



## **TCA Code of Ethical and Professional Conduct and Disciplinary Procedures**

The Therapist Certification Association (TCA) is dedicated to the principle that certified health and human services professionals must demonstrate the high standards of ethical conduct and professional practice. Therefore, TCA has adopted this Code of Ethical and Professional Conduct.

Agreement to follow the Code of Ethical and Professional Conduct is a requirement of certification. TCA is committed to monitor adherence to this Code and to investigate and sanction those Certified Professionals (CPs) who violate this Code. It is the responsibility of the CP to become thoroughly familiar with the TCA Code of Ethics and guide their professional behavior accordingly. The most recent version of TCA Code of Ethical and Professional Conduct and Disciplinary Procedures is maintained and available for download at <http://www.TherapistCertificationAssociation.org>.

TCA will notify CPs of changes to TCA Code of Ethical and Professional Conduct and Disciplinary Procedures; however, it is the responsibility of the certified individual to comply with the most current standards.

### **Glossary**

**Appeal Hearing:** A formal hearing conducted when a respondent appeals the decision of the Board of Directors.

**Applicant:** A person who has submitted an Application for Certification but is not yet certified.

**Certified Professional (CP):** Any professional certified in any capacity by TCA Board of Directors.

**Clear and Convincing Evidence:** Evidence presented that is credible and verifiable, and/or to which is attested by witnesses who are clear and without confusion. The evidence must create a firm belief and conviction of the truth of the facts, presented and considered as a whole, must convince the TCA Board of Directors without reservation as to the validity of the case.

**Code of Ethics:** TCA Code of Ethical and Professional Conduct and Disciplinary Procedures that applies to all applicants and CPs.

**Complainant:** A person who files a formal complaint against an applicant or CP.

**Consent Order:** A voluntary agreement worked out between the Respondent and TCA that carries the same weight as a final decision by the Board of Directors.

**Consumer:** A person seeking or receiving services from an applicant, a CP or the applicant/CP's employer.

**Ethical Complaint:** A formal notice to TCA alleging that an applicant or certified individual violated TCA Code of Ethics.

**Ethics Committee:** A standing committee of CPs who assist TCA in meeting its mission by providing feedback and recommendations from representatives of the certified population to the Board of Directors for their approval and action. The committee is responsible for implementing TCA Code of Ethical and Professional Conduct and Disciplinary Procedures.

**Ethics Complaint:** A formal allegation of a violation of one or more Rule(s) of TCA Code of Ethics.

**Hearing Committee:** A committee convened by TCA Board of Directors to hear, consider, and make recommendations when a respondent appeals the decision of the Ethics Committee.

**Hearing Officer:** A non-voting member of the Hearing Committee who presides over the Appeal Hearing.

**Immediate Family:** A spouse, child, parent, parent-in-law, sibling, grandchild, grandparent or other household members of the CP.

**Probative Value:** Evidence or facts which tend to prove the existence of other facts of issues.

**Respondent:** The applicant or CP who is the subject of a formal complaint alleging a violation of the Code of Ethics.

**Revocation:** A sanction resulting in the complete forfeiture of TCA certification.

**Rules:** Standards of ethical and professional conduct that apply to all CPs.

**Sanction:** A penalty intended to enforce compliance with the Code of Ethics.

**Sexual Misconduct:** Engaging, attempting to engage, or offering to engage in any behavior, whether verbal or physical, which is intended to be sexually arousing, including kissing; touching breasts, genital areas, buttocks, or thighs, whether clothed or unclothed; any form of intercourse; or any form of oral sex. CPs are prohibited from sexual misconduct with a consumer, even if the consumer is not assigned to the CP and /or a supervisee.

**Summary Suspension:** An immediate suspension of a certified individual's credential(s) or application for certification when a preponderance of the evidence contained in the ethical complaint supports emergency action while the case is being investigated.

**Supervisee:** An individual that works under the direct supervision of a CP.

**Suspension:** A sanction resulting in the temporary forfeiture of TCA certification for a specified period of time.

**Written Reprimand:** A sanction that is a formal, written document expressing disapproval and/or providing a warning in regard to the Respondent's behavior.

## **SECTION A: GENERAL**

Hereafter, this document will refer to the CP's legal and ethical standards:

1. CPs are bound by all legal and ethical standards related to their current license or certification, as well as to these legal and ethical standards and HIPAA Policies & Procedures.

2. CPs shall have formalized training in sex/kink/sex offender/addiction counseling, therapy, education, and/or consultation that is in accordance with the standards set forth by TCA, the CP Certification Advisory Board, and the laws relevant to the jurisdiction in which the CP practices.
3. CPs recognize their limitations and will communicate this to a client as soon as possible. Only those services or techniques for which they are qualified by training and/or consultation will be used. CPs also recognize the need to seek continuing education to assure competent services.
4. When a CP's level of competence does not afford optimal benefits to the client, the CP shall, in a timely and efficient manner, recommend referral to more appropriate therapeutic services.
5. CPs engage in continuous efforts to improve professional practices, services, and research, and are guided in their work by evidence of the best professional practices.
6. CPs have a responsibility to the clients they serve and to the institutions in which the services are performed, and strive to assist the respective agency, organization, or institution in providing competent and ethical professional services. The acceptance of employment in an institution implies that the CP is in agreement with the general policies and principles of the institution. Therefore, the professional activities of the CP are in accord with the objectives of the institution.
7. Ethical behavior among CPs and other professional associates must be expected at all times. When a CP has doubts as to the ethical behavior of professional colleagues, they must take action and attempt to rectify the situation. Such action uses the respective institution's channels first, and then follows procedures established by TCA or the perceived violator's profession.
8. CPs must refuse remuneration for consultation or counseling with persons who are entitled to these services through the CP's employing institution or agency. CPs must not divert to their private practices without the mutual consent of the institution and client, legitimate clients in their primary agencies, or the institutions with which they are affiliated.
9. In establishing fees for professional counseling services, CPs must consider the financial status of clients. In the event a client is unable to pay the established fees, the CP may elect to utilize a sliding scale, or provide assistance in finding comparable services at acceptable cost.
10. CPs offer only professional services for which they are trained or have supervised experience by their psychological professional organizations. No diagnosis, assessment, or treatment should be performed without prior training or supervision by their accrediting agency. CPs are responsible for correcting any misrepresentations of their qualifications by others.
11. CPs are aware of the closeness involved in a counseling relationship and must maintain respect for the client by not engaging in any activities that seek to meet personal or professional needs at the expense of the client.
12. CPs must ensure they do not engage in personal, social, organizational, financial, or political activities which might lead to a misuse of their influence.
13. Sexual behavior with clients is unethical. CPs will not ever be sexually, physically, or romantically intimate with clients. The CP will not engage, attempt to engage, or offer to engage a client in sexual behavior whether the client consents to such behavior or not.

Sexual misconduct includes kissing, sexual intercourse, and/or the sexual touching by either the CP \_\_\_\_\_ or the client. CPs will not ever engage in sexual, physical, or romantic behavior with clients during the therapeutic relationship or any time after termination.

14. CPs do not condone or engage in sexual harassment, which is defined as unwelcome comments, gestures, or physical contact of a sexual nature.
15. CPs guard the individual rights and personal dignity of the client in the counseling relationship, and do not discriminate on the basis of age, disability, ethnicity, gender, race, religion, or sexual orientation. Further, CPs do not engage in reparative therapy and do not pathologize or regard homosexuality, alternative lifestyle behavior, or gender non-conforming identity as a mental illness.
16. CPs recognize that while the term “Sex Addiction” is not a DSM or ICD diagnosis, it nevertheless comprises a confirmable set of behaviors and provides a working diagnosis with successful treatment outcomes that derive from a variety of addiction treatment models. CPs will accept this precept and refrain from any disparaging or denigrating utterances, either written or verbal, regarding sex addiction diagnosis or treatment.
17. CPs are accountable at all times for their behavior, and must be aware that all actions and behaviors of the counselor reflect on professional integrity. They will be respectful of all other CPs, including those with differing theoretical perspectives and using differing treatment models.
18. Products or services provided by CPs by means of classroom instruction, public lectures, demonstrations, written articles, radio or television programs, online webinars/blogs, or other types of media must meet the criteria cited in these Standards.
19. CPs have an obligation to withdraw from the practice of counseling if they violate these Standards, or if the mental or physical condition of the CP renders it unlikely that a professional relationship will be maintained.

## **SECTION B: COUNSELING RELATIONSHIP**

1. The primary obligation of a CP is to respect the integrity and promote the welfare of clients, whether they are assisted individually, in family units, or in group counseling. In a group setting, the CP is also responsible for taking reasonable precautions to protect individuals from physical and/or psychological trauma resulting from interaction within the group.
2. CPs know and take into account the traditions and practices of other professional disciplines with whom they work and cooperate fully with such. If a person is receiving similar services from another professional, CPs do not offer their own services directly to such a person. If a CP is contacted by a person who is already receiving similar services from another professional, the CP carefully considers that professional relationship, as well as the client’s welfare, and proceeds with caution and sensitivity to the therapeutic issues. When a CP learns that a client is in a professional relationship with another counselor or mental health professional, they request release from the client to inform the other counselor or mental health professional of their relationship with the client, and strive to establish positive and collaborative professional relationships that are in the

best interest of the client. CPs discuss these issues with clients and the counselor or professional, so as to minimize the risk of confusion and conflict, and encourage clients to inform other professionals of the new professional relationship.

3. CPs may choose to consult with any other professionally competent person about a client, and must notify clients of this right and obtain a release from their client. CPs avoid placing a consultant in a conflict-of-interest situation that would preclude the consultant serving as a proper party to the efforts of the CP to help the client.
4. When a client's condition indicates that a clear and imminent danger exists to the client or others, the CP must take reasonable action to inform potential victims and/or responsible authorities. Consultation with other professionals must be used when possible. The assumption of responsibility for the client's behavior must be taken only after careful deliberation, and the client must be involved in the resumption of responsibility as quickly as possible.
5. Records of the counseling relationship, including interview notes, test data, correspondence, audio or visual tape recordings, electronic data storage, and other documents, are considered to be professional information for use in counseling. The records should be accurate and factual, and are the property of the CP or his/her/their employers. The information contained in the records belongs to the client, and therefore may not be released to others without the consent of the client, or when the counselor has exhausted challenges to a court order. A CP is responsible to insure their employees handle confidential information appropriately, and confidentiality must be maintained during the storage and disposition of records. Records should be maintained for a period of at least five (5) years after the last counselor/client contact, including cases in which the client is deceased. All records must be released to the client upon request.
6. CPs must ensure that any data maintained in electronic storage is secure by using the best computer security methods available. The data must be limited to information that is appropriate and necessary for the services being provided, and accessible only to appropriate staff members involved in the provision of services. CPs must also ensure that electronically stored data is destroyed when that information is no longer of value in providing services, or required as part of a client's records.
7. Any data derived from a client relationship and used in training or research shall be so disguised that the informed client's identity is fully protected. Any data which cannot be so disguised may be used only as expressly authorized by the client's informed and un-coerced consent.
8. The counseling relationship and information resulting from it remains confidential, consistent with the legal and ethical obligations of CPs. In group counseling, counselors clearly define confidentiality and the parameters for the specific group being entered, explain the importance of confidentiality, and discuss the difficulties related to confidentiality involved in group work. The fact that confidentiality cannot be guaranteed is clearly communicated to group members. However, counselors should give assurance about their professional responsibility to keep all group communications confidential.
9. Patient confidentiality may be breached in accordance with the Tarasoff Law of 1976 and applicable state laws when a client is a "clear and imminent danger" to themselves and/or others.

Clear documentation is crucial as to why it is believed the patient/client is an imminent threat, while strictly adhering to your state's standards.

10. Patient confidentiality must be breached when there is suspected or confirmed on-going child and/or vulnerable adult abuse. Each state's laws are different; most, if not all, will have a mandatory reporting law. Please adhere to your state's standards regarding this.
11. CPs must screen prospective group counseling participants to ensure compatibility with group objectives. This is especially important when the emphasis is on self-understanding and growth through self-disclosure. CPs must maintain an awareness of the welfare of each participant throughout the group process.
12. When counseling is initiated, and throughout the counseling process as necessary, counselors will inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed. Limitations must be clearly indicated that might affect the relationship, as well as any other pertinent information. Counselors must take reasonable steps to ensure clients understand the implications of any diagnosis, the intended use of tests and reports, methods of treatment, and safety precautions that must be taken in their use, fees, and billing arrangements.
13. CPs having an administrative, supervisory, and/or evaluative relationship with individuals seeking counseling services must not serve as the counselor, and should refer the individuals to other professionals. Exceptions are made only in instances where an individual's situation warrants counseling intervention and another alternative is unavailable. Dual relationships that might impair the CP's objectivity and professional judgment must be clarified and/or the counseling relationship terminated through referral to a competent professional.
14. When a CP is engaged in intensive, short-term counseling, they must ensure that professional assistance is available at normal costs to clients during and following the short-term counseling.

## **SECTION D: RESEARCH AND PUBLICATION**

1. CPs will adhere to applicable legal and professional guidelines on research with human subjects.
2. In planning research activities involving human subjects, CPs must be aware of and responsive to all pertinent ethical principles, and ensure that the research problem, design, and execution are in full compliance with any pertinent institutional or governmental regulations.
3. The ultimate responsibility for ethical research lies with the principal researcher, although others involved in the research activities are ethically obligated and responsible for their own actions.
4. CPs who conduct research with human subjects are responsible for the welfare of the subjects throughout the experiment, and must take all reasonable precautions to avoid causing injurious psychological, physical, or social effects on their subjects.
5. CPs who conduct research must abide by the basic elements of informed consent:
  - Fair explanation of the procedures to be followed, including an identification of those which are experimental.

- Description of the attendant discomforts and risks.
  - Description of the benefits to be expected.
  - Disclosure of appropriate alternative procedures that would be advantageous for subjects with an offer to answer any inquiries concerning the procedures.
  - An instruction that subjects are free to withdraw their consent and discontinue participation in the project or activity at any time.
6. When reporting research results, explicit mention must be made of all variables and conditions known to the investigator that may have affected the study's outcome or the data's interpretation.
  7. CPs conducting and reporting research investigations must be done in a manner that minimizes the possibility the results will be misleading.
  8. CPs are obligated to make available sufficient original research data to qualified others who may wish to replicate the study.
  9. CPs who supply data, aid in the research of another person, report research results, or make original data available, must take due care to disguise the identity of respective subjects in the absence of specific authorization from the subjects to do otherwise.
  10. When conducting and reporting research, CPs must be familiar with, and give recognition to previous work on the topic. All copyright laws must be observed, and full credit must be given to those to whom credit is due.
  11. CPs must give due credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed to the research and/or publication in accordance with such contributions.
  12. CPs should communicate to other counselors the results of any research judged to be of professional value, and not withhold any results that reflect unfavorably on institutions, programs, services, or vested interests.
  13. CPs who agree to cooperate with another individual in research and/or publication incur an obligation to cooperate as promised in terms of punctuality of performance, and with full regard to the completeness and accuracy of the information required.
  14. CPs must not submit the same manuscript, or one essentially similar in content, for simultaneous publication consideration by two or more journals. In addition, manuscripts that have been published either in whole or substantial part should not be submitted for additional publication without acknowledgment and permission from any previous publisher.

## **SECTION E: CONSULTING**

Consultation refers to a voluntary relationship between a professional helper and a help-needing individual, group, or social unit in which the consultant is providing help to the client(s) in defining and solving a work-related problem or potential work-related problem with a client or client system.

1. CPs, acting as consultants, must have a high degree of self-awareness of their own values, knowledge, skills, limitations, and needs in entering a helping relationship that involves human and/or organizational change. The focus of the consulting relationship must be on the issues to be resolved and not on the person(s) presenting the problem.
2. In the consulting relationship, the CP and client must understand and agree upon the problem definition, subsequent goals, and predicted consequences of interventions selected.
3. CPs acting as consultants must be reasonably certain that they, or the organization represented, have the necessary competencies and resources for giving the kind of help that is needed, or that may develop later, and that appropriate referral resources are available.
4. CPs in a consulting relationship must encourage and cultivate client adaptability and growth toward self-direction. CPs must maintain this role consistently and not become a decision-maker for clients, or create a future dependency on the consultant.

## **SECTION F: PRIVATE PRACTICE**

1. In advertising services as a private practitioner, CPs must advertise in a manner that accurately informs the public of the professional services, expertise, and techniques of counseling available.
2. CPs who assume an executive leadership role in a private practice organization do not permit their names to be used in professional notices during periods of time when they are not actively engaged in the private practice of counseling unless their executive roles are clearly stated.
3. CPs must make available their highest degree (described by discipline), type and level of certification and/or license, address, telephone number, office hours, type and/or description of services, and other relevant information. Listed information must not contain false, inaccurate, misleading, partial, out-of-context, or otherwise deceptive material or statements.
4. CPs involved in a partnership/corporation with other CSATs® and/or other professionals must clearly specify all relevant specialties of each member of the partnership or corporation.
5. CPs must not attempt to affiliate TCA as a whole or any member thereof, any CP committee or group, Dr. Carol Clark's name to any other business organization or entity for any purpose.



## **Rules of Ethical and Professional Conduct**

TCA Code of Ethics set forth the rules of ethical and professional conduct which all applicants and CPs are expected to honor (hereafter referred to as 'the Rules'). Failure to comply with an obligation or prohibition set forth in the Rules will result in disciplinary action.

Discussion sections accompany some of the Rules. These discussions are intended to interpret, explain, or illustrate the meaning of the Rules, but the Rules themselves remain the authoritative statements of the conduct for which disciplinary action may be imposed.

### **1. Professional Standards**

**1.1 An applicant or a CP shall meet and comply with all terms, conditions, or limitations of any professional credential they hold.**

**1.2 An applicant or a CP shall not perform services outside of their area of training, expertise, competence, or scope of practice.**

*Discussion of Rule 1.2: When a consumer's therapeutic issues are outside their level of professional functioning or scope of practice, the CP must refer the consumer to another professional who will provide the appropriate therapeutic approach for the consumer.*

**1.3 An applicant or CP shall not in any way participate in discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, socio-economic status, political belief, psychiatric or psychological impairment, physical disability, or the amount of previous therapeutic or treatment occurrences.**

**1.4 An applicant or CP shall place their application or credential(s) on inactive status for any mental, physical, or behavioral health related adversity that interferes with their professional functioning.**

*Discussion of Rule 1.4: The private life of an applicant or CP remains a personal matter to the same degree as any other person. However, when a personal issue begins to adversely affect professional performance, affecting the quality of service delivered and thus putting the consumer at risk, the applicant or CP must take sufficient and timely action to resolve any adversity that interferes with their professional functioning.*

**1.5 An applicant or CP shall not practice during the period of any denial, suspension, revocation, probation, or other restriction or discipline on certification, license, or other authorization to practice issued by any certification authority or any state, province, territory, tribe, or the federal government.**

**1.6 An applicant or CP must maintain a high standard of ethical and professional conduct. The moral, ethical and legal standards of behavior of the CP are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities or reduce the public trust in applicants or CPs.**

### **2. Criminal Activity**

**2.1 An applicant or CP shall report all arrests and case disposition, regardless of adjudication to any felony or first degree misdemeanor crime. Such a report must be received within 72 hours of release from any state or federal confinement.**

*Discussion Rule 2.1: Any public record pertaining to an arrest, charge, disposition or sentencing of a CP shall be deemed as conclusive evidence of guilt of the felony or misdemeanor for which he or she has been convicted. If that felony or misdemeanor relates to the individual's ability to practice in the credentialed discipline, the fact of conviction shall also be proof of violation of this Rule. All proceedings in which the sentence has been deferred, suspended, adjudication withheld, or a conviction expunged shall be deemed a conviction within the meaning of this section.*

**2.2 An applicant or CP shall not use, possess, or sell any unprescribed or illegal substance.**

**2.3 An applicant or CP shall comply with all federal and state laws.**

### **3. Sexual Misconduct**

**3.1 An applicant or CP shall not engage in sexual misconduct with a consumer during the period of time services are being rendered to the consumer and a minimum of two years after the professional relationship has terminated.**

*Discussion Rule 3.1: This Rule applies to any consumer of the agency by which the CP is employed, regardless of whether or not the consumer is assigned to the CP. For purposes of determining if sexual misconduct has occurred, the professional relationship is deemed to continue for minimum of 2 years from the date of the consumer's last professional interaction with the CP's employer. Although the professional relationship is deemed to be terminated 2-years after termination of professional services, the CP shall not engage in or request sexual contact with a former consumer at any time if engaging with that consumer would be exploitative, abusive or detrimental to that consumer's welfare.*

**3.2 An applicant or CP shall not engage in sexual misconduct with any family member or guardian of a consumer during the period of time services are being rendered to the consumer.**

**3.3 An applicant or CP shall not engage a supervisee in sexual misconduct during the period of time supervisory relationship exists.**

### **4. Fraud-Related Conduct**

**4.1 An applicant or CP shall not present fraudulent documents when applying for certification, certification upgrades, or certification renewal.**

**4.2 An applicant or CP shall not prepare fraudulent certification documents for certification applicants.**

**4.3 An applicant or CP shall not use a title designation, credential or license, firm name, letterhead, publication, term, title, or document which states or implies an ability, relationship, or qualification that does not exist.**

**4.4 An applicant or CP shall not practice under a false name or under a name other than the name under which his or her certification or license is held.**

**4.5 An applicant or CP shall not prepare, present, or participate in activities related to fraudulent billing or benefit claim under any employee benefit program or insurance policy/program.**

**4.6 An applicant or CP shall not produce, publish, create, or partake in the creation of any false, fraudulent, deceptive, or misleading advertisement.**

## **5. Exploitation of Consumers**

**5.1 An applicant or CP shall not develop, implement, or maintain exploitative relationships with current or past consumers.**

*Discussion Rule 5.1: Ethical problems are often raised when a CP blends his or her professional relationship with a consumer with another kind of relationship. The nature of the consumer-professional relationship is such that the consumer remains vulnerable to the real or perceived influences of the CP. An applicant or CP who is in a position to influence a consumer's behavior may not impose their own desires upon the consumer.*

**5.2 An applicant or CP shall not misappropriate property from a consumer.**

**5.3 An applicant or CP shall not enter into a relationship with a consumer which involves financial gain to the CP or a third-party resulting from the promotion or the sale of services unrelated to treatment.**

**5.4 An applicant or CP shall not recommend to a consumer any unnecessary, ineffective or unsafe device, treatment, procedure, product or service.**

**5.5 An applicant or CP shall not solicit gifts or favors from consumers.**

*Discussion Rule 5.5: When a CP "plays" or "preys" upon the consumer's gratitude for counseling services; or covertly or overtly implies or states that the consumer remains indebted to the CP and should "repay" him or her through gifts or other favors, their unique position of trust and responsibility with the consumer becomes jeopardized.*

**5.6 An applicant or CP shall not offer, give, or receive commissions, rebates, or any other forms of remuneration for a consumer referral.**

*Discussion Rule 5.6: This standard is governed by Florida Statute. See 817.505 for further information on restrictions related to patient brokering.*

## **6. Safety & Welfare**

**6.1 When a condition of clear and imminent danger exists that a consumer may inflict serious bodily harm on another person or persons, an applicant or CP shall, consistent with federal and state confidentiality laws, take reasonable steps to warn any likely victims of the consumer's potential behavior.**

**6.2 When a condition of clear and imminent danger exists that a consumer may inflict serious bodily self-harm, an applicant or CP shall, consistent with federal and state confidentiality laws, take reasonable steps to protect the consumer.**

*Discussion Rules 6.1 and 6.2: If during the course of treating a consumer, an applicant or CP becomes aware that a consumer:*

- intends or is likely to commit some act which may result in serious bodily harm to another person or persons and there is a clear and imminent danger of such harm occurring, the CP has a duty to take reasonable steps to warn such persons; and/or*
- intends or is likely to inflict serious bodily harm to himself or herself and that there is a clear and imminent danger of such harm occurring, the CP has a duty to take reasonable steps to protect the consumer.*

*In doing so, the CP should be aware that state and federal regulations set forth rules concerning the confidentiality of applicant-consumer or CP-consumer communications, consumer records, and identifying information.*

*In cases where the threat is of the commission of a crime on agency premises or against agency personnel, the rules may allow disclosure of the circumstances of the threatened crime and identity of the consumer directly to law enforcement officers.*

*In some instances, however, it may be necessary for the applicant, CP or their agency to make an emergency application to a court for an order permitting disclosure of information concerning the consumer or communications from the consumer before such information can be disclosed.*

## **7. Records Management**

**7.1 An applicant or CP shall not falsify, amend, knowingly make incorrect entries, or fail to make timely essential entries into the consumer record.**

**7.2 An applicant or CP shall follow all Federal and State regulations regarding consumer records.**

**7.3 An applicant or CP shall comply with all federal and state confidentiality laws.**

*Discussion Rule 7.3: Except as may otherwise be indicated in this Code, applicants and CPs are expected to refrain from revealing confidential information except as may be authorized by the consumer or required or authorized by law. Applicants and CPs are expected to be familiar with and act in accordance with federal and state regulations concerning confidentiality of consumer records and identifying information.*

## **8. Cooperation with the Board**

**8.1 An applicant or CP shall cooperate with a TCA disciplinary investigation or proceeding.**

**8.2 An applicant or CP shall not attempt to prevent or interfere with a complaint from being filed or TCA disciplinary investigation or proceeding to occur. Interference attempts may include but are not limited to: a. the use of threats or harassment against, or an inducement to, any person in an effort to prevent or attempt to prevent a complaint from being filed, prosecuted or completed;**

- b. the use of threats or harassment against, or an inducement to, any consumer or witness in an effort to prevent them from providing evidence in an investigation, disciplinary proceeding or any other legal action; and
- c. the willful misrepresentation of facts before the disciplining authority or its authorized representative.

**8.3 An applicant or CP shall report any violation of the Rules by filing a formal Ethics Complaint with the TCA. Complaints must be filed within no more than 30 calendar days of becoming aware of the violation.**

**8.4 An applicant or CP shall not file a false or misleading Ethics Complaint or information to the TCA.**

**8.5 An applicant or CP shall comply with all federal and state confidentiality requirements when submitting any information to the Board.**

## **Disciplinary Procedures**

### **1. Confidentiality of Proceedings**

1.1 Except as is otherwise provided herein, all information, notes, reports, transcripts, and any documentation of any kind generated or received during the course of an ethics investigation, including the ethics committee meetings and appeal hearings, shall be kept confidential by TCA.

1.2 At the initiation of an ethics investigation, the respondent is entitled to a full and complete copy of the ethics complaint, including the complainant's name.

1.3 At the conclusion of an ethics investigation, the respondent is entitled to a full and complete copy of the:

- a. Investigation Summary Report

- b. Ethics Committee's Recommendation for Action

- c. Hearing Committee's Finding of Fact and Recommendation for Action

1.4 At the conclusion of an ethics investigation, the complainant is entitled to a full and complete copy of the:

- a. The Ethics Committee's Recommendation for Action

- b. The Hearing Committee's Finding of Fact and Recommendation for Action

### **2. Oversight and Conflict of Interest**

2.1 The Director of Certification will supervise Ethics Investigator(s) and direct ethics investigations.

2.2 The President and CEO of TCA shall approve or deny all recommendations for action made by the Director of Certification.

- 2.3 TCA Ethics Investigator shall conduct investigative activities, including interviewing relevant persons and collecting and receiving evidence and other documents related to the case, under the direct supervision of the Director of Certification.
- 2.4 TCA will provide all investigation reports, documents, and findings to the Ethics Committee for review and recommended action. The Director of Certification will present the recommendations of the Ethics Committee to the Board of Advisors for voting. Sanctions become final upon the Board of Advisors vote. The Director of Certification will report all Advisory Board votes on ethics cases to the TCA's Executive Board of Directors at their quarterly meetings.
- 2.5 Should the President and CEO, the Director of Certification, or the Ethics Investigator have a conflict of interest with any party to the case, the duties of said person shall be delegated and that person shall be recused from any involvement in the case, including investigation and sanction activities.
- 2.6 Should any member of the Ethics Committee, Board of Advisors or TCA Executive Board of Directors have a conflict of interest with any party to the case, the person shall be recused from any involvement in the case, including case review, sanctioning, or voting activities.
- 2.7 TCA recognizes that there may be some cultural differences regarding the interpretation of the Code of Ethics. In cases where cultural norms are used as a defense against a complaint, TCA may seek the assistance of cultural leaders, teachers, elders, or others to assist in understanding the cultural norms in question. TCA will strive to be appropriately sensitive to cultural differences throughout the disciplinary process.

### **3. Code of Ethics Sanctions**

- 3.1 Possible sanctions for violating the Code of Ethics include but are not limited to:
- a. Written Reprimand
  - b. Summary Suspension
  - c. Consent Order
  - d. Suspension
  - e. Revocation
  - f. Denial of Application for Certification
- 3.2 TCA may impose any sanction deemed appropriate for the founded violation(s). There is not a requirement that sanctions are imposed in any particular order.
- 3.3 In conjunction with official sanctions, TCA may impose educational requirements or other conditions deemed necessary and appropriate.
- 3.4 The Ethics Committee may consider the applicant's or CP's past history in regard to ethical sanctions and disciplinary actions when determining the appropriate sanctions for the current ethics case. A founded third offense in a two-year period will automatically result in an immediate summary suspension and sanctions shall include a suspension or revocation of the credential(s).

3.5 Except as may be provided in a consent order, public notice of all ethics cases resulting in sanctions shall be published in TCA newsletter and on the TCA's web-based public access database. Such notice shall include the name of the Respondent, the rule(s) violated, and the sanction imposed. Public notice shall be published in the newsletter in the issue following the date the sanctions are applied. Web-based notice shall be published the first business day following the date the sanctions are approved by the Board of Advisors. Such notice is permanent and will not be removed from the database. Should a CP appeal the sanction(s), notice shall not be posted until the appeal hearing has been concluded.

#### **4. The Complaint Process**

4.1 TCA will not accept anonymous complaints.

4.2 TCA will accept phone calls from individuals wishing to discuss a particular situation for the purposes of determining if an ethical complaint should be filed. Based on the content of the discussion TCA will either recommend that the issue be dismissed, or recommend that the caller file a formal ethical complaint.

4.3 All complaints must be submitted in writing, on TCA Ethics Complaint Form, within no more than 30 calendar days of becoming aware of the allegation. TCA Ethics Complaint Form is maintained on the TCA's website at [www.tcaethics.com](http://www.tcaethics.com). Complete the form on the website or download and mail the completed form to TCA as follows:

Therapist Certification Association  
CONFIDENTIAL  
Director of Certification  
9620 NE 2<sup>nd</sup> Ave., Ste 207  
Miami Shores, FL 33138

4.4 Should TCA become aware of a possible violation of the Code of Ethics, the Director of Certification may, on behalf of the TCA, file a formal complaint against a CP.

4.5 In the instance that a formal complaint has been filed and the complainant subsequently requests to revoke said complaint, TCA may choose to proceed with the investigation.

4.6 Within no more than 10 business days of receipt of a formal ethical complaint, the Director of Certification shall review all formal complaints and determine if the preponderance of the evidence contained within the complaint warrants opening of an investigation.

4.7 Within three (3) business days of the Director's decision, TCA will:

- a. Mail a letter to the complainant detailing the TCA's decision to issue a summary suspension and open an ethics investigation; open an ethics investigation; or dismiss the complaint.
- b. Send a certified letter to the respondent detailing the TCA's decision to issue a summary suspension and open an ethics investigation, or open an ethics investigation: the respondent will not be notified if TCA dismisses the complaint. The notice shall include a complete copy of the accepted complaint, including the name of the complainant, and the date by which the respondent must submit a written response to the complaint,

which shall be no more than 20 business days from the date of the notice. In the written response, respondents are encouraged to submit their interpretation of the situation or conduct under investigation, including documentation or other evidence, and name(s) and contact information for witnesses who can assist in the investigation. Should the respondent fail to respond by the specified date in the formal notice, TCA will assume guilt and will proceed with sanctions as necessary and appropriate.

- 4.8 Misrepresentation by a respondent, failure to provide information, or failure to cooperate with the investigation may be grounds for TCA to open a subsequent ethical complaint against the respondent.

## **5. The Investigation Process**

- 5.1 The initial investigation shall be conducted by TCA Ethics Investigator, under the direct supervision of the Director of Certification. The initial investigation shall include, but is not limited to, the gathering of documentation and other evidence from the complainant, the respondent, and others identified by the complainant and/or the respondent.
- 5.2 Within no more than five (5) business days of the date the respondent is required to submit a written response to the allegation, the Director of Certification will review all evidence received to date from the complainant, respondent, and others involved in the investigation.
- 5.3 Based on a preponderance of the evidence, the Director of Certification shall make one of the following recommendations to the TCA's President and CEO:
- a. Dismiss the case without further investigation,
  - b. Close the investigation and prepare the case for submission to the Ethics Committee, or
  - c. Continue the investigation.
- 5.4 The President and CEO may determine:
- a. No violation has occurred and that no further investigation is warranted. If so, the Ethics Investigator will write an Investigative Summary Report for approval by the Ethics Committee at their next meeting. The ethics investigation will not be closed until the recommendation of the Ethics Committee is voted on by the Board of Advisors.
  - b. Allegations are founded and the investigation is complete. If so, the Ethics Investigator will write an Investigative Summary Report for review and recommended action by the Ethics Committee at their next meeting. Sanctions will not be applied and the ethics investigation will not be closed until the recommendation of the Ethics Committee is voted on by the Board of Advisors.
  - c. Further investigation is warranted. If so, within two business days of the decision, the Ethics Investigator will inform the respondent and the complainant that the investigation will be continued. Every 30 calendar days, steps 5.3 and 5.4 will continue until the President and CEO determines the investigation is dismissed or complete pursuant to Step 5.4 a. or 5.4 b.



## **6. Consent Order**

- 6.1 A consent order shall be the final action and have the same force and effect of an order made by the Ethics Committee and voted on by the Board of Advisors; result in a waiver of additional procedural steps in front of the Ethics Committee, the Board of Advisors, or an Ethics Hearing Committee; and result in a waiver of the right to challenge or contest the sanctions included in the Consent Order in front of the Ethics Committee, the Board of Advisors, or an Ethics Hearing Committee.
- 6.2 At any point after the commencement of the investigation, but no later than 14 days prior to the next regularly scheduled meeting of the Ethics Committee, the respondent may, in writing, request negotiation of a Consent Order.
- 6.3 TCA may, at its discretion, agree to or reject the offer of request to negotiate a Consent Order. If the request is granted, TCA will defer the proceedings a reasonable time to permit negotiation of a Consent Order. If the request is denied, the investigation will proceed as planned.

## **7. Action by the Ethics Committee**

- 7.1 The Ethics Committee shall receive a completed Investigation Summary Report and supporting documentation for all cases where the investigation is complete. The Investigation Summary Report shall include, but is not limited to the complaint; a summary of the investigation conducted, including the respondent's rebuttal to the complaint; recommended sanctions, and grounds for recommendation(s).
- 7.2 No later than 10 business days from the Ethics Committee review and recommended action, TCA shall prepare a written Recommendation for Action, which shall include a copy of the Investigation Summary Report, the committee's finding of fact, and the committee's recommendation for action. The committee's Recommendation for Action shall call for one of the following actions:
- a. Dismissal of the complaint.
  - b. Return of the complaint to TCA for further investigation. If so, the recommendation must detail the additional information desired by the Committee for consideration.
  - c. Sanctions. If so, the recommendation must detail the sanctions to be imposed, including fees, educational requirements, and timeframes for compliance.
- 7.3 The Director of Certification or designee shall present the committee's written Recommendation for Action to the Board of Advisors for voting at its next scheduled meeting. For each presented case, the Board of Advisors shall vote to:
- a. Accept the recommendation of the Ethics Committee as presented,
  - b. Reject the recommendation of the Ethics Committee and impose different sanctions, or
  - c. Reject the recommendation of the Ethics Committee and return the complaint to TCA for further investigation.
- 7.4 Within seven (7) business days of the determination by the Board of Advisors, TCA shall send, by certified mail, a letter to the complainant and the respondent detailing the outcome of the investigation.

- a. If the case has been dismissed, the letters to the complainant and respondent must state that the investigation has determined that no violation of the Code of Conduct has occurred and the case has been dismissed.
- b. If the case has been returned to TCA for further investigation, the letters to the complainant and respondent must state that TCA Board of Advisors has returned the case to TCA pending further investigation.
- c. If the case has resulted in sanctions, either those recommended by the Ethics Committee or determined by the Board of Advisors:
  - i. The letter to the complainant must state that the investigation is complete, the rule(s) that have been violated, and the sanction(s) to be applied.
  - ii. The letter to the respondent must state that the investigation is complete, the rule(s) that have been violated, the sanction(s) to be applied, and the process to appeal the results of the investigation.

## **8. The Appeal Process**

- 8.1 If the respondent believes his or her due process rights were not followed or if there is new or additional information that was not presented or considered at original determination of recommended sanctions, the respondent may, within 10 business days of receipt of the Board's decision, submit a written Request for an Appeal Hearing to TCA via mail, fax, or email. Contact TCA at 850-222-6314 for contact information. The request must detail the basis of the appeal.
- 8.2 Within two (2) business days of receipt of the Request for an Appeal Hearing, the Director of Certification shall, by email, notify both the President and CEO and the Chair of the Ethics Committee of the Executive Board of Directors of such request. Within 10 business days of notification, the President and CEO shall convene a conference call of the Executive Board of Directors to take action on the request (accept or deny the appeal request).
- 8.3 Within 20 business days of the Board of Advisors' decision to hear the appeal, the Chair of the Ethics Committee of the Executive Board of Directors shall appoint a hearing committee and schedule the appeal hearing. The hearing shall be scheduled no less than 20 and no more than 90 days of the date the Notice of Appeal Hearing is mailed to the respondent.
- 8.4 Within two (2) business days of notification of hearing committee members and hearing date, the Director of Certification will send, by certified mail, a written Notice of Appeal Hearing to both the respondent and the complainant. Such notice shall advise the respondent and complainant of the date, time, and location of the Appeal Hearing; the names of the Appeal Hearing committee members, and notice of the following rules:
  - a. Prior to the hearing, there shall be no contact between the respondent and the complainant, or the respondent and the TCA, for purposes of discussing any part of the case, including actions from receipt of the complaint through the request for an appeal hearing.

- b. Any request for postponement of the Appeal Hearing must be served in writing to TCA at least five (5) business days prior to the scheduled date. The decision to grant or deny the request for postponement is solely that of the TCA.
- c. Failure to attend the appeal hearing shall be deemed as a waiver of the appeal and the appeal will be dismissed and the decision of the Board of Advisors will stand.

8.5 The Appeal Hearing shall be governed by the following rules:

- a. The Appeal Hearing shall be presided over by the Hearing Officer, which is a non-voting member of the Hearing Committee. The Hearing Officer is the Chair of the Ethics Committee of the Executive Board of Directors or designee.
- b. The respondent shall have the burden of proof at the Appeal Hearing.
- c. The Hearing Committee shall not be bound by common law or statutory rules of evidence and may consider all facts having reasonable probative value.
- d. The Hearing Committee will base its decision on written ethics case files, reports, and supporting documentation; physical evidence; and testimony presented at the hearing.
- e. No discovery is permitted and no access to TCA files is permitted.
- f. Objections concerning evidence will be resolved by the Hearing Officer.
- g. TCA shall be represented by the Director of Certification or designee.
- h. Any party, at the party's own expense, may be represented by counsel at the hearing.
- i. Any party, at the party's own expense, may request the services of a court reporter at the hearing. If the respondent elects to hire a court reporter, the respondent must provide a copy of the transcript, without charge, to the TCA.
- j. Evidence may be presented and witnesses cross-examined by both sides.
- k. The respondent shall present its case to the Hearing Committee first.
- l. TCA shall present its case to the Hearing Committee second. At the hearing, the Director of Certification will present evidence in support of the recommendation by the Ethics Committee and the vote by the Board of Advisors. Such evidence includes ethics case file documentation to ensure hearing committee members have the information necessary to make an informed decision.
- m. The Appeal Hearing is closed to the public.

8.6 Within 20 business days of the conclusion of the Appeal Hearing, the Hearing Officer will prepare and submit, to the President and CEO, a written Finding of Fact and Recommendation for Action, which shall call for Dismissal or Sanctions. Recommendations for Sanctions must detail the sanctions to be imposed, including fees, educational requirements, and timeframes for compliance.

8.7 The Director of Certification shall present the Hearing Committee's written Finding of Fact and Recommendation for Action to the Board of Advisors for voting at its next regularly scheduled meeting. For each presented case, the Board of Advisors shall vote to accept, accept with modifications, or reject recommended sanctions.

8.8 Within seven (7) business days of the final determination by the Board of Advisors, the Director of Certification shall send, by certified mail, a letter to the complainant and the respondent detailing the outcome of the investigation.

- a. If the case has been dismissed, the letters to the complainant and respondent must state that the investigation has determined that no violation of the Code of Conduct has occurred and the case has been dismissed.
- b. If the case has resulted in sanctions, either those recommended by the Hearing Committee or determined by the Board of Advisors, the letters to the complainant and respondent must state that the appeal hearing is complete, identify the rule(s) that have been violated, and detail the sanction(s) to be applied. Letters will include a statement that the decision is final and not subject to further appeal.

## **9. Reinstatement following Disciplinary Action**

9.1 When a respondent's credential is suspended, the respondent may not use the credential during the period of suspension. Once the suspension period has expired and all additional sanctions have been satisfied, the President and CEO may authorize reinstatement of the credential, unless:

- a. An additional complaint has been received and accepted by TCA for investigation,
- b. An additional disciplinary action has been taken against the individual,
- c. The respondent has failed to maintain renewal payments and CEUs during the time of the suspension, or
- d. The respondent has failed to comply with the terms of the sanction.

9.2 Typically, revocation of credentials will not be overturned; however, no sooner than 36 months from the effective date of the revocation, respondents may petition the Executive Board of Directors to hold a reinstatement hearing. The petition must include a written and reasonable rationale as to why the reinstatement hearing should be granted, and an acknowledgement that if the petition is approved, a \$750 fee is due to TCA before the reinstatement hearing will be scheduled. TCA maintains sole discretion to grant or deny the respondent's petition.

9.3 In the event that the Board of Directors approves a reversal of revocation, the respondent must reapply for the credential(s), starting the process as a new applicant, and must meet all standards in place at the time of application, including earning a new passing score on required exam(s).

## **10. Reports to Other Agencies**

10.1 If during the course of the investigation it appears that criminal misconduct has occurred, the President and CEO or designee will report such allegations to the appropriate law enforcement agency.

10.2 If, during the course of the investigation it appears that state law, administrative code, or licensing requirements have been broken, the President and CEO or designee will report such allegations to the appropriate state agency, inspector general, office of internal affairs, or other authority.

10.3 If the investigation results in sanctions, the President and CEO or designee may report such findings to other licensing boards, certification boards, and/or employers.

## **SECTION H: REFERENCES & DISCLAIMERS**

Reference documents, statements, and sources for the development of the TCA Code of Ethical and Professional Conduct and Disciplinary Procedures were as follows:

- American Counseling Association (ACA) Code of Ethics
- American Psychological Association (APA) Ethics Code
- National Board of Certified Counselors (NBCC) Ethics Information
- National Career Development Association (NCDA) Ethical Standards
- *Handbook of Standards for Computer-Based Systems of Career Information* prepared by the Association of Computer-Based Systems for Career Information (ACSCI)
- *Responsibilities of Users of Standardized Tests* prepared by the Association for Assessment in Counseling (AAC)

TCA does not discriminate on the basis of race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender expression, age, height, weight, physical or mental ability, veteran status, military obligations, and marital status.

The *Associate and Certified Sex Addiction Therapist Legal & Ethical Standards* are not endorsed, approved, or in any way affiliated with any of these bodies:

- American Counseling Association (ACA)
- American Psychological Association (APA)
- Association for Assessment in Counseling (AAC)
- Association of Computer-Based Systems for Career Information (ACSCI)
- National Board of Certified Counselors (NBCC)
- National Career Development Association (NCDA)