

2 – DISCIPLINE AND COMPLAINTS POLICY

Note: Practitioners are required to abide by the Code of Ethical Conduct (<https://physiotherapy.ca/sites/default/files/code-of-conduct-en.pdf>) which is enforced by provincial physiotherapy colleges (regulators). Complaints about a practitioner’s professional practice should be reported to their College.

Definitions

1. Terms in this Policy are defined as follows:
 - a) **Case Manager** – An individual appointed by the Discipline Chair to administer certain complaints under this Policy. The Case Manager does not need to be a member of, or affiliated with, the CPA.
 - b) **Complainant** – The Party making a complaint.
 - c) **Days** – Days including weekends and holidays.
 - d) **Discipline Chair** – An individual appointed by the CPA to handle complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, staff member, or other individual affiliated with the CPA but must not be in a conflict of interest.
 - e) **Stakeholders** – Refers to all categories of individual members defined in the By-laws of the CPA as well as individuals who are subject to the policies of the CPA including, but not limited to, employees, contractors, volunteers, managers, administrators, committee members, and Directors and Officers.
 - f) **Respondent** – The Party responding to the complaint.

Purpose

2. Stakeholders are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the CPA’s policies, Bylaws, rules and regulations, and the *Code of Behaviour*. Non-compliance may result in sanctions pursuant to this Policy.

Discipline Chair

3. The Discipline Chair will be a Director of the Board, or an individual appointed by the Board to handle the duties of the Discipline Chair. The Board may choose to appoint three (3) individuals to serve as Discipline Chair and, in this case, decisions of the Discipline Chair will be by majority vote.
4. The Discipline Chair appointed to handle a complaint or incident must be unbiased and not in a conflict of interest situation.

Application of this Policy

5. This Policy applies to all Stakeholders.
6. This Policy applies to matters that may arise during the CPA’s business, activities, and events including, but not limited to travel associated with the CPA’s activities and any meetings.
7. This Policy also applies to Stakeholders’ conduct outside of the CPA’s business, activities, and events when such conduct adversely affects relationships within the CPA, is detrimental to the image and reputation of the CPA, or upon the acceptance of the CPA. Applicability will be determined by the CPA at its sole discretion.
8. An employee of the CPA who is a Respondent will be subject to appropriate disciplinary action per the CPA’s *Human Resources Policy*, as well as the employee’s Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

Reporting a Complaint

9. Any Stakeholder may report an incident or complaint to the Discipline Chair in writing.
10. At the CPA's discretion, the CPA may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the CPA will identify an individual to represent the CPA.

Discipline Chair Responsibilities

11. Upon receipt of a complaint, the Discipline Chair has a responsibility to:
 - a) Determine whether the complaint is within the jurisdiction of this Policy and/or frivolous; or
 - b) Choose which process should be followed, and may use the following examples as a general guideline:
 - a) Process #1 – the Complaint alleges the following incidents:
 - i. Disrespectful, abusive, racist, or sexist comments or behaviour
 - ii. Disrespectful conduct
 - iii. Minor incidents of violence
 - iv. Minor incidents of misconduct that occurs online
 - v. Conflict of interest by a representative of the CPA
 - vi. Conduct contrary to the values of the CPA
 - vii. Non-compliance with the CPA's policies, procedures, rules, or regulations
 - viii. Minor violations of the *Code of Behaviour*
 - b) Process #2 – the Complaint alleges the following incidents:
 - i. Repeated minor incidents
 - ii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
 - iii. Major incidents of violence
 - iv. Pranks, jokes, or other activities that endanger the safety of others
 - v. Conduct that intentionally damages the CPA's image, credibility, or reputation
 - vi. Consistent disregard for the CPA's by-laws, policies, rules, and regulations
 - vii. Major or repeated violations of the *Code of Behaviour*
 - viii. Intentionally damaging the CPA's property or improperly handling the CPA's monies
 - ix. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
 - x. A conviction for any *Criminal Code* offense
 - xi. Any possession or use of banned performance enhancing drugs or methods
12. If the Discipline Chair determines the complaint is outside the jurisdiction of this Policy or frivolous, the complaint will be dismissed immediately.

13. The Discipline Chair's decision to accept or dismiss the complaint may not be appealed.

Process #1: Handled by Discipline Chair

Sanctions

14. Following the determination that the complaint or incident should be handled under Process #1, the Discipline Chair will review the submissions related to the complaint or incident and determine if a sanction should be applied. If a sanction should be applied, the Discipline Chair may apply one or more of the following sanctions:
 - a) Verbal or written reprimand
 - b) Verbal or written apology
 - c) Service or other contribution to the CPA
 - d) Removal of certain privileges
 - e) Suspension from certain events and/or activities
 - f) Suspension from all the CPA's activities for a designated period
 - g) Any other sanction considered appropriate for the offense

15. The Discipline Chair will inform the Respondent of the sanction verbally and in writing, which will take effect immediately.
16. Records of all sanctions will be maintained by the CPA.
17. At their discretion, the Discipline Chair may propose mediation, a negotiated settlement or some other alternative dispute resolution method to resolve the dispute.

Request for Reconsideration

18. The sanction may not be appealed until the completion of a request for reconsideration. However, the Complainant or the Respondent may contest the sanction by submitting a Request for Reconsideration within four (4) days of receiving the sanction. In the Request for Reconsideration, the Complainant or the Respondent must indicate:
 - a) Why the sanction is inappropriate;
 - b) Summary of evidence that the Respondent will provide to support the Respondent's position; and
 - c) What alternative penalty or sanction (if any) would be appropriate
19. Upon receiving a Request for Reconsideration, the Discipline Chair may decide to accept or reject the request.
20. Should the Discipline Chair accept the request for an appropriate sanction, that sanction will take effect immediately.
21. Should the Discipline Chair not accept the request for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

Process #2: Handled by Case Manager

Case Manager

22. Following the determination that the complaint or incident should be handled under Process #2, the CPA will appoint a Case Manager to oversee management and administration of the complaint or incident. The Case Manager should not be in a conflict of interest and should have expertise in dispute resolution matters. Such appointment is not appealable.
23. The Case Manager has a responsibility to:
 - a) Appoint the Discipline Panel, if necessary
 - b) Coordinate all administrative aspects and set timelines
 - c) Provide administrative assistance and logistical support to the Discipline Panel as required
 - d) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

Procedures

24. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.
25. The Case Manager may propose mediation, a negotiated settlement or some other alternative dispute resolution method to resolve the dispute. If the dispute is not resolved, the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a Discipline Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.
26. The Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Discipline Panel deem appropriate in the circumstances, provided that:

- a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
- b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Case Manager, in advance of the hearing
- c) The Parties may engage a representative, advisor, or legal counsel at their own expense
- d) The Discipline Panel may request that any other individual participate and give evidence at the hearing
- e) The Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
- f) The decision will be by a majority vote of the Discipline Panel

27. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

28. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.

29. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the current complaint and will be bound by the decision.

30. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

31. After hearing and/or reviewing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and the CPA. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

Sanctions

32. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:

- a) Verbal or written reprimand
- b) Verbal or written apology
- c) Service or other contribution to the CPA
- d) Removal of certain privileges
- e) Suspension from certain events and/or activities
- f) Suspension from all the CPA's activities for a designated period
- g) Payment of the cost of repairs for property damage
- h) Expulsion from the CPA
- i) Any other sanction considered appropriate for the offense

33. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.

34. Records of all decisions will be maintained by the CPA.

Appeals

35. The decision of the Discipline Panel may be appealed in accordance with the CPA's *Appeal Policy*.

Suspension Pending a Hearing

36. The CPA may determine that an alleged incident is of such seriousness as to warrant suspension of a Stakeholder pending completion of a criminal process, the hearing, or a decision of the Discipline Panel.

Discipline by Regulator

37. A Stakeholder who is a practitioner who is expelled from their regulatory college for serious reasons other than non-payment of fees (such as professional incompetence, misconduct, or malpractice) will be removed as a Member of the CPA at the discretion of the Board (or a committee or individual designated this authority by the Board).

Criminal Convictions

38. A Stakeholder's conviction for a *Criminal Code* offense shall carry a presumptive sanction of permanent ineligibility from participating with the CPA. *Criminal Code* offences may include, but are not limited to

- a) Any child pornography offences
- b) Any sexual offences
- c) Any offence of physical violence
- d) Any offence of assault
- e) Any offence involving trafficking of illegal drugs

Confidentiality

39. The discipline and complaints process is confidential and involves only the Parties, the Case Manager, the Discipline Panel, and any independent advisors to the Discipline Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.

Timelines

40. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Discipline Panel may direct that these timelines be revised.

Records and Distribution of Decisions

41. Other individuals or organizations may be advised of any decisions rendered in accordance with this Policy.

Date Approved: February 26, 2022	Approver: Board of Directors
Date(s) Revised: N/A	Dept. Responsible: Governance

Appendix A – Decision Disclosure Letter (Complaint)

[insert date]

Re: CPA Complaint Decision

In [month year], the CPA received a complaint naming [Respondent's Name(s)]

The CPA addressed the complaint in a procedurally fair manner per its *Discipline & Complaints Policy*. A [insert title of Panel] appointed to hear the case found that the [Respondent's Name(s)] breached several sections of the *Code of Behaviour* and [insert other policies, if applicable].

The [insert title of Panel] decided the following sanctions:

- [insert all sanctions]

The details of the complaint and the dispute resolution process are confidential pursuant to the *Confidentiality Policy* and *Privacy Policy*.

The Panel's decision is subject to appeal per the *Appeals Policy*.

[insert text re: if the Respondents have completed or complied with the sanction].

[insert name, position]

Canadian Physiotherapy Association