearned commission, discount or gratuity for providing services, except for the fees earned for services performed for the patient.

The CDE shall refer all persons with diabetes/prediabetes to the most appropriate service provider, taking into consideration the nature and extent of the problem, treatment resources and availability of healthcare benefit coverage, and the likelihood of receiving appropriate and beneficial care. If the CDE is involved in an arrangement with a referring source in which the referring source derives income from the CDE's services, the CDE must disclose all pertinent information to the patient, including without limitation that the referring practitioner derives income from the provision of the services. The CDE shall advise his/her employer of any employer or employee practice which is in contradiction with this Canon C3.5.

### **C3.6 Compliance with Laws and Regulations**

The CDE shall provide DSME and other services in accordance with Federal law and the laws and regulations of the jurisdiction(s) in which they practice.

### **C3.7 Reporting**

The CDE shall report to the Board any conduct that reasonably appears to violate these Canons. This reporting requirement includes, without limitation, self-reporting, and the reporting about other CDEs, in connection with a third party investigation and finding, regardless of whether the investigation has been completed.

### **C3.8 Delegation of Responsibility**

The CDE shall not delegate any task requiring unique skills, knowledge or judgment to an unqualified person. The primary responsibility for services provided by supporting personnel rests with the delegating CDE.

### **C3.9 Illegal Discrimination**

The CDE shall not decline to accept a patient on the basis of race, gender, color, religion or national origin or on any basis that would constitute illegal discrimination under federal law.

### **C3.10 Sexual Relations with Patient Prohibited**

The CDE shall not have consensual or nonconsensual sexual relations with a current or former person under the care of CDE unless a consensual sexual relationship existed between the CDE and the person prior to the provision of any diabetes educational services or the CDE has not provided any diabetes educational services to the person for a one year period preceding the beginning of the sexual relationship or for a one year period after the termination of the sexual relationship. The CDE shall not engage in, require, or demand sexual relations with a person incident to or as a condition of any diabetes educational services.

## **IV. RESPONSIBILITIES TO COLLEAGUES AND THE PROFESSION**

### **C4.1 Dignity**

The CDE has the personal responsibility to conduct him/herself in a manner that will assure the dignity and status of the Profession. Examples of unacceptable behavior include, but are not limited to, falsifying documents, misusing the certification credential, slandering or libeling another, disparaging former employers, disparaging former employees, and misrepresenting one's capacity as a provider of services.

#### **C4.2 Solicitation**

The CDE shall not, either directly or indirectly, solicit the patronage of individual patients or students by way of intimidation, threats, harassing conduct, undue influence, coercion, duress, or unwarranted promises of benefits. The CDE shall not solicit a person who is in a mental condition that impairs his/her personal judgment to make decisions concerning the services being offered. The CDE shall not solicit a person in a manner that is inconsistent with his/her obligation to act in a dignified manner as set forth in Canon C4.1 above.

#### **C4.3 Examination**

The CDE shall maintain the security and prevent the disclosure of credentialing examinations and their content.

### **V. PATIENT CARE BY OTHER HEALTH PROFESSIONALS**

#### **C5.1 Concern about Care by Other Health Professionals**

The CDE should exercise appropriate respect for other health professionals. Concerns regarding patient care provided by other such professionals should be addressed directly to those professionals rather than to the patient. In the event that such concerns rise to the possible level of criminal violation, incompetence or malpractice, then the CDE must immediately notify the appropriate credentialing, licensure, or registration authority and, if necessary, the patient or legal guardian.

### **VI. CREDENTIAL**

#### **C6.1 Use of Credential**

The CDE shall use the fact that he/she is credentialed only as evidence of meeting the requisite standard of knowledge and competency in the discipline in which the CDE is credentialed, as defined by the Board. The CDE shall not use the credential to promote any services that are outside the scope of practice of a diabetes educator.

#### **C6.2 Endorsement of Products, Medication, Devices or Supplies**

While a CDE may recommend the use of specific products, medications, devices or supplies, the CDE credential may not be used to label, suggest or otherwise infer that such products, medications, devices or supplies have been endorsed by the National Certification Board for Diabetes Educators.

**C6.3 Employment by Manufacturers, Pharmaceutical Companies or Suppliers**

It is permissible to be employed by a manufacturer, pharmaceutical company or supplier as a CDE. However, the CDE credential may not be used in a manner prohibited by Canon C6.2.

**VII. APPLICATION OF CANONS**

**C7.1 Adherence to Canons**

These Canons shall apply to all CDEs, including certification examination candidates.



## ***Canons of Ethical Conduct - Rules and Procedures***

### **I. RESPONSIBILITY AND OBJECTIVES OF THE PROFESSIONAL DISCIPLINE COMMITTEE**

**R1.1 Objectives.** The fundamental objectives of the Professional Discipline Committee (“Committee”) are to enforce the *Canons of Ethical Conduct* (“Canons”) to ensure that any person who has applied for, or has been awarded the Certified Diabetes Educator® (“CDE”®) credential by the National Certification Board for Diabetes Educators (“NCBDE”) is practicing in accordance with professional standards and to protect the public against unprofessional and unethical conduct by CDEs or certification candidates.

**R1.2 Rules.** The Committee shall review and analyze the Canons and shall propose recommendations regarding the Canons for adoption by the Board of Directors (“Board”) of NCBDE.

**R1.3 Conduct.** The Committee is responsible for receiving, reviewing and, if appropriate, adjudicating complaints of unprofessional conduct and/or alleged violations of the Canons.

**R1.4 Resolution of Complaints.** The Committee shall resolve all complaints of unprofessional and unethical conduct and/or alleged violations of the Canons, including, without limitation, findings, conclusions and sanctions, if warranted.

**R1.5 Reports.** Upon the Board’s request, the Committee shall deliver a summary report to the Board identifying the Committee’s activities.

**R1.6 Procedures.** Subject to the review of the Board, the Committee shall adopt procedures and safeguards governing the functions of the Committee to ensure that all CDEs and certification applicants and the Committee are in full compliance with the Canons and these *Rules and Procedures Regarding the Canons of Ethical Conduct* (“Rules”).

**R1.7 Time.** The time periods set forth in these Rules are intended to provide guidance to the Committee, the Board and all relevant parties, and may be extended at the Committee’s discretion depending on the circumstances of each proceeding. Failure of the Committee, the

Board or any party to comply with the time periods shall in no event prevent the continuation or conclusion of a proceeding by the Committee or the Board.

## **II. NATURE OF AUTHORITY**

**R2.1 Power to Investigate.** The Committee shall have the power to, but shall not be obligated to, adjudicate all allegations of unprofessional and unethical conduct that may be harmful to colleagues, or to the public or that may be otherwise contrary to the objectives of the Canons or NCBDE, provided that such allegations are made in writing. The Committee's powers do not extend to addressing economic issues as they relate to legitimate marketplace competition.

**R2.2 Disposition of Complaints.** The Committee has the sole authority to decide whether to act on a complaint and to make final determinations regarding each complaint, subject to the Board's authority to conduct an appeal as set forth in these Rules.

**R2.3 Committee Actions.** The Committee may take the following actions:

- a. notify all parties in writing that no action is warranted against the CDE or certification candidate;
- b. request that the CDE or certification candidate cease the improper conduct, accept supervision, or seek appropriate assistance;
- c. place on probation or reprimand the CDE;
- d. suspend the CDE's credential for an appropriate amount of time;
- e. permanently revoke the CDE's credential or temporarily or permanently revoke a certification candidate's eligibility to take the certification examination;
- f. refer the matter to the proper authorities for criminal prosecution, if appropriate; and/or
- g. propose other action that is warranted under the circumstances.

**R2.4 Monetary Award.** The Committee will not determine or impose monetary awards or penalties.

**R2.5 Committee Meetings.** The Committee shall meet as needed. A quorum at such meetings shall consist of a majority of the members of the Committee. The Committee may meet by telephone conference call. All Committee members must be given at least ten (10)

days advance written notice of any meeting, provided that such notice may be waived by any member of the Committee or by the attendance of any member of the Committee at the meeting. Notices may be communicated by mail, hand delivery, electronic transmission or by facsimile.

**R2.6 Confidentiality.** All information disclosed to the Committee and/or the Board, shall be maintained on a confidential basis, except that the Committee and/or the Board shall be permitted to disclose such information when compelled by a validly issued subpoena, when otherwise required by law, to law enforcement officers and/or government agencies if warranted and as determined by NCBDE or the Committee in its sole discretion, or to parties essential to the review and investigation of the alleged unethical or unprofessional conduct, including their legal counsel. Public information shall not be considered confidential information for purposes of this Rule R2.6.

**R2.7 Determination.** When an investigation has been completed and the Committee has made its decision, it shall inform both the complainant (“Complainant”) and the CDE or certification candidate of its conclusions and the actions to be taken, if any, along with the bases for such actions. Such disclosures shall include a citation to any particular Canons section violated.

**R2.8 Record Keeping.** The Committee shall establish reasonable procedures to ensure that confidentiality is maintained with respect to the handling, storage, maintenance and destruction of records.

### **III. CDE OR CERTIFICATION CANDIDATES CONVICTED OF OR CHARGED WITH FELONIES OR DISCIPLINED BY OTHER ENTITIES, ORGANIZATIONS OR AGENCIES**

**R3.1 Conviction/Charge.** If the CDE or certification candidate has been convicted of, pled guilty to, and/or pled nolo contendere to a felony, and/or it the Committee finds that a federal, state or other recognized appropriate enforcement agency (“Agency”) has determined that the CDE or certification candidate is in violation of pertinent rules and regulations, the Committee shall review the record leading to the conviction, plea and/or Agency finding and will thereafter send the CDE or certification candidate a notice requesting the CDE or certification candidate show good cause why he/she is not in violation of the Canons. This action will be conducted without the right to have a hearing, as described in Rule R5.6. Following receipt of the CDE or certification candidate’s response, the Committee may proceed with a final determination in

accordance with Rules R2.3 and R6.1. If the CDE or certification candidate has been charged with a felony and/or possible violation of a pertinent rule or regulation, such charge will neither require nor preclude further action by the Committee.

**R3.2 Affiliations.** If the CDE or certification candidate has been expelled or suspended for unethical or unprofessional conduct from a national, regional or state professional association, or had his/her license/registration or credential revoked or sanctioned in any way on ethical grounds by a federal or state licensing, registration, or certifying authority, the Committee shall review the records leading to the sanction(s), if available, and may, if appropriate, send the CDE or certification candidate a notice that his/her/its credentialed status will be suspended, denied or revoked without further proceedings.

**R3.3 Malpractice.** If the CDE or certification candidate has acknowledged committing or has been found to have committed malpractice, the Committee shall review the record leading to the findings, if available, and may thereafter send the CDE or certification candidate a notice that his or her credentialed status will be suspended or revoked without further proceedings.

**R3.4 Committee Hearing.** Except in those instances set forth in Rule R3.1 above, if the CDE or certification candidate's credentialed status is revoked or suspended pursuant to Rule R3.2 or R3.3, within thirty (30) days from the date of notice of such decision, the CDE or certification candidate shall be permitted to petition the Committee, in writing, to request an appeal hearing. The hearing shall be conducted orally by telephone conference call. The hearing may be conducted in person if the Committee determines that exceptional circumstances exist warranting an in-person hearing. The hearing shall be scheduled by the Committee within thirty (30) days of receipt of the CDE or certification candidate's notification, and shall take place within sixty (60) days thereafter at a date and time established by the Committee. The CDE or certification candidate shall be responsible for all of his/her costs.

#### **IV. DISCIPLINARY PROCEDURES: INITIAL CONSIDERATION**

**R4.1 Complaint.** A complaint ("Complaint") against any CDE or certification candidate may be submitted by: (i) any party claiming to have been harmed by the unethical or unprofessional conduct of the CDE or certification candidate; (ii) any national, regional or state professional association of which the CDE or certification candidate is a member; (iii) any licensing or credentialing authority; (iv) NCBDE; or (iv) the Committee. The Complaint must be in writing and must contain complete and accurate information as required by the Complaint form.

**R4.2 Disclosure of Previous Actions.** The Complainant shall inform the Committee of previous steps, if any, that have been taken with respect to the alleged unethical or unprofessional conduct and the results of such steps taken.

**R4.3 Committee Complaint.** The Committee may proceed on its own initiative when a CDE or certification candidate appears to have violated the Canons by initiating an investigation and/or requesting information from the CDE or certification candidate and/or by submitting a formal Complaint.

**R4.4 Anonymous or Oral Complaint.** The Committee may not act solely on the basis of an anonymous or oral Complaint.

**R4.5 Additional Information.** The Committee may, through correspondence or otherwise, seek supplementary information from the Complainant or any other party, when necessary, in order to completely evaluate the substance of the allegations. In the event that the Committee determines that additional information is necessary but the Complainant refuses to provide such information, the Committee may determine that the case should be closed.

## **V. DISCIPLINARY PROCEDURES: INITIAL ACTION**

**R5.1 Initial Determination.** Within forty-five (45) days of receiving a Complaint from the Complainant, the Committee shall determine whether sufficient information exists to proceed with a formal investigation. The Committee shall not proceed until such time as the Committee is satisfied that the Complainant has complied with all procedural requirements. If the Committee concludes that an investigation is not warranted, it shall notify the Complainant of its determination within thirty (30) days thereafter.

**R5.2 Formal Investigation.** If the Committee determines that a formal investigation should ensue, it shall notify the Complainant and CDE or certification candidate of its determination within thirty (30) days. The notification sent by the Committee to the CDE or certification candidate shall include the Complaint and a description of the alleged behaviors involved in the Complaint, including the specific section of the Canons that the CDE or certification candidate is alleged to have violated. The notification shall include a copy of the Canons and these Rules. The notification shall further contain the name of the Complainant. If the Complainant refuses to have his/her name known to the CDE or certification candidate, the case shall be closed. The notification shall include a statement that the information submitted by the CDE or certification

candidate shall become part of the record and may be used in further proceedings.

**R5.3 Response to Complaint.** The CDE or certification candidate is required to provide to the Committee, and personally sign, his/her written response within fifteen (15) business days from the date of the notification sent by the Committee. The CDE or certification candidate's response must be complete, accurate and fully responsive to the Complaint. Failure to respond or any other unwarranted delay by the CDE or certification candidate, or the lack of the CDE or certification candidate's cooperation, shall in no way prevent the continuation or conclusion of the proceedings by the Committee as it deems fit.

**R5.4 Additional Information.** If, after receipt of the CDE or certification candidate's response, the Committee determines that additional information is warranted from either or both the Complainant or the CDE or certification candidate, or from any third party, it shall notify the Complainant and the CDE or certification candidate of the request for additional information. The parties shall provide the additional information no later than fifteen (15) days from the date of the request for additional information.

**R5.5 No Further Action.** Once all of the information has been received pursuant to Rules R5.3 and R5.4 above, the Committee may conclude that the Complaint has no basis in fact, is insufficient or is likely to be corrected on its own merit and, therefore, may determine to close the case without further action. Such decision shall be made within forty five (45) days of the Committee's receipt of all of the information. If the Committee determines to close the case, it shall inform both the Complainant and the CDE or certification candidate.

**R5.6 Right to a Hearing.** If the Committee, having received all information pursuant to Rules R5.3 and R5.4 above, determines that further action is warranted, it shall notify the Complainant and the CDE or certification candidate that the Committee is prepared to consider all of the information before it and render a decision on that basis. The CDE or certification candidate may request that, prior to such analysis and decision, he/she be afforded the opportunity to have a hearing before the Committee so that he/she may present his/her interpretation of the facts before the Committee. If the CDE or certification candidate desires to have a hearing before the Committee, he/she must so notify the Committee, in writing, within fifteen (15) days of the Committee's notification to the CDE or certification candidate and Complainant as set out in this Rule R5.6. The CDE or certification candidate's failure to timely request a hearing shall be deemed a waiver by the CDE or certification candidate of the right to a hearing. All hearings

shall be by telephone conference call unless, due to exceptional circumstances, the Committee determines in its sole discretion to conduct an in-person hearing. The Complainant shall be invited to be present during the hearing. If the Complainant is invited to be present during the hearing but does not attend, the hearing and investigation shall not be suspended or revoked. The Complainant's failure to attend may be considered as a factor in the Committee's determination relating to that particular matter.

**R5.7 Peer Review.** The hearing process shall be conducted through peer review. The CDE or certification candidate may be accompanied by any third party, including legal counsel. However, the CDE or certification candidate, personally, and not any other party including without limitation the CDE or certification candidate's legal counsel, shall make all presentations, responses and address all issues to the Committee.

**R5.8 Committee Panel.** The Committee may, in its discretion, establish a panel ("Panel") consisting of at least three (3) Committee members, to act on its behalf at any hearing referred to in these Rules. The Panel shall conduct any such hearing in accordance with these Rules and shall report all findings during the hearing to the Committee for the Committee's consideration and determination.

**R5.9 Hearing Date/Time.** If the CDE or certification candidate requests a hearing pursuant to Rule R5.6, the Committee shall schedule a hearing date no later than sixty (60) days after receipt of the CDE or certification candidate's request. The Committee shall notify the CDE or certification candidate and Complainant of the date and time of the hearing. If the hearing is conducted by telephone conference call, the Committee, in its sole discretion, shall determine the date and time of the hearing. If the hearing is conducted in-person, the Committee, in its sole discretion, shall determine the location, date, and time of the hearing. The CDE or certification candidate and Complainant shall each pay all of his/her own costs, respectively.

## **VI. DISCIPLINARY PROCEDURES: DISPOSITION OF COMPLAINT**

**R6.1 Committee Action.** If the Committee concludes that some type of action is warranted, it shall adopt any one (1) or more of the following sanctions or take any other appropriate action:

- a. require that the CDE or certification candidate cease and desist the alleged conduct;
- b. require the supervision of the CDE or certification candidate as the Committee sees necessary;

- c. reprimand the CDE or certification candidate if the Committee determines there has been a Canons violation but no damage to another person, the public or the profession has occurred;
- d. censor the CDE or certification candidate if the Committee determines there has been a Canons violation but the damage done is not sufficient to warrant more serious action;
- e. place the CDE or certification candidate under probation and actually and systematically monitor the CDE or certification candidate for a specific length of time;
- f. if appropriate, refer the matter to the national, regional and state professional association and/ or a state licensing, registration, or certifying authority;
- g. suspend or revoke the CDE or certification candidate's credential;
- h. require the CDE or certification candidate to take remedial personal rehabilitative and/or educational actions; and/or take any other action as set forth in Rule R2.3 above.

**R6.2 Notification.** The Committee shall notify the Complainant and CDE or certification candidate of its determination and action to be taken within thirty (30) days of the date of its decision.

**R6.3 Appeal.** The CDE or certification candidate shall have fifteen (15) days from the date of the notification to appeal the Committee's findings. The CDE or certification candidate must notify the Committee in writing within fifteen (15) days of the date of the Committee's notification if he/she intends to appeal. The appeal must be mailed by certified mail, return receipt requested or by verifiable overnight express mail service, to NCBDE's headquarters. The CDE or certification candidate's notification must include all reasons and bases for the appeal. If the CDE or certification candidate does not appeal the Committee's decision within the fifteen (15) day time period, the Committee's conclusions and sanctions shall be deemed final, effective immediately. The Committee shall so notify the Complainant and the CDE or certification candidate.

**R6.4 Panel.** The Board may elect to establish a panel consisting of three (3) of its members ("Appeal Panel"), who are not simultaneously serving on the Committee, to act on its behalf to review, consider and make a final determination about an appeal of a Committee decision.

**R6.5 Board.** If the CDE or certification candidate appeals a decision by the Committee regarding the imposition of discipline and/or sanctions, he/she must do so by submitting a written appeal statement. The Board or Appeal Panel shall consider the written appeal statement and all available evidence. The CDE or certification candidate shall pay for all of his/her own costs.

## **VII. BOARD'S DECISION**

**R7.1 Further Consideration.** The Board or Appeal Panel may, after reviewing the decision of the Committee, determine that the Committee did not properly review the evidence prior to making its final decision in the matter. In such case, the Board or Appeal Panel may remand the matter back to the Committee for further consideration.

**R7.2 Board or Appeal Panel's Decision.** The Board and Appeal Panel shall only overrule the Committee's decisions in the event of the following:

- a. the Canons were incorrectly applied;
- b. the findings of facts by the Committee were clearly erroneous;
- c. it would be unjust or unfair to implement the Committee's decision;
- d. the procedures used by the Committee were in serious and substantial violation of the Canons and these Rules; and/or
- e. the disciplinary sanctions determined by the Committee were grossly disproportionate to the facts.

In no event shall the Board and Appeal Panel be bound by the Committee's determination regarding the sanction.

**R7.3 Notification.** Within sixty (60) days of receipt of the written appeal statement, the Board or Appeal Panel shall notify the Complainant and the CDE or certification candidate of its decision which shall be final. The Board and Appeal Panel's decision may not be appealed. Once the Board or Appeal Panel's decision has been made, it shall notify the Committee, which shall implement the Board or Appeal Panel's directives.

**R7.4 Publication of Sanction.** NCBDE shall report, at least annually, the names of all sanctioned CDE or certification candidates and the violations of the Canons involved. In addition, NCBDE shall notify all interested national, regional and state professional associations

as well state licensing and certifying authorities; and, on request, any interested person or public agency deemed necessary to protect the public and/or who recognizes the standards of NCBDE.

## **VIII. CLOSE OF CASE**

**R8.1 Close of Case.** Once the final decision has been made by the Committee, the Board or Appeal Panel, the matter shall be closed and the files shall be retained at NCBDE's headquarters.

## **IX. REQUEST FOR REINSTATEMENT OF CREDENTIAL**

**R9.1 Reinstatement Request.** NCBDE will consider all written reinstatement requests, which must include the following information: (i) the date of the final Committee or Board or Appeal Panel disposition; (ii) a complete statement of reasons that the CDE or certification candidate believes support the reinstatement request; and (iii) copies of all relevant documents and materials supporting the reinstatement request. NCBDE will provide its decision to the CDE or certification candidate within forty five (45) days of receipt of the reinstatement request.

## **X. GOVERNING LAW/VENUE**

**R10.1 Governing Law.** The laws of the State of Illinois shall govern these Rules.

**R10.2 Venue.** The CDE or certification candidate and NCBDE agree to file and pursue all claims and suits regarding these Rules solely with the applicable court in the jurisdiction in which NCBDE's headquarters are located.