



## **DISCIPLINARY PROCEDURES FOR THE CODE OF PROFESSIONAL CONDUCT FOR IBCLCS FOR THE INTERNATIONAL BOARD OF LACTATION CONSULTANT EXAMINERS (IBLCE)**

### **I. Introduction**

(a) The International Board of Lactation Consultant Examiners ("IBLCE") was established as a certification body for the evaluation of individuals who wish to enter, continue and/or advance in the lactation consultant profession through the certification process.

(b) Those certified (referred to as "certificants") have successfully completed the required certification process, which includes meeting certain educational requirements, passing a certification examination, verifying professional knowledge, and demonstrating experience in the profession. IBLCE certificants subscribe to a Code of Professional Conduct established by IBLCE.

(c) Successful candidates are granted certification by IBLCE and may hold themselves out to the public as such. In order to maintain and enhance the credibility of the IBLCE certification program, IBLCE has adopted these Procedures to allow consumers and others to bring complaints concerning certificants' conduct to IBLCE. IBLCE may privately reprimand, publicly reprimand, or suspend the certificant, or revoke the certificant's certification for violation of the Code of Professional Conduct.

(d) IBLCE will ensure that information concerning the complaint process as developed by IBLCE will be available to consumers and the public at appropriate locations. These Procedures apply to all complaints or inquiries received about an IBLCE certificant.

(e) It should be emphasized that actions taken under these Procedures do not constitute enforcement of the law, although referral to appropriate government agencies may be made about the conduct of the certificant in appropriate situations. Individuals bringing complaints are not entitled to any relief or damages by virtue of this process, although they will receive notice of any public action taken.

### **II. IBLCE**

(a) IBLCE is responsible for the development and administration of the IBLCE certification program and for the implementation of these Procedures. Pursuant to the IBLCE Bylaws, IBLCE has a standing Ethics & Discipline Committee. The Chair of the Board of Directors appoints the Chair of the Ethics & Discipline Committee. The Chair of the IBLCE Board of Directors is responsible for ensuring that these procedures are implemented and followed. The Chair of the IBLCE Board of Directors will not serve on any Review Subcommittee, Ethics & Disciplinary Panel or Appeal Board referred to in these Procedures.

(b) All Ethics & Discipline Committee members, IBLCE Board members, IBLCE staff, and other individuals engaged in investigations or decisions with respect to any complaint under these Procedures

shall be indemnified and defended by IBLCE against liability arising from IBLCE related activities to the extent provided by law.

### **III. Complaints**

(a) Complaints must be signed, and valid contact information for the submitter furnished, and submitted in writing addressed to the Executive Offices of the IBLCE International Office, 10301 Democracy Lane, Suite 400, Fairfax, Virginia, 22030, USA and marked "Personal and Confidential." Inquiries or submissions other than complaints may be reviewed and handled by IBLCE at its discretion. During the course of the disciplinary process, a complainant's identity may become known to the IBCLC who is the subject of the complaint.

(b) IBLCE may self-initiate complaints on the basis of anonymous complaints or third-party sourced information only when the allegations pertain to egregious conduct such as abuse or significant bodily harm. All other anonymous complaints will not be entertained by IBLCE.

(c) Upon receipt and preliminary review of a submission involving the IBLCE certification program or the Code of Professional Conduct, the Ethics & Discipline Committee Chair may conclude, in the Ethics & Discipline Committee Chair's sole discretion, that the submission: (1) contains unreliable or insufficient information, or (2) is patently frivolous or inconsequential. In such cases, the Ethics & Discipline Committee Chair may determine that the submission does not constitute a valid and actionable complaint that would justify bringing it before IBLCE for investigation and a determination of whether there has been a violation of the Code of Professional Conduct. If so, the submission is disposed of by notice from the Ethics & Discipline Committee Chair to its submitter, if the submitter is identified. All such preliminary dispositions by the Ethics & Discipline Committee Chair are reported to the Ethics & Discipline Committee and to the Board of Directors. In the event that the Ethics & Discipline Committee Chair has any personal involvement or conflict of interest in the matter, the Chair of the Board of Directors shall appoint another member of the Ethics & Discipline Committee to act as Chair for the particular matter. In the event the Chair of the Board of Directors has any personal involvement or conflict of interest in the matter, the Chair-Elect or other officer shall make such an appointment.

(d) If a submission is deemed by the Ethics & Discipline Committee Chair, or the alternate, to be a valid and actionable complaint, the Ethics & Discipline Committee Chair, or alternate, shall see that written notice is provided to the certificant whose conduct has been called into question. The notice from the Ethics & Discipline Committee Chair shall include a copy of these Procedures, a summary of the complaint, list the members of the Committee, and provide that the certificant shall have thirty (30) days from receipt of the notice to submit in writing any information relating to the complaint that the certificant may want to present to the Committee. The Ethics & Discipline Committee Chair, or alternate, also shall ensure that the individual submitting the complaint receives notice that the complaint is being reviewed by IBLCE.

### **IV. Review of Complaint**

(a) For each submission involving an alleged violation of the Code of Professional Conduct that the Ethics & Discipline Committee Chair, or alternate, concludes is a valid and actionable complaint, the Ethics & Discipline Committee Chair, or alternate, authorizes an investigation into its specific facts or circumstances to whatever extent is necessary in order to clarify, expand, or corroborate the information provided by the submitter. The Ethics & Discipline Committee Chair, or alternate, appoints a Review Subcommittee of three members of the Ethics & Discipline Committee, to investigate and make

an appropriate determination with respect to each such valid and actionable complaint; the Review Subcommittee may review one or more such complaints as determined by the Chair and is not limited to review of one complaint. No one with any personal involvement or conflict of interest may serve on the Review Subcommittee. The Review Subcommittee initially determines whether it is appropriate to review the complaint under these Procedures or whether the matter should be referred to another entity engaged in the administration of law. The Review Subcommittee may be assisted in the conduct of its investigation by the IBLCE staff or legal counsel. The Ethics & Discipline Committee Chair, or alternate, exercises general supervision over all investigations.

(b) Both the individual submitting the complaint, and the certificant who is the subject of the investigation, or his or her employer, may be contacted for additional information with respect to the complaint. The time for providing such additional information shall be established by the Review Subcommittee. The Review Subcommittee, or the IBLCE staff on the Review Subcommittee's behalf, may at its discretion contact such other individuals who may have knowledge of the facts and circumstances surrounding the complaint.

(c) All investigations and deliberations of the Review Subcommittee, the Ethics & Disciplinary Panel and the Appeal Board are conducted in confidence, with all written communications sealed and marked "Personal and Confidential," and they are conducted objectively, without any indication of prejudgment. An investigation may be directed toward any aspect of a complaint which is relevant or potentially relevant.

(d) Members of the Review Subcommittee shall be reimbursed for reasonable expenses incurred in connection with the activities of the Committee.

## **V. Determination of Violation**

(a) Upon completion of an investigation, the Review Subcommittee recommends whether the Ethics & Discipline Committee should make a determination that there has been a violation of the Code of Professional Conduct. When the Review Subcommittee recommends that the Ethics & Discipline Committee find a violation, the Review Subcommittee also recommends imposition of an appropriate sanction. If the Review Subcommittee so recommends, a proposed determination with a proposed sanction is prepared and is presented by a representative of the Review Subcommittee to the Ethics & Discipline Committee Chair, or alternate, along with the record of the Review Subcommittee's investigation. If the Review Subcommittee recommends against a determination that a violation has occurred, the complaint is dismissed with notice to the certificant and the individual or entity who submitted the complaint.

(b) Those members of the Ethics & Discipline Committee who were not part of the Review Subcommittee, hereinafter referred to the Ethics & Disciplinary Panel, review the recommendation of the Review Subcommittee based upon the record of the investigation. The Panel may review any relevant information and may meet in person or by conference call to make a determination. There is no formal hearing or trial-type proceeding, no hearing or witnesses, and the rules of evidence are not applicable. The Panel may at its discretion permit an informal oral statement to be made by the certificant whose conduct is at issue by conference call. Legal counsel is not expected to participate in the process, unless requested by the appellant and approved by the Ethics & Disciplinary Panel. IBLCE and the Ethics & Disciplinary Panel may consult IBLCE legal counsel. The Ethics & Disciplinary Panel shall provide its determination in writing to the certificant whose conduct is at issue, and shall explain the Panel's findings and identify which provisions of the Code of Professional Conduct have been violated.

The Panel shall also provide a copy of its written determination to the Board Chair, or Chair-Elect or other officer where the Chair has any personal involvement or conflict of interest, and Ethics & Discipline Committee Chair.

(c) No one with any personal involvement or conflict of interest may serve on the Ethics & Disciplinary Panel. The Ethics & Disciplinary Panel may accept, reject, or modify the Review Subcommittee's recommendation, either with respect to the determination of a violation or the recommended sanction to be imposed. If the Ethics & Disciplinary Panel makes a determination that a violation has occurred, this determination and the imposition of a sanction are promulgated by written notice to the certificant, who is also advised in writing of his or her appeal rights as set forth in these Procedures.

(d) In certain circumstances, the members of the Ethics & Disciplinary Panel may consider a recommendation from the Review Subcommittee that the certificant who has violated the Code of Professional Conduct should be offered an opportunity to submit a written assurance that the conduct in question has been terminated and will not recur. The decision of the Review Subcommittee to make such a recommendation, and of the members of the Ethics & Disciplinary Panel to accept it, are within their respective discretionary powers. If such an offer is extended, the certificant at issue must submit the required written assurance within thirty (30) days of receipt of the offer, and the assurance must be submitted in terms that are acceptable to the Ethics & Disciplinary Panel.

## **VI. Sanctions**

(a) Any of the following sanctions may be imposed by the Ethics & Disciplinary Panel upon a certificant whom the Ethics & Disciplinary Panel has determined to have violated the Code of Professional Conduct, although the sanction applied must reasonably relate to the nature and severity of the violation, focusing on reformation of the conduct of the member and deterrence of similar conduct by others:

- (1) Private or public written reprimand to the certificant;
- (2) Suspension of the certificant for a designated period; or
- (3) Revocation of the certificant's certification.

A decision regarding sanctions will be made within ninety (90) days of any determination by the Ethics & Disciplinary Panel that a certificant has violated the Code of Professional Conduct.

For each of the public sanctions, a summary of the determination and the sanction will be published by IBLCE in such media as determined by the Panel and notice of the action taken to the submitter of the complaint. Any sanction and publication will not be made or taken until the appeal period has expired or the appeal determined, as provided in these Procedures.

(b) Certificants who have had their certification revoked may not be considered for IBLCE certification in the future. If certification is revoked, any and all certificates or other materials requested by IBLCE must be returned promptly to IBLCE.

## **VII. Appeal**

(a) Within thirty (30) days from receipt of notice of a determination by the Ethics & Disciplinary Panel that a certificant violated the Code of Professional Conduct, the affected certificant may submit to the Chair of the IBLCE Board of Directors in writing a request for an appeal and identify the grounds for appeal consistent with (b) below. The letter should be addressed to Chair, IBLCE Board of Directors, 10301 Democracy Lane, Suite 400, Fairfax, Virginia, 22030, USA and marked "Personal and Confidential." Upon receipt of a request for appeal, the Board Chair, or Chair-Elect or other officer where the Chair has any personal involvement or conflict of interest, establishes an appellate body consisting of three members of the IBLCE Board of Directors, none of whom were members of the Review Subcommittee or the Ethics & Disciplinary Panel for the same matter. No one with any personal involvement or conflict of interest may serve on the Appeal Board. Members of the Appeal Board shall be reimbursed for reasonable expenses incurred in connection with the activities of the Board.

(b) The Appeal Board may only review whether the determination by the Ethics & Disciplinary Panel of a violation of the Code of Professional Conduct was inappropriate because of: (1) material errors of fact, or (2) failure of the Review Subcommittee or the Ethics & Disciplinary Panel to conform to published criteria or procedures. Only facts and conditions up to and including the time of the Ethics & Disciplinary Panel's determination as represented by facts known to the Ethics & Disciplinary Panel are considered during an appeal. The appeal shall not include a hearing or any similar trial-type proceeding, but the Appeal Board may at its discretion permit an informal oral statement to be made by the appellant by conference call. Written appellate submissions and any reply submissions may be made by authorized representatives of the certificant and of the Ethics & Disciplinary Panel. Submissions are made according to whatever schedule is reasonably established by the Appeal Board. Legal counsel is not expected to participate in the appeal process, unless requested by the appellant and approved by the Appeal Board. IBLCE and the Appeal Board may consult IBLCE legal counsel.

(c) The Appeal Board conducts and completes the appeal within ninety (90) days after receipt of the request for an appeal. The decision of the Appeal Board either affirms, modifies, or overrules the determination of the Ethics & Disciplinary Panel and the sanction. The decision of the Appeal Board, including a statement of the reasons for the decision, is reported to the Chair, or Chair-Elect or other officer where the Chair has any personal involvement or conflict of interest, and the Ethics & Discipline Committee Chair. The Appeal Board decision is binding upon IBLCE, the certificant who is subject to the determination, and all other persons.

## **VIII. Resignation**

If a certificant who is the subject of a complaint voluntarily surrenders his or her IBLCE certification at any time during the pendency of a complaint under these Procedures, the complaint is dismissed without any further action by the Review Subcommittee, the Ethics & Disciplinary Panel, or the Appeal Board established after an appeal. The entire record is sealed and the individual may not reapply for certification by IBLCE. However, IBLCE may authorize the Ethics & Discipline Committee Chair, or alternate, to communicate the fact and date of resignation, and the fact and general nature of the complaint which was pending at the time of the resignation, to or at the request of a government entity engaged in the administration of law. Similarly, in the event of such resignation, the person or entity who submitted the complaint are notified of the fact and date of resignation and that IBLCE has dismissed the complaint as a result.

*These Procedures are designed to resolve only complaints concerning potential unethical conduct of an IBCLC within the meaning of the Code of Professional Conduct (the "Code"). These Procedures are not applicable to disputes of a commercial or personal nature, such as claims that an IBCLC's conduct amounted to defamation or disparagement, or to differences in professional opinion. Such matters should be resolved without resorting to these Procedures. Only complaints where the major component rises to the level of unethical conduct under the Code will be considered actionable by IBLCE under these Procedures.*