

## **MICHIGAN CERTIFICATION BOARD FOR ADDICTION PROFESSIONALS**

### **Guide for Ethical Standards Violation Complaints**

A person wishing to file a complaint against an individual holding a Michigan Certification Board for Addiction Professionals (MCBAP) credential or development plan, may do so by obtaining and filling out an Ethics Complaint Form (<https://www.mcbap.com/ethics/filing-ethics-complaint/>).

All Ethics Complaint Forms must be completed in their entirety.

Anonymous complaints are not accepted for investigation, action by the Ethics Committee or decision by a Hearing Committee. The complainant must sign and date the complaint form. Under the MCBAP ethics complaint process, the person who is the subject of the process is entitled to know the name of the individual bringing the complaint to have the ability to fairly and fully respond. The provisions relating to the confidentiality of the proceeding itself are set forth on the next page.

Complaint investigations may also be initiated by MCBAP and referred to the Ethics Committee by the Executive Director, if information comes to the attention of MCBAP through public media, other communications, or in the process of reviewing credentialing materials.

For ethical complaints to be considered by MCBAP, the complaints must be filed with MCBAP within three (3) years or less of the date the alleged offense occurred.

Completed complaint forms shall be mailed to: MCBAP Attn: Executive Director 616 S. Creyts Road, Suite A Lansing, MI 48917 or emailed to: [info@mcbap.com](mailto:info@mcbap.com).

The Executive Director shall acknowledge receipt of the complaint in writing, by mail or email, and initiate the MCBAP review and investigation process.

#### **CONFIDENTIALITY OF PROCEEDINGS**

Except as is otherwise provided herein or required by law, all information received and all reports, decisions files, transcripts, or any other documents, of any kind, generated or received during the course of a disciplinary proceeding shall be kept confidential by MCBAP and the respondent.

#### **INVESTIGATION PROCESS**

A. The Executive Director shall conduct an initial review of all complaints filed with MCBAP and shall initiate and direct an investigation, to the extent the Executive Director deems sufficient, of the alleged instances of possible professional misconduct by the named professional. In supervising investigations, the Executive Director may use other investigators if deemed appropriate. Except as otherwise provided herein, all MCBAP investigatory information remains confidential. If during the investigation, it appears that criminal behavior may have occurred, MCBAP's Executive Director, after consultation with at least one member of the MCBAP Executive Committee, may report the alleged criminal behavior to the appropriate law enforcement authority.

MCBAP will also utilize publicly available records of the Michigan Department of Licensing and Regulatory Affairs (LARA) to learn if a parallel complaint has been filed with the related professional licensing board, if applicable. MCBAP will use information available from LARA records, and/or from other branches of the State of Michigan which may be involved in any complaints against the named professional. MCBAP may also utilize information available from a Michigan Regional Entity (PIHP), local court records, and filed Recipient Rights complaints, if seen as pertinent to the complaint.

B. If a complaint has been filed with MCBAP, the Executive Director may, at his or her discretion, proceed with an investigation even if the complainant subsequently requests that the complaint be withdrawn.

C. In cases where, upon initial review, the Executive Director deems that no ethical standards violation has occurred and that no further investigation is warranted, this conclusion shall be reported to the Ethics Committee. The Ethics Committee shall affirm the Executive Director's decision, reject the Executive Director's decision, and determine that a violation has occurred, or return the matter to the Executive Director for further investigation. If there is no further investigation, the Executive Director shall send a

notice to the complainant within 30 business days of the Ethics Committee's decision, informing them that the complaint is dismissed.

D. In all cases in which, following initial review, an investigation is decided to be conducted, the Executive Director shall, during the course of the investigation, notify the respondent by mail at the last address of record of the name of the complainant(s), if any, the alleged violation(s) of the MCBAP Code of Ethical Standards, a copy of the formal written complaint and the disciplinary procedures pertaining to the MCBAP Code of Ethical Standards. The Executive Director shall request the respondent to submit a typed response using the MCBAP complaint response form format. A response shall be sent to MCBAP within 30 business days of the date of receipt of the notice. The Executive Director may allow the respondent additional time if such is requested.

E. MCBAP recognizes that there may be some cultural differences regarding the interpretation of ethical standards. For example, Native American communities may differ in the definition of what constitutes a family. Treatment of extended family members using the cultural definition may not violate Code of Ethical Standards. In cases where cultural norms are relevant to the allegations or used as defense against a complaint, the Executive Director may seek assistance of cultural leaders, teachers, or elders to assist in understanding the cultural norms in question. The MCBAP Executive Committee will strive to be appropriately sensitive to cultural differences.

F. The respondent must return an Ethics Complaint Response Form to the MCBAP office within 30 business days of receipt unless the Executive Director has allowed the respondent additional time. During the investigation, the respondent shall disclose all facts and circumstances pertaining to the alleged misconduct, as well as the respondent's interpretation of the situation or conduct which is the subject of the investigation. Misrepresentation by a respondent, failure to provide information, or failure to cooperate with the investigation shall be independent grounds for disciplinary action by MCBAP. Failure to respond to the notice of complaint shall result in immediate and indefinite revocation of a MCBAP credential, unless it is established that the respondent never received the notice. Mailing a notice of complaint to the respondent's last address of record provided by the respondent to MCBAP will be presumed to constitute proper notice and the respondent has the burden to demonstrate that the notice was not received.

G. In cases in which an investigation has been conducted, the Executive Director shall, no more than 45 calendar days after mailing of the request for response to the respondent, submit an Investigation Summary Report to the Ethics Committee recommending either that the complaint be dismissed or that disciplinary action be imposed. The grounds for the recommendation shall be stated in the report and, if disciplinary action is recommended, a statement of the nature of discipline recommended shall be made. A copy of the original complaint response form received from the respondent shall be included with the report.

H. If publicly available information from an external investigation has been completed, MCBAP may utilize the facts and findings of that investigation to expedite the MCBAP investigation. It is not MCBAP's intention to duplicate external investigations of the same complaint(s).

I. If there is reason to believe that the safety and welfare of the public is at imminent risk (as determined by the Executive Director and/or the MCBAP Ethics Committee), MCBAP has the right to an expedited review.

#### **ACTION BY THE ETHICS COMMITTEE**

A. Upon receipt of a recommendation from the Executive Director, the Ethics Committee shall issue a decision concerning the complaint, based on the materials provided by the Executive Director, calling for one of the following actions:

1. Dismissal of the complaint
2. Return of the complaint to the Executive Director for further investigation
3. Imposition of sanctions
4. Consultation with MCBAP legal counsel prior to further action.

B. If the Ethics Committee imposes one or more sanctions, the decision shall include findings of fact, a conclusion as to which principles of the Code of Ethical Standards have been violated, and the

sanction(s) to be imposed. The decision shall recite the nature of the complaint and the investigation conducted. Within ten (10) business days after the issuance of the Ethics Committee's decision, the Executive Director shall mail a copy to the respondent, by mail providing a record of delivery, together with a notice of the right to appeal any Ethics Committee decision which calls for disciplinary action sanctions. The complainant will be notified of result.

- C. A request for an Appeal Hearing must be sent in writing to the MCBAP office within thirty (30) calendar days of delivery of the letter of findings sent to the respondent's address of record. In the event that a request for appeal is not filed within that time period, the decision of the Ethics Committee shall be final.

#### **POSSIBLE SANCTIONS FOR VIOLATION OF THE CODE OF ETHICAL STANDARDS**

- A. Possible sanctions for violation of the Code of Ethical Standards include:

- Denial of an application for a MCBAP credential
- Professional Corrective Action Plan to retain MCBAP standing
- Written caution / warning
- Formal reprimand
- Suspension of a MCBAP credential
- Revocation of a MCBAP credential; revocation of a credential shall be construed to be permanent, except as provided for later in this document

MCBAP may impose educational, supervisory, training, and treatment requirements and conditions in conjunction with any of the above disciplinary actions.

- B. Past disciplinary findings and actions taken against a credentialed professional may be considered in setting sanctions. Two or more written cautions or reprimands issued against a credentialed professional in a two- year period will result in a suspension or a revocation of the professional's MCBAP credential.

C. Where violations are substantiated, and sanctions issued, the name of the respondent, the sanction imposed, and the effective date will be listed on the MCBAP website. The same information will be referred to other pertinent certifying, licensing, and regulatory organizations as applicable, such as but not limited to the IC&RC central records, the Michigan Department of Licensing and Regulatory Affairs (LARA), Michigan Regional Entities (PIHPs), the Michigan Department of Health and Human Services, or other IC&RC member boards.

#### **APPEAL PROCESS**

- A. If the Ethics Committee rules that disciplinary action be taken, the respondent may appeal the decision by submitting a request for an appeal hearing to MCBAP. The Statement of Appeal must detail the basis of appeal and include what new information to be presented, inaccurate information or support describing the inaccuracy of the findings to be presented.
- B. If no new information from the initial complaint investigation is presented, the Appeal Hearing will be denied. Such requests shall be mailed to MCBAP by first class mail and postmarked no later than thirty (30) calendar days after receipt of the letter of the decision. Appeal hearing requests should be addressed to: MCBAP Attn: Executive Director 616 S. Creyts Road, Suite A Lansing, MI 48917 or emailed to: [info@mcbap.com](mailto:info@mcbap.com).
- C. It will not be the intention of the Hearing Committee to re-review the entire complaint and will focus on what new information was presented, inaccurate information or support describing the inaccuracy of the original findings that formed the basis for the Ethics Committee sanction. The Hearing Committee will address only the elements of the complaint which were upheld by the Ethics Committee and on which there were findings and sanctions issued.
- D. The Board Chair shall appoint from the MCBAP Board a non-voting Hearing Officer in addition to a three-person voting Hearing Committee. Hearing Committee members will be drawn from the current MCBAP Executive Committee when possible. However, no member of the appointed Hearing Committee shall be a member of the involved Ethics Committee, nor shall anyone be appointed to the Hearing Committee who has a potential conflict of interest with either the complainant or the

respondent. All potential conflicts of interest will be discussed prior to the appointment. Within thirty (30) business days after MCBAP receives a request for an appeal hearing, a date for a hearing on the decision of the Ethics Committee shall be selected, and the Executive Director shall send by mail a notice of the hearing date and time to the respondent. Scheduling needs of the respondent will be taken into consideration. Notice of hearing date and time shall be sent to the respondent, with delivery confirmation. The hearing date shall be scheduled not less than thirty (30) business days nor more than sixty (60) business days from the date of the hearing request, unless agreed upon mutually by the respondent and MCBAP.

### **Appeal Request Timeline**

- Respondent requests appeal hearing with basis of appeal no more than thirty (30) calendar days after receipt of decision letter.
- MCBAP notifies respondent of hearing date or denial of hearing within thirty (30) business days of receipt of appeal basis.
- A hearing date will be scheduled no less than 30 days or no more than 60 days of the hearing request.
- Respondent requests language translation or other communication assistance for appeal hearing at least 10 business days before set appeal hearing date.
- Allowance for timeline modifications at the request of respondent or MCBAP, by agreement

The notice of hearing shall advise the respondent and the complainant of the following:

A. The date, time, and the location of the hearing and the identity of the Hearing Committee members.

B. The appeal process is not a formal legal procedure and is not governed by the evidentiary and procedural standards that may be used or required in those procedures. These rules are intended to provide the respondent with a fair opportunity to present new information that will allow the Hearing Committee to make its decision.

C. At the respondent's own expense, the respondent may consult with private legal counsel in advance of the hearing. However, respondents are expected to speak for themselves at the Appeal Hearing, in presenting their appeal or responding to questions from the Hearing Committee. The respondent may consult with and be accompanied by legal counsel during the Appeal Hearing, but the Hearing is not a legal proceeding and respondent's legal counsel may not speak directly to the Hearing Committee nor question witnesses.

D. If a respondent requires translation or other communications assistance, he or she must notify MCBAP of this at least ten (10) business days in advance of the scheduled hearing date.

E. An Ethics Committee representative shall be available, if possible, to respond to arguments and evidence presented by the respondent in appeal of the Ethics Committee decision, as presented primarily in the Statement of Appeal and verbally at the Appeal Hearing. The Hearing Committee may also ask questions of the Ethics Committee representative. Such evidence shall be limited to the issues and findings of violations in the decision of the Ethics Committee as previously issued to the respondent. Again, the Hearing Committee is not re-hearing the original complaint; it is hearing and deciding the merits of the new information provided in the Appeal.

F. The complainant shall not be a party to the appeal hearing, although the Hearing Committee may call upon the complainant to give evidence if the need for this is indicated in the respondent's written Statement of Appeal. The complainant is not required to attend the Appeal Hearing.

G. Within their written Statement of Appeal, the respondent may present and rebut evidence pertinent to the Ethics Committee decision, and at the Appeal Hearing may present and request statements from witnesses with direct knowledge of the case if the witnesses have been named in the Statement of Appeal or prior to the scheduled Appeal Hearing.

H. The Hearing Committee is not bound by common law or statutory rules of evidence. The Hearing Committee may consider all evidence having reasonable probative value, but a decision to impose discipline will not be based solely on a declarant's oral hearsay statement unless it would be otherwise

admissible under common law or statutory rules of evidence or is corroborated by other evidence that the Hearing Committee concludes has sufficient probative weight. MCBAP may call upon legal counsel to determine admissibility of evidence.

I. In cases where suspension over six months or revocation of a credential is being appealed, the respondent may, at their own expense have a registered court reporter present to transcribe the appeal proceedings, provided that MCBAP is notified of such election at least ten (10) business days prior to the hearing and is supplied with a copy of the transcript at no expense to MCBAP within twenty (20) business days following the hearing.

J. No discovery shall be permitted, and no access to MCBAP files shall be allowed to the respondent or the complainant.

K. Any request by the respondent for postponement of the hearing must be immediately served in writing (mail, fax, or email) to MCBAP, and the decision to grant or deny such request is discretionary with MCBAP, acting through its Executive Director or other authorized representative.

L. There shall be no contact between the complainant and the respondent during the appeal period prior to the Appeal Hearing, nor shall the complainant or the respondent have contact with any MCBAP Board or Committee members for the purpose of discussing in any way the complaint or the decision of the Ethics Committee. Contact exceptions may be approved in the unusual case where the complainant and the respondent are related to one another as family members, or in business associations outside the scope of the complaint and the professional role of the respondent.

M. The Appeal Hearing shall be governed by the following rules:

1. Documentation may be presented by the respondent, including notarized witness statements. The evidence presented shall be limited to the issues and charges contained in the decision of the Ethics Committee previously served on the respondent. The Appeal Hearing will not be a full rehearing of the original complaint.
2. The hearing shall be presided over by a Hearing Officer, and objections concerning evidence shall be resolved by the Officer. The Hearing Officer shall be a non-voting member of the Hearing Committee.
3. The Hearing Committee's decision shall be based upon the testimony and evidence presented to the Appeal Hearing Committee, along with the records from the precipitating complaint, investigation, and Ethics Committee decision.
4. The hearing shall be closed to the public.

N. Within thirty (30) business days after the completion of the hearing process, the Hearing Committee shall prepare a written decision containing findings on the appeal and a conclusion as to whether the findings of the Ethics Committee are upheld or modified. Modifications shall state the ethical principles of the MCBAP Code of Ethical Standards addressed. If the Hearing Committee upholds the Ethics Committee decision that respondent did breach the MCBAP Code of Ethical Standards, the committee may agree with or may modify the disciplinary sanction(s), which shall be specified in the Committee's decision. The Hearing Committee shall submit its decision to MCBAP. MCBAP shall mail a copy of the decision to the respondent by certified mail and to the complainant by regular first-class mail or overnight courier with confirmation of delivery. The decision of the Hearing Committee shall be deemed that of MCBAP, shall be effective upon issuance or at such date as the Hearing Committee shall specify, and shall be final, without further action by MCBAP.

O. At any time prior to the issuance of the Hearing Committee's written decision, the respondent and MCBAP, acting through their representatives, may enter into a consent agreement, agreeing upon the sanctions or requirements to be imposed upon the respondent. Such consent agreement shall state the nature of the complaint and the sanctions agreed upon and shall supersede any prior decision in the case. Sanctions imposed pursuant to a consent agreement are not limited to those listed under "POSSIBLE SANCTIONS FOR VIOLATION OF THE CODE OF ETHICAL STANDARDS" section. Consent Agreements must be confirmed by the MCBAP Ethics Committee Chairperson and/or the MCBAP Board Chairperson.

P. The decision of the Hearing Committee shall be final.

### **PROCEDURES AND REINSTATEMENT FOLLOWING DISCIPLINARY ACTION**

A. If a respondent's MCBAP credential has been suspended or revoked and the respondent does not appeal the Ethics Committee's decision, or if the Hearing Committee upholds the respondent's suspension or revocation, the respondent shall return his or her original credential certificate to MCBAP no later than thirty (30) calendar days after the sanction takes effect. The original MCBAP credential certificate remains the property of MCBAP.

B. Following a respondent's MCBAP credential revocation, MCBAP maintains sole discretion to grant the respondent permission to petition for removal of revocation. Any allowances are at the discretion of MCBAP. Such petition shall only be considered after:

1. The passage of twenty-four (24) months from the effective date of the revocation.
2. The respondent seeking such permission has submitted a written request and provided the Ethics Committee with a rationale, addressing all issues pertaining to the ethical violations, why permission shall be granted.
3. The respondent has reimbursed MCBAP for the costs of the disciplinary proceedings, costs may include the costs of investigation expenses, any attorney fees incurred by the Board in the complaint investigation, examination, preparation, and conducting of the disciplinary proceedings, committee expenses, and any hearing costs (including, but not limited to, the fees of the Hearing Officer, if any, which may have been incurred by the Board.
4. The respondent has submitted a personal statement of understanding on why the credential was revoked and their commitment to not repeat or take part in any future action that would violate the MCBAP Code of Ethical Standards
5. The respondent has complied with all sanctions set forth by the Ethics Committee.

The MCBAP record of professional credentialing will reflect the period of revocation.

C. MCBAP credential reinstatement following a suspension is as follows. Upon expiration of the suspension period, the Ethics Committee shall authorize reinstatement of the credential for the balance of the credential period, unless:

1. Another complaint or professional sanction against the respondent has occurred or becomes known to MCBAP.
2. The respondent has failed to comply fully with any terms of his or her suspension.

Release from Liability. No person furnishing information or documents to MCBAP, its Ethics Committee Members, Appeal Hearing Members, and employees, contractors, or agents of MCBAP, including but not limited to Board of Directors, Executive Director, MCBAP staff, and investigator and legal counsel, shall by reason of furnishing such information and documentation, be liable in damages to any person. Respondent agrees to release MCBAP, its Executive Director, Board of Directors, its Ethics Committee Members, Appeal Hearing Members, MCBAP members, and its staff, employees, contractors, and agents of MCBAP, including but not limited to an investigator and legal counsel, for any and all actions taken or recommendations made within the scope of MCBAP's Guidelines for Ethical Standards Violation Complaints, when action is taken without malice and in the reasonable belief that such action or recommendation is warranted by the facts known at the time.