

# CANADIAN CHIROPRACTIC EXAMINING BOARD

## APPEAL PROCEDURE POLICY

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November 2016

### Section 1: Interpretation

1.01 In this document, unless the context otherwise stipulates, the following definitions shall apply:

- a. "CCEB" means the Canadian Chiropractic Examining Board;
- b. "Candidate" means a student or graduated chiropractor who desires to write any or all of the CCEB Examinations;
- c. "CEO" means the Chief Executive Officer of the CCEB;
- d. "Committee" means the Appeal Committee of the CCEB;
- e. "Day" means business day;
- f. "Examination" means an examination held by the CCEB;
- g. "Panel" means the Appeal Panel of the CCEB;
- h. "Request for Exemption" means the written document filed by the Candidate to the CEO;

### Section 2: Definition of Extraordinary Circumstances

Because of extraordinary circumstances a Candidate may wish to request an exemption to a policy or procedure.

2.01 Extraordinary circumstances shall be defined as unanticipated situations outside of the control of the Candidate, relating to the examination policies and procedures, which are sufficient to support the fairness of exempting any particular Candidate from the policies of the CCEB as they are applied to all other candidates.

### Section 3: Initial Request for Exemption

3.01 Level One: CEO Investigation of Request for Exemption

3.01.01 Upon a Candidate contacting the CCEB Office with respect to any and all requests for exemption from a CCEB policy the enquiry shall be considered as a Request for Exemption and the CEO shall be at liberty to consider the circumstances relating to the request and if so required by the CEO, the Candidate shall be required to file a written Request for Consideration within 48 hours of the verbal contact with the CEO and no later than ten (10) days of when the extraordinary circumstances arose as set out in Section 2.01 having regard to the time constraints involved in administering any appeal and provided that such time shall be extended if the Candidate is reasonably prohibited from contacting the CCEB office. Prohibition shall usually and customarily involve only substantial physical or mental impairments suffered by the Candidate.

3.01.02 If and when the Candidate submits a Request for Exemption within time prescribed above, the CEO shall consider the validity of the request having regard to the information and documentation provided by the Candidate, as referred to in Section 2.01 and information available to the CEO. The CEO may rely solely upon the documentation initially provided by the Candidate, or at his/her sole discretion, request additional documentation from the Candidate or any person having relevant information concerning the request.

3.01.03 The CEO shall, within thirty (30) days of the receipt of the Request for Exemption to the CEO referred to in Section 3.01.01, notify the Candidate that the Request for Exemption to the CEO has been approved or rejected.

#### **Section 4: Appeal Procedure**

##### **4.01 Level Two: Appeal Committee**

4.01.01 The Candidate may appeal the Level One Request for Exemption to CEO decision by submitting a Notice of Appeal, in writing, to the Appeal Committee, through the CEO, including a response to the CEO's decision together with the required fee, within ten (10) days of the receiving the decision rendered by the CEO (3.01.03).

4.01.02 The Committee shall be composed of three (3) persons as follows:

- i. one (1) member of the Board of Governors of the CCEB who shall act as Chair and
- ii. two (2) licensed Canadian Chiropractors appointed by the Chair.

4.01.03 In the event that any member of the Committee shall be unable to continue to sit on the Committee, the appeal shall continue, with no less than two (2) members of the Committee. Provided that the appeal has not proceeded to adjudication, an alternative member may be appointed by the Chair of the Committee.

4.01.04 A simple majority of the members of the Committee shall determine all issues within its authority.

4.01.05 The Committee shall only consider Appeals referred to it, in writing, through the CEO.

4.01.06 For the purposes of considering the Appeal, the Committee shall review the following:

- a. the Candidate's Formal Request for Exemption to the CEO;
- b. the decision of the CEO and the reasons therefor;
- c. the Candidate's Notice of Appeal to the Committee;
- d. the submission of the CEO to the Committee;
- e. the Candidate's response, if any, to the documentation received by the Committee
- f. any other material, documentation or information which the Committee determines necessary, relevant and appropriate.

4.01.07 The Chair of the Committee shall, through the CEO, within five (5) days of receiving the Notice of Appeal, forward to the Candidate by email, a request for any further information or supporting documentation.

4.01.08 The Candidate shall have the opportunity to reply, in writing, within five (5) days to the documentation received by the Committee.

4.01.09 The Chair of the Committee shall hold a meeting to consider the appeal within twenty (20) days of receiving final documentation. CCEB Legal Counsel may provide procedural advice to the Committee prior to their deliberations but will not be in attendance during any such deliberations.

4.01.10 Meetings of the Committee may be held in person, by telephone or video conference, at the sole discretion of the Chair.

- 4.01.11 The Chair of the Committee, shall within five (5) days of a decision being rendered, notify the CEO as to the decision of the Committee and the reasons therefor.
- 4.01.12 The CEO shall within five (5) days after the receipt of the Committee's decision, notify the Candidate and forward a copy of the Committee decision and the reasons therefor, by email.
- 4.02 Level Three: Appeal Panel
- 4.02.01 The Candidate may appeal the Level Two Appeal Committee decision by submitting a Notice of Appeal, in writing, to the Appeal Panel , through the CEO, including a response to the Committee's decision together with the required fee, within ten (10) days of receiving the decision rendered by the Committee.
- 4.02.02 The Panel shall be composed of five (5) persons as follows:
- i. one (1) member of the Board of Governors of the CCEB who shall act as Chair
  - ii. three (3) licensed Canadian Chiropractors appointed by the Chair
  - iii. one (1) member who shall be a non-chiropractor.
- 4.02.03 No member of the Appeal Committee shall sit on the Appeal Panel.
- 4.02.04 In the event that any member of the Panel shall be unable to continue to sit on the Panel, the appeal shall continue, with no less than three (3) members of the Panel hearing the appeal. Provided that the appeal has not proceeded to adjudication, an alternative member may be appointed by the Chair of the Panel.
- 4.02.05 A simple majority of the members of the Panel shall determine all issues within its authority.
- 4.02.06 The Panel shall only consider appeals referred to it, in writing, through the CEO.
- 4.02.07 For the purposes of considering the Appeal, the Panel shall review the following:
- a. the Candidate's Formal Request for Exemption to the CEO;
  - b. the decisions of the CEO and the reasons therefor;
  - c. the Candidate's Notice of Appeal to the Committee;
  - d. the decisions of the Committee and the reasons therefor;
  - e. the Candidate's Notice of Appeal to the Panel;
  - f. the statement of the CEO to the Panel;
  - g. any other material, documentation or information which the Committee determines necessary, relevant and appropriate.
- 4.02.08 The Chair of the Panel shall, through the CEO, within five (5) days of receiving the Notice of Appeal, forward to the Candidate by email, a request for any further information or supporting documentation.
- 4.02.09 The Candidate shall have the opportunity to reply, in writing, within five (5) days to the documentation received by the Panel.
- 4.02.10 The Chair of the Panel shall hold a meeting to consider the appeal within twenty (20) days of receiving a final documentation. The Candidate and the CEO shall be in attendance together with such other persons as shall be required by them to provide evidence with respect to the Appeal. All persons who will be in attendance must provide written documentation to the CEO confirming that they will be at the meeting.
- 4.02.11 Meetings of the Panel may be held in person, by telephone or video conference.

4.02.12 The Appeal Panel, in making its decision shall:

- a. take notice of facts that may be judicially noticed;
- b. take notice of any generally recognized, scientific or technical facts; information or opinions within its scientific or specialized knowledge;
- c. admit, upon the Panel being satisfied as to its authenticity, any documentation or other thing.

4.02.13 The Chair of the Panel shall within five (5) days of a decision being rendered notify the CEO as to the decision of the Panel and the reasons therefor.

4.02.14 The CEO shall within five (5) days after the receipt of the Panel's decision, notify the Candidate and/or their representative and forward a copy of the Panel's decision and the reasons therefor, by email.

### **Section 5: Fees for Appeal**

5.01 There is no fee for the Level One Request for Exemption submitted to the CEO for investigation.

5.02 Should the Candidate request a Level Two Appeal, the fee of \$250.00 CAD must accompany the Notice of Appeal directed to the Appeal Committee through the CEO.

5.03 Should the Candidate request a Level Three Appeal, the fee of \$500.00 CAD must accompany the Notice of Appeal directed to the Appeal Panel through the CEO.

### **Section 6: Miscellaneous Matters**

6.01 All appeals shall be set out in writing and reference the fact that the correspondence or documentation relates to an Appeal but need not reference the term "Notice of Appeal", detailing the nature of the appeal and all particulars necessary to sufficiently allow the appeal to be adjudicated, together with the applicable fee.

6.02 Under no circumstances shall an appeal or any process, information or communication relating thereto be done verbally or other than in writing, save as relates to the Level One – Request for Exemption to CEO which may involve an initial telephone notification by a candidate which must be followed by written notification within forty-eight (48) hours. Any Request for Exemption and decision must be set out in writing to be valid and binding upon the Candidate and the CCEB.

6.03.01 The CEO, the Chair of the Appeal Committee and the Chair of the Appeal Panel shall be entitled to obtain such legal advice and representation as they deem appropriate, from time to time.

6.03.02 The Candidate shall be entitled to obtain legal advice or representation as he or she may so desire, at their own expense. The CCEB is not responsible for any costs related to the appeal that may be incurred by the Candidate. A failure by the Candidate to seek or obtain legal advice or representation, for any portion or portions of an appeal shall not be grounds for further appeal.

6.04 Any waiver of procedure by the CEO or any member of the Committee or Panel shall not be deemed to be a waiver of any further procedural requirements.

- 6.05 The Committee and Panel shall not be required to keep a detailed account of testimony or of its proceedings, but shall compile a record of proceedings in which adjudication has been determined, which shall include:
- a. any notice of appeal;
  - b. any documentary evidence filed with the CEO, the Committee and the Panel;
  - c. the decisions, and the reasons therefor, of the CEO, the Committee and the Panel.
- 6.06 The record required to be compiled herein may be destroyed by CCEB after the expiration of two (2) years from the date of the final decision of the Committee or the Panel.
- 6.07 Any notice or notices required to be given pursuant to this Policy shall be sent by email in which case delivery shall be deemed to have taken place at the time of transmission. It is the responsibility of the Candidate to ensure that the email address provided to CCEB is correct and that there is no delay in receipt of transmissions by voluntary or involuntary controls.
- 6.08 No action, or proceeding whatsoever, shall be commenced against any member of CCEB, Committee or Panel, for their having participated in the process governed hereby, and it shall be an express undertaking by a Candidate that the instituting of an Appeal shall be based upon the Candidate's acknowledgement of this undertaking, and agreement to be bound by same, which shall be a complete defense to any action by the Candidate in contravention thereof.
- 6.09 The CEO shall represent the interests of CCEB with respect to the appeal and shall be empowered to undertake such investigations as may be necessary for the purposes of presenting evidence and documentation to the Committee and/or Panel.
- 6.10 No decision of the Panel shall be set aside as a result of any irregularities which occur pursuant to and under this procedure.
- 6.11 No decision, order, direction, declaration or ruling of the CEO, the Committee, or the Panel shall be questioned, appealed, or reviewed in any court; and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, judicial review, or otherwise; to question, review, prohibit or restrain the CEO, Committee or Panel or any of its proceedings.
- 6.12 All Appeals shall take place within the Province of Alberta unless directed and/or consented to by CCEB.