

# Chiropractic Association of Ireland

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## Disciplinary Code and Procedure

### A Definitions

Words or phrases defined in the Constitution, Articles of Association or Code of Ethics of the Association shall have the same meaning in these procedures.

“The code” means this code of disciplinary procedure.

“CAI Code of Ethics” means the CAI Code of Ethics

Unless otherwise indicated, “Committee” means the Disciplinary Committee of the CAI.

“The Association” means the Chiropractic Association of Ireland (CAI).

“The Chairman” means the member of the Disciplinary Committee chosen by it as chairman.

“The Ombudsman” means the Ombudsman of the association.

“The Executive” means the Executive Council of the association.

“The Appeals Board” means the body set up under the Code to hear appeals from decisions of the Committee.

“The Administrator” will mean the Administrator of the Association

“Misconduct” means conduct by a member which is contrary to the provisions of the Constitution, Codes or Guidelines of the Association.

“Complaint” means a complaint alleging that a member of the CAI has been guilty of misconduct.

“The complainant” means the body or person by whom a complaint against a member is made.

“The respondent” means the member against whom a complaint is made.

“The appellant” means any person who appeals to the Appeals Board.

“Party” means any party to any proceedings under the Code.

“The Council” means the Executive Council of the association

Where the context so requires it any reference in these procedures to the masculine shall also include the feminine.

## **B Ombudsman**

1. The Ombudsman shall undertake to investigate, mediate and rule on ethical or disciplinary matters when the Executive or a member requests it.
2. The Ombudsman shall consider and rule on complaints about a member's practice as a chiropractor.
3. The Ombudsman shall answer queries about good chiropractic practice when the council or a member requests it.
4. The Ombudsman shall consider and rule on complaints about a member's practice as a chiropractor.
5. The Ombudsman shall investigate any breach of the Code of Ethics which comes to its attention and decide what, if any action should be taken.
6. The Ombudsman shall be a member in good standing in the Chiropractic Association with at least 5 years experience working in Ireland. He/she shall be voted into the 2 year position by the members attending the Annual General Meeting.

## **C Procedure**

1. Issues for consideration under the disciplinary procedures can come from various sources including but not limited to: patients, members of the public, other health and social care professionals, legal professionals, members of the Garda Síochána or members of the CAI.

A member of the CAI, who is aware of a breach of the Code of Ethics by a fellow member, may, if he/she thinks appropriate, endeavour to remedy it first by a personal approach. If this fails or he/she does not consider it appropriate to make such approach, he/she should report the matter to the Ombudsman.

2. Records are held in accordance with best practice of the Data Protection Acts 1988 and 2003.
3. The procedure which the Ombudsman follows is:
  - a. Receive all details regarding allegations of misconduct and complaints, written and verbal, from the CAI Administrator or however they were made known, and ensure they are investigated and resolved. He must make notes of main points of consultations or decisions made,
  - b. In the instance of multiple complaints from the complainant, a maximum of three complaints may be lodged at one time other complaints may be lodged after the complaints procedure has been exhausted for the original complaints.

- c. Contact the complainant.
  - i. The complainant needs to be informed that all complaints need to be in writing, dated and signed. The CAI requests that the complainant tries to limit the length of a complaint to 1500 words; a sample format may be issued for the complainant to follow. The complainant also needs to be informed that any documentation sent to the CAI will be made available to the respondent and if need be, to any appeal committee in the future. Likewise the complainant will be made privy to the response from the respondent.
  - ii. The complainant will need to sign an authorization allowing the member to disclose information which may include patient records. A separate authorization may be necessary allowing the Ombudsman to request information from other individuals which may include but not limited to: the patients GP, Physiotherapist.
  - iii. The complainant shall be informed of the appeal process.
- d. Contact the Respondent
  - i. Contact to the respondent shall only be in writing.
  - ii. Supply the respondent the details of the complaint along with any questions the Ombudsman may have. Request an explanation with supporting evidence if any to be delivered by 30 days. The respondent is to be informed that any documentation sent to the CAI will be made available to the complainant and if need be, to any appeal committee in the future.
  - iii. The respondent will be asked for names and addresses of individuals that worked in the office during the time the patient attended; if the Ombudsman feels it would be pertinent. The principle Chiropractor will need to be contacted regardless of her attendance in the office.
  - iv. The respondent shall be informed of the appeal process.
- e. The Ombudsman will research the complaint which may include returning contact with each member involved and others as he/she deems fit.
- f. The Ombudsman may deal with the complaint in one or more of the following ways:
  - i. Take no further action.
  - ii. Admonish the member, which may include, but is not limited to: advice on attending courses fitting to the cause of the complaint.
  - iii. Direct the member to pay a fine of up to €1000.00 to a charitable organization to be named by the complainant.
  - iv. Refer the complaint to the Disciplinary Committee.

- g. The Ombudsman will notify the parties of his/her decision in writing. The parties are also to be informed that they have the right to appeal the decision. Such appeal needs to be lodged in writing by 30 days from the date of the decision.
- h. If either party lodges an appeal within the 30 days the Ombudsman will supply the Chairman of the Disciplinary Committee with all documents procured during the investigation which shall also include his/her own notes (typed) within 30 days from the request of the appeal. The Ombudsman will not discuss the case with anyone on the Disciplinary Committee
- i. If either party request an appeal to the Disciplinary Committee the Ombudsman shall do so and any action taken in "f" above shall have no further effect.

#### **D Disciplinary Committee**

1. The disciplinary committee is formed as a defined special committee of the CAI; Disciplinary Committee shall consist of four (4) members. The President of the Association, who shall also be chairman and the Secretary of the Association, shall be two of the committee members. If either of the members of the executive is unable to fulfil their role another member of the executive may step in. Two further members shall be elected by the Executive. Members of the Disciplinary Committee cannot have been disciplined in a serious breach of ethical guidelines or Association regulations, and must have a minimum of five years in practice.
2. The disciplinary committee shall consider and rule on complaints about a member's practice as a chiropractor.
3. The disciplinary committee shall investigate any breach of the Code of Ethics which comes to its attention and decide what, if any action should be taken.
4. If any member of the Disciplinary Committee has a conflict of interest in the case it must be declared and they must step down from matters arising in that case. The executive shall co-opt a replacement.

#### **E Disciplinary Committee Procedure**

1. Written statements from each party will be supplied to the Chairman of the Disciplinary Committee from the Ombudsman as stated above.
2. The Chairman of the Disciplinary Committee is responsible for the correspondence of the committee. Correspondence addressed to the disciplinary committee is to be copied and distributed to the other members of the committee
3. The Disciplinary Committee will review the supplied documentation and request further information if they determine it necessary; allowing the party indicated 30 days to supply same.
4. The Disciplinary Committee will convene oral hearings to determine the legitimacy of the complaint. The hearings must be convened within 90 days of the last documents supplied to the Disciplinary Committee.
5. The disciplinary committee can request legal advice on cases where it is considered appropriate.

6. Decisions arising from the Disciplinary Committee shall be decided by a majority vote, and in the case of any equality of votes the chairman shall have a second or casting vote.
7. The Committee shall determine if any breach of the Code of Ethics has occurred and notify both parties in writing of its ruling.
8. Either the complainant or the respondent may challenge a member on the Disciplinary Committee; however they must have just cause. The executive council shall appoint a temporary replacement.

## **F Disciplinary Action**

1. The options open to the disciplinary committee in making a ruling are:
  - a. Make recommendations to the member to improve his conduct, professionalism, record keeping or clinical practice.
  - b. Admonish the member for his failure of conduct, behaviour or professionalism.
  - c. Suspension from the association for three months. This suspension will be reported to the insurance company providing liability insurance for CAI members, regardless of whether the member is insured with insurance company. Companies covering CAI services e.g. VHI, Aviva, Irish Life etc. will also be informed.
  - d. Expulsion from the CAI. Before a member is expelled they have an automatic right to appeal to the Executive. If a member is expelled from the CAI, the CAI reserves the right to make such expulsion public knowledge.
2. The disciplinary committee must inform both the member and the Executive in writing of its decision.
3. If disciplinary action is recommended this will be documented in the member's file. If suspension or expulsion is indicated; the insurance company providing insurance cover for members will be notified.

## **G Rulings**

The committee will decide which complaints have been proved to its satisfaction and will inform the parties of its decision and the reasons for it in writing.

1. Any ruling by the disciplinary committee shall be in writing, dated and signed by the Chairman. The ruling must include an account of the particulars of the case and the reasoning behind the conclusions. In a majority decision, the dissenting argument must be included.
2. The ruling can be appealed within thirty (30) days of the date of the ruling being given. Appeal is made to the Board of Appeal appointed by the Executive.
3. If either party request an appeal; the Disciplinary Committee shall grant it and notify the President to convene a Board of Appeal. Any action taken in "F" above shall have no further effect.

4. The Executive can refer the case back to the Disciplinary committee only if new substantial evidence has been produced. Otherwise a board of appeal must be convened as per article 2, paragraph 24 of the CAI Constitution.

## **H Appeals Board**

1. The president of the association will chair meetings of the appeals board
2. The appeals board will be made up of three individuals, members with at least 5 years experience in Ireland and are not members of the Executive Council or disciplinary committee are eligible. The members of the appeals board are to be named by the executive when an appeal board is necessary.
3. The appeals board will conduct meetings if all three members participate.
4. The procedure to be followed by the appeals board will be at the discretion of the chairman, including adjourning or postponing any proceedings. The procedure will in all cases be notified to the parties to the appeal and to the Ombudsman.
5. Meetings of the appeals board will take place in private with minutes taken.
6. The appeals board may at any stage take legal advice on any matter.
7. The appeals board may refer the complaint back to the committee for re-hearing, or confirm, vary or discharge any of the decisions of the committee in respect of it, or make an order for costs of the appeal to be paid by the unsuccessful appellant, who is a member of the CAI.
8. Any decision of the board of appeal is final.
9. The chair of the appeals board must send written notice of the decision of the appeals board to all parties involved within 30 days.
10. Either the complainant or the respondent may challenge a member on the Disciplinary Committee; however they must have just cause. The executive council shall appoint a temporary replacement.

## **I Application for restoration of membership**

1. Where a respondent has been expelled from membership of the CAI by order of the disciplinary committee or the appeals board, he may apply not earlier than 6 months after the date of the order for restoration of membership.
2. The application must be made to the administrator in writing with any signed written statements and supporting documents as the applicant wishes to rely on in support of his application.
3. The applicant is to meet the executive face to face
4. The Executive by majority vote of those present at the next Executive Council meeting will then decide whether to restore membership with stipulations if indicated. The administrator will inform the applicant in writing of the Executive's decision.

## **J Other**

1. The involved parties will incur their own expenses in connection with any case.
2. Members under investigation have no loss of any rights, benefits or privileges as members until such time as any judgement deems otherwise.
3. The Ombudsman, Members of the disciplinary committee and board of appeal have obligations to respect the confidentiality of any information they are presented with during a case.
4. Rulings and cases which have a fundamental bearing on principles of interpretation of ethical guidelines or the principles of good chiropractic practice, should be presented anonymously by the Ombudsman at the next AGM.
5. Should a member of the disciplinary committee be himself the subject of a disciplinary investigation, he shall resign his post on the committee until the matter is resolved. His position will be filled by another member chosen by the Executive. Should the investigated member then be found in breach of the Code of Ethics, his resignation of committee member shall be permanent. This also applies to members of the Executive.
6. Other conflicts of interest, such as a member working for another member involved in a complaint, must be declared and the appropriate action taken e.g. temporary resignation from the disciplinary committee.
7. Any disciplinary action due to a final ruling of the appeal committee or ruling by the Ombudsman or Disciplinary Committee that is not appealed in the stated time frame is not bound by confidentiality. It may be disclosed to members of the public, other members of the CAI or international agencies or individuals.
8. The Ombudsman, Disciplinary Committee and Board of Appeal are to be notified of any and all prior complaints about a member when there is a current complaint. Each complaint will be handled individually.
9. The executive is to be made aware of the ruling at each stage of the complaint/appeal process. Sanctions may be taken on a member that repeatedly fails to adhere to the Code of Ethics or Standards of Practice of the Association

Appendix 1. Relevant articles of the current CAI constitution:

Article 8:11

The Executive may appoint such special or standing committees as may be deemed necessary and shall determine their terms of reference, powers, duration and composition. The disciplinary committee shall not be such a committee. All acts and proceedings of such special or standing committees shall be reported back to the Executive as soon as possible.

Article 11: Disciplinary Procedures

1. Each member of the Association shall be subject to the Disciplinary Procedure and to any penalty imposed on him thereunder and the Disciplinary Procedure shall be deemed to be part of and have the force of the Constitution and Articles of Association
2. The Disciplinary Procedure shall be conducted by a committee known as the Disciplinary Committee.
3. The Disciplinary Committee shall consist of four (4) members. The President of the CAI, (who shall also be chairman) and the Secretary of the Association; subject to availability. If either of the members of the executive are unable to fulfil their role another member of the executive may step in. Two further members shall be elected by the Executive. Members of the Disciplinary Committee cannot have been disciplined in a serious breach of ethical guidelines or Association regulations, and must have a minimum of five years in practice. The Executive retain the right to include lay members who provide specialist expertise if deemed necessary
4. Decisions arising from the Disciplinary Committee shall be decided by a majority vote, and in the case of any equality of votes the chairman shall have a second or casting vote.

Appendix 2. Administrator Procedure for Complaints.

1. The CAI administrator is generally the initial contact for any complainant. The CAI administrator will where possible confirm that the chiropractor is a member of the CAI, A detailed administrative operating procedure for handling and documenting complaints is held by the CAI administrator. Records of complaints are held in confidential files by the CAI administrator.
2. Complaints may be received in the following ways by the CAI Administrator:
  - a. By telephone at the CAI office.
  - b. In writing at the CAI office.
  - c. By e-mail

In normal circumstances a complainant who does not manage to speak to the CAI Administrator directly on first contact can expect to be contacted back within 2 working days (48 hours) of their contact.