

**NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE & BODYWORK**

**RULES AND PROCEDURES REGARDING  
APPROVED PROVIDER COMPLAINTS AND PROFESSIONAL STANDARDS**

**Effective May 23, 2017**

**TABLE OF CONTENTS**

I. Definitions .....	1
II. Purposes, Authority, and Structure of the Approved Provider Committee.....	3
2.1 Purposes	
2.2 Authority	
2.3 Structure	
III. Submission and Receipt of Complaints .....	5
3.1 Parties That May Submit Complaints	
3.2 Contents of a Complaint	
3.3 Initial Evaluation of a Complaint	
IV. Investigative Procedure .....	7
4.1 Informing Complainant and Approved Provider of Investigation	
4.2 Approved Provider Committee Conflict of Interest	
4.3 Approved Provider’s Response to Complaint	
4.4 Investigation by the Investigative Team	
4.5 Interview with the Approved Provider	
4.6 Report to Committee	
V. Disposition of Complaint.....	9
5.1 Committee Actions Regarding Approved Providers	
5.2 Notice of Action	
5.3 Request for Appeal	
5.4 Waiver by Failure to Request an Appeal	
VI. Appeal Procedure.....	10
6.1 Requirements of an Appeal Request	
6.2 Granting of an Appeal Request	
6.3 Board Panel	
6.4 Board Panel Meeting	
6.5 Attendance	
6.6 Background Information	
6.7 Consideration of New or Additional Matters	
6.8 Burden of Proof	
6.9 Board Panel’s Deliberations	
6.10 Board Panel’s Decision	
VII. Notification of Final Action .....	12
7.1 Notification to Complainant	
7.2 Publication of Sanctions Against Approved Providers	
7.3 Inclusion in NCBTMB’s Database	
VIII. Reapplication after Revocation or Denial.....	13
8.1 Eligibility to Reapply for an Approved Provider	
8.2 Processing of Reapplications	
IX. Information and Processing .....	14
9.1 Confidentiality	

9.2 Recordkeeping  
9.3 Time Periods for Processing  
X. Amendments ..... 15  
    10.1 By the Committee  
    10.2 By the Board

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**I. Definitions.**

- 1.1 Appeal Request.** A written request to appeal the Committee's decision by an Approved Provider in accordance with Articles V and VI of these Rules and Procedures.
- 1.2 Approved Provider.** The term Approved Provider shall mean an individual or entity approved by NCBTMB to provide continuing education.
- 1.3 Approved Provider Code of Conduct.** The term Approved Provider Code of Conduct shall mean the NCBTMB Approved Provider Code of Conduct.
- 1.4 Approved Provider Committee.** The term Approved Provider Committee shall refer to the NCBTMB Approved Provider Committee.
- 1.5 Approved Provider Specialist.** The Term Approved Provider Specialist shall mean the NCBTMB employee or that of a similar title responsible or designated responsibility for managing and coordinating the Approved Provider program. If the Approved Provider Specialist is unavailable, the NCBTMB Chief Executive Officer may designate a NCBTMB staff employee to act in this capacity.
- 1.6 Board.** The term Board shall mean the Board of Directors of NCBTMB.
- 1.7 Board Liaison.** The term Board Liaison shall refer to the Chair of the Board and/or his or her designee in his or her role as a member of the Committee pursuant to Section 2.3(A).
- 1.8 Chief Executive Officer.** The term Chief Executive Officer shall mean the Chief Executive Officer of NCBTMB.
- 1.9 Code of Ethics.** The term Code of Ethics shall mean the NCBTMB Code of Ethics.
- 1.10 Committee.** The term Committee shall mean the Approved Provider Committee of NCBTMB, which is a peer review committee.
- 1.11 Complainant.** The term Complainant shall mean an individual, group of individuals, or an organization, including NCBTMB, that files a complaint with NCBMTB against an Approved Provider in accordance with Section 3.2.
- 1.12 Complaint.** The term Complaint shall mean a complaint filed against an Approved Provider in accordance with Section 3.2.
- 1.13 Investigative Team.** The Investigative Team shall refer to two (2) or three (3) Committee members designated to investigate a Complaint in accordance with Section 4.2.

- 1.14 NCBTMB.** The term NCBTMB shall mean the National Certification Board for Therapeutic Massage & Bodywork.
- 1.15 Rules and Procedures.** The term Rules and Procedures shall refer to these Rules and Procedures Regarding Approved Provider Complaints.
- 1.16 Standards.** The term Standards shall mean the NCBTMB Standards of Practice.
- 1.17 Unethical Conduct.** The term Unethical Conduct refers to conduct that violates the Code of Ethics and/or the Standards.
- 1.18 Unprofessional Conduct.** The term Unprofessional Conduct refers to conduct that violates the Standards or Approved Provider Code of Conduct.

## **II. Purposes, Authority, and Structure of the Approved Provider Committee.**

### **2.1 Purposes.** The purposes of the Committee are:

- A. To enforce NCBTMB's Approved Provider program and Approved Provider Code of Conduct and these Rules and Procedures.
- B. To provide input on the approval of continuing education providers.
- C. To conduct a quality assurance program for Approved Providers.
- D. To offer subject matter expertise on issues impacting scope of work and/or recertification as they pertain to CE sample courses submitted. The Committee reviews Approved Provider Initial Application submissions and determines whether to approve or deny sample courses by adhering to the guidelines presented in accordance with pages five (5) and six (6) under "Pre-requisite Information" of the Reference Guide for Approved Providers, Version 10.1.
- E. To assist in protecting the profession against Unethical Conduct in the administration of continuing education by Approved Providers in conjunction with the Ethics & Standards Committee. All complaints pertaining to Approved Providers' Unethical Conduct will be referred to the Ethics & Standards Committee in compliance with section 3.3.
- F. To investigate legitimate Complaints as determined by the Committee.
- G. To determine violations of the Standards and Approved Provider Code of Conduct by Approved Providers based on the results of its investigations.

### **2.2 Authority.** The authority of the Committee is to:

- A. Receive, review, evaluate, investigate and respond to legitimate Complaints against Approved Providers.
- B. Receive, review, evaluate, investigate and respond to legitimate Complaints against administration of their provision of continuing education by Approved Providers.
- C. Review these Rules and Procedures, Standards, and Approved Provider Code of Conduct to recommend changes to the Board for the Board's consideration.
- D. Conduct all Committee affairs in a manner and atmosphere free of discrimination based on race, color, gender, age, sexual orientation, ethnicity, national origin, religion, disability, and marital status, as defined and prohibited by applicable law.
- E. Perform other tasks commensurate with the Committee's purposes as requested by the Board.

### **2.3 Structure.** The structure of the Committee is:

- A. *Composition.* The Committee shall consist of at least three (3) voting members, which shall include Certificants in good standing and at least one (1) public member. Members should, as

feasible, reflect the geography, gender, and qualities of the therapeutic massage and bodywork profession. The member of the Board shall serve as an ex-officio, non-voting member of the Committee.

- B. *Qualifications.* Committee members who are Certificants must possess thorough knowledge and understanding of the protocol of massage therapy and bodywork as well as massage therapy and bodywork education. Committee members who are Certificants shall have a minimum of five (5) years of experience in the profession. Committee members who are Certificants shall have adequate experience with educational administration and/or providing continuing education in the field of massage therapy and bodywork. Public member(s) of the Committee may have some experience in the field of massage therapy and/or bodywork and shall have adequate experience with educational administration and/or providing continuing education in the field of massage therapy and bodywork.
- C. *Selection.* The Chair of the Board shall appoint the Chair of the Committee. The Chair of the Committee shall interview, evaluate and select the members of the Committee.
- D. *Meetings.* The Committee shall meet at reasonable intervals, as needed, to carry out its responsibilities as set forth in these Rules and Procedures, but in any event not fewer than four (4) times each year, with training meetings conducted as required. All meetings may be conducted by telephone or other type of communication allowing all Committee members to be heard and participate. Minutes shall be kept for each meeting as a record of the Committee's activities. Committee members must be given adequate advance notice of any Committee meeting, except that such notice may be waived by attendance at the meeting. The presence of a majority of the voting membership of the Committee shall constitute a quorum for meetings of the Committee. Committee decisions shall be made by a majority vote of a quorum present at a meeting.

### **III. Submission and Receipt of Complaints**

**3.1 Parties That May Submit Complaints.** A Complaint against an Approved Provider may be submitted to the Committee by:

- A. any party claiming to have been harmed by the Unprofessional Conduct of an Approved Provider;
- B. an Approved Provider self reporting Unprofessional Conduct;
- C. an Approved Provider who, in good faith, believes that another Approved Provider engaged in Unprofessional Conduct in violation of the Approved Provider Code of Conduct and/or Standards;
- D. any national, regional, state, or local professional association of massage therapists and bodyworkers of which the Approved Provider is a member;
- E. any licensing or certifying authority; or
- F. the Committee.

The Committee may not act solely on the basis of an anonymous Complaint or a Complaint by a Complainant who does not want his or her name to be disclosed to the Approved Provider who is the subject of the Complaint.

**3.2 Contents of a Complaint.** All legitimate Complaints must include the following information:

- A. the name, address, and telephone number of the Approved Provider;
- B. the name, address, and telephone number of the Complainant;
- C. a detailed description of the facts supporting the Complaint;
- D. the specific sections of the Approved Provider Code of Conduct and/or Standards alleged to have been violated and an explanation as to how the sections were violated;
- E. the Complainant's approval for the Committee to disclose all information to the Approved Provider, the Committee, NCBTMB staff, legal counsel, and experts involved in handling the Complaint; and
- F. the Complainant's signature.

Copies of these Rules and Procedures, the Approved Provider Code of Conduct, and the Standards may be provided to the Complainant to assist the Complainant in drafting a Complaint and with complying with these Rules and Procedures.

**3.3 Initial Evaluation of a Professional Complaint.** Within thirty (30) days of receiving a legitimate Complaint in compliance with Section 3.2, the Committee shall evaluate the Complaint and determine whether the allegations in the Complaint, if true, would constitute Unprofessional Conduct. If the Committee determines that the allegations, if true, would constitute Unprofessional Conduct, the

Complaint shall be investigated in accordance with Article IV. If the Committee determines that the allegations, if true, would not constitute Unprofessional Conduct, the Chief Executive Officer shall inform the Complainant of the Committee's determination within thirty (30) days of such determination. If a complaint regarding an approved provider is received and the Approved Provider Specialist, in concert with the Manager of Ethics & Discipline, determines that the complaint is ethical in nature, then such complaint shall be given to the Manager of Ethics and Discipline to present to the Ethics & Standards Committee at its next meeting. No Committee member shall consider, evaluate or help determine the validity or disposition of a Complaint if such Committee member sufficiently knows any material party to the Complaint, is in direct competition with the Complainant, or Approved Provider, or otherwise should be recused due to an existing or potential conflict of interest.

#### **IV. Investigative Procedure.**

- 4.1 Informing Complainant and Approved Provider of Investigation.** The Chief Executive Officer must inform the Complainant and Approved Provider of the Committee's decision that the Complaint warrants investigation within thirty (30) days of such determination. The correspondence to the Complainant shall include copies of these Rules and Procedures, the Approved Provider Code of Conduct, and the Standards, if not already provided. The correspondence to the Approved Provider must include:
- A. a copy of the Complaint;
  - B. copies of these Rules and Procedures, the Approved Provider Code of Conduct, and the Standards;
  - C. a request that the Approved Provider respond in writing as required by Section 4.3, and the consequences of failing to respond, as set forth in Section 4.3; and
  - D. information about the Approved Provider's right to an interview with the Investigative Team assigned to investigate the Complaint.
- 4.2 Approved Provider Committee Conflict of Interest.** No Investigative Team member shall consider, evaluate or help determine the disposition of a Complaint if such Investigative Team member sufficiently knows any material party to the Complaint, is in direct competition with the Complainant, Approved Provider, or otherwise should be recused due to an existing or potential conflict of interest.
- 4.3 Approved Provider's Response to a Professional Complaint.** The Approved Provider must respond, in writing, to the allegations contained in the Complaint within thirty (30) days of receiving the Complaint. The response shall include a detailed description of the facts surrounding the allegations contained in the Complaint and the situation giving rise to the Complaint. Failure to respond to the Complaint shall not constitute a waiver of the Approved Provider's right to appeal any sanction imposed by the Committee in response to the Complaint. Failure to respond may be considered as a factor by the Committee when considering the merits of the Complaint. Moreover, the Approved Provider's failure to respond shall not prevent the Investigative Team from completing its investigation or prevent the Committee from taking action based on the information available.
- 4.4 Investigation by the Investigative Team.** The Investigative Team shall conduct an investigation of the allegations contained in the Complaint using reasonable methods, including without limitation telephone interviews and/or written requests for information or documentation. The Investigative Team may consult with any individuals who may have information regarding the allegations contained in the Complaint. With the consent of the Committee Chair, the Investigative Team may consult with experts, as necessary. Such experts shall be bound by the confidentiality obligations in Section 9.1.
- 4.5 Interview with the Approved Provider.** Upon the request of the Investigative Team, the Approved Provider shall participate in a telephone interview with the Investigative Team prior to the Investigative Team submitting the report to the Committee as described in Section 4.6 below. During the interview, the Approved Provider will be informed of the general nature of the evidence supporting the Complaint and shall be invited to discuss, explain, or refute the Complaint. The interview shall be informal in nature, and none of the procedural rules for appeals contained in these Rules and Procedures shall apply. Failure by an Approved Provider to participate in an interview with the Investigative Team shall not constitute

waiver of any right to appeal under these Rules and Procedures. The Approved Provider's failure to participate in the interview may be considered as a factor by the Investigative Team. A summary of the interview will be made by the Investigative Team and shall be included with the Investigative Team's report to the Committee. The Approved Provider's failure to participate in a telephone interview shall not prevent the Investigative Team from submitting its report to the Committee or prevent the Committee from taking action based on the information available.

**4.6 Report to Committee.** Within thirty (30) days of the Investigative Team's completion of its investigation, the Investigative Team shall submit a written report of the investigation to the Committee. The report must include a description of the facts of the situation that gave rise to the Complaint, a description of the Unprofessional Conduct, if any, and the Approved Provider Code of Conduct sections and/or Standards violated, if any. The Investigative Team may conclude that the Complaint has no basis in fact, is insufficient to substantiate a finding that the Approved Provider Code of Conduct and/or Standards were violated, or is likely to be corrected without Committee action, and in such situations, it may recommend to the Committee that the case be closed without further action.

**V. Disposition of a Professional Complaint.**

**5.1 Committee Actions Regarding Approved Providers.** Upon receipt of the Investigative Team's report, the Committee shall review the report and take one (1) or more of the following actions, as appropriate:

- A. no action;
- B. issuance of a written warning;
- C. issuance of a letter of reprimand;
- D. imposition of terms of probation, which may include a requirement for the Approved Provider to take appropriate instructor training course(s);
- E. suspension of an Approved Provider's status for a defined period of time;
- F. permanent or non-permanent revocation of an Approved Provider's status;
- G. such other action as it deems appropriate.

**5.2 Notice of Action.** The Chief Executive Officer shall provide written notice to the Approved Provider within fifteen (15) days of the Committee's action under Sections 5.1. The notice shall include a brief description of the reasons for the action, the Unprofessional Conduct, the Approved Provider Code of Conduct section and/or Standard violated, and information about the process for appealing the Committee's action.

**5.3 Request for Appeal.** An Approved Provider shall have thirty (30) days following receipt of a notice pursuant to Section 5.2 to file a written Appeal Request. The Appeal Request shall be sent to the Chief Executive Officer by certified mail, overnight express mail, or such other delivery method containing written verification of its delivery. By requesting an appeal, the Approved Provider agrees to be bound by the provisions of these Rules and Procedures in all matters relating thereto. The Chief Executive Officer shall notify the Chair of the Committee and the Chair of the Board about the Appeal Request.

**5.4 Waiver by Failure to Request an Appeal.** Absent extraordinary circumstances, in the event that an Approved Provider fails to properly submit the Appeal Request within the time and manner specified in Section 5.3, the Approved Provider shall be deemed to have waived the right to such appeal. The Committee's action shall thereupon be final.

## **VI. Appeal Procedure.**

- 6.1 Requirements of an Appeal Request.** The Approved Provider must demonstrate in his or her written Appeal Request that, from a preponderance of the evidence: (1) the violations found by the Committee lack a factual basis, or (2) the resulting sanction, the basis of the Committee's decision or the conclusion drawn therefrom are arbitrary, unreasonable, or capricious. The Appeal Request must include all evidence that is to be considered by the Board Panel. All such evidence must be new and different than the evidence considered by the Committee and must set forth adequate reasons why such evidence was not provided to the Committee. If the Approved Provider's Appeal Request does not adequately address one or both of these requirements, the Appeal Request will be denied and the Committee's decision will be final.
- 6.2 Granting of an Appeal Request.** All Appeal Requests must be delivered to the Chief Executive Officer within thirty (30) days following receipt of a notice pursuant to Sections 5.2 and 5.3. The Chief Executive Officer shall deliver the Appeal Request to the Approved Provider Specialist for consideration. Within fifteen (15) days from the Chief Executive Officer's receipt of the Appeal Request, and after consultation with NCBTMB's legal counsel, if legal consultation is deemed necessary, the Approved Provider Specialist and Chief Executive Officer shall determine if the Appeal Request is likely to meet the requirements set forth in Section 6.1 and, within five (5) days from such determination, the Approved Provider Specialist shall notify: (1) the party filing the Appeal Request; (2) the Chief Executive Officer; and (3) the Chair of the Board. If the Approved Provider Specialist determines that the Appeal Request is likely to meet the requirements of Section 6.1, the Board Panel shall review the Appeal Request.
- 6.3 Board Panel.**
- A. *Appointment.* The Appeal Request shall be considered by a Board Panel appointed by the Chair of the Board and composed of three (3) Board members, at least two (2) of which shall be Certificants. One (1) of the appointees to the Board Panel shall be designated as the Chair.
  - B. *Restrictions.* No member of the Board of Directors who filed the Complaint or served on the Committee or Investigative Team while the Complaint was active shall serve as a member of the Board Panel. Board Panel members shall not be in direct economic competition with the Applicant or Approved Provider requesting the appeal. No Board Panel member shall consider, evaluate or help determine the disposition of an appeal if such Board Panel member sufficiently knows any material party to the Complaint, is in direct competition with the Complainant, Approved Provider, or otherwise should be recused due to an existing or potential conflict of interest.
- 6.4 Board Panel Meeting.** The Board Panel shall consider all Appeal Requests approved by the Approved Provider Specialist in accordance with Section 6.2. The Board Panel shall consider such approved Appeal Requests at its next regularly scheduled Board of Directors meeting, provided that such Appeal Request was received and approved by the Approved Provider Specialist at least fifteen (15) business days prior to the date of the next Board meeting.
- 6.5 Attendance.** The Board Panel's consideration of the Appeal Request shall be closed to the Approved Provider as well as to all third parties, except for witnesses and experts approved by the Board Panel, NCBTMB staff, the Committee Chair, and legal counsel. The Board Panel, in its sole discretion, may allow the Approved Provider to attend in-person on a case-by-case basis.

- 6.6 Background Information.** The Chair of the Committee or his or her designee shall provide the members of the Board Panel with all relevant information and materials collected during the Investigative Team's investigation and the Committee's consideration. Such information shall include the Investigative Team's report, a record of the Committee's final decision and sanction, correspondence, and any other relevant documents. This background information should be provided at least ten (10) days in advance of the appeal.
- 6.7 Consideration of New or Additional Matters.** New or additional matters not presented to the Committee during its review and not otherwise reflected in the record shall be used only in compliance with Section 6.1 above. The Board Panel, in its sole discretion, shall determine whether it is appropriate to consider such additional matters or evidence.
- 6.8 Burden of Proof.** The Board Panel shall reverse or modify the Committee's recommended sanction only in the event that the written Appeal Request shows, by clear and convincing evidence, that the grounds for the Committee's sanction lack a factual basis or that such bases or the conclusion drawn therefrom are arbitrary, unreasonable, or capricious.
- 6.9 Board Panel's Deliberations.** After reviewing the Appeal Request, the Board Panel shall conduct its deliberations. Upon the conclusion of those deliberations, the appellate review shall be declared finally adjourned.
- 6.10 Board Panel's Decision.** Within fifteen (15) days of the date of the consideration of the Appeal Request, the Board Panel shall notify the Chief Executive Officer, in writing, of its decision and action. The Board Panel's decision is final and cannot be appealed. The Chief Executive Officer shall provide copies of the Board Panel's written report to the Approved Provider, the Chair of the Board, and the Chair of the Committee. Upon request of the Chair of the Committee, the Chair of the Board Panel shall advise the Chair of the Committee, who shall likewise advise the Committee, about the reasons for any variation between the Board Panel's decision and the Committee's decision.

**VII. Notification of Final Action.**

- 7.1 Notification to Complainant.** If the Approved Provider does not file an Appeal Request, the Chief Executive Officer shall inform the Complainant in writing of the Committee's action within fifteen (15) days of the expiration of the time period within which the Approved Provider was required to file the Appeal Request. If the Approved Provider requests an appeal, the Chief Executive Officer shall inform the Complainant of the Board Panel's decision within fifteen (15) days of receipt of the Board Panel's written report of its decision.
- 7.2 Publication of Sanctions Against Approved Providers.** The following sanctions against an Approved Provider shall be published: issuance of a letter of reprimand, imposition of terms of probation, suspension of an Approved Provider's status, and revocation of an Approved Provider's status. The Approved Provider's name, city, and state, the numerical references to the Approved Provider Code of Conduct sections and/or the Standards violated, and the sanction imposed shall be published in NCBTMB's newsletter and on NCBTMB's website. This information also may be disclosed to interested private, public, governmental, quasi-governmental, and regulatory bodies, and third party payors, at the discretion of NCBTMB.
- 7.3 Inclusion in NCBTMB's Database.** All final actions taken against Approved Providers pursuant to these Rules and Procedures shall be noted in NCBTMB's internal database of information.

**VIII. Reapplication after Revocation or Denial.**

- 8.1 Eligibility to Reapply for an Approved Provider.** An Approved Provider whose status has been revoked by the Committee pursuant to Section 2.2 (B) shall not be eligible to reapply to become an Approved Provider until such time as determined by the Committee, in its sole discretion. The Committee shall determine whether to approve or deny an Approved Provider's reapplication. An Approved Provider whose status has been permanently revoked shall not be eligible to reapply for NCBTMB Approved Providership.
- 8.2 Processing of Reapplications.** Any reapplication under this Article VIII shall be processed as an initial application. The applicant shall submit such additional information requested by the Committee.

**IX. Information and Processing.**

- 9.1 Confidentiality.** All information disclosed to the Committee and Board Panel during the processes contained in these Rules and Procedures shall be maintained as confidential. Notwithstanding the above, NCBTMB may disclose such information when compelled by law. In addition, all information that is submitted to NCBTMB, including photographs, may be provided to law enforcement agencies and state, county, and/or local governmental agencies upon their request and at NCBTMB's discretion. NCBTMB may also disclose such information to parties essential to the processes contained in these Rules and Procedures, including NCBTMB staff, legal counsel, and experts. Experts must agree in writing to maintain all such information as confidential. If allegations in a Complaint involve an Approved Provider but do not involve violations relating to the delivery of massage education, the Committee shall disclose such information to NCBTMB's Approved Provider Committee for review and possible action.
- 9.2 Recordkeeping.** Once a case is closed, the Committee shall work with NCBTMB staff to ensure that the confidentiality of the record is maintained. Committee members and Board members, in accordance with NCBTMB's document destruction policy, shall shred or return to NCBTMB for destruction of all information received and notes generated during the course of the procedures contained in these Rules and Procedures. Upon the shredding of all information received and generated during the course of the procedures contained in these Rules and Procedures, Committee members and Board Panel members shall notify NCBTMB in writing about such shredding within ten (10) days from the date they are notified of the closing of the case. At the conclusion of a case, all members of the Committee and the Board Panel shall use reasonable and commercially accepted means to permanently delete and remove all information that is in electronic format and that is under their control, and shall verify with NCBTMB staff that such efforts have been undertaken.
- 9.3 Time Periods for Processing.** Complainants and Approved Providers acknowledge that, while good faith efforts will be made to consider Complaints, appeals, and requests for review of applications in a reasonably timely manner and within the time periods specified in these Rules and Procedures, the specified time periods requiring Committee action shall not be deemed to create any rights on the part of Approved Providers or Complainants to have information processed within those periods. Failure of any body or individual to comply with the time periods shall in no event prevent continuation or conclusion of a proceeding.

**X. Amendments.**

**10.1 By the Committee.** The Committee may propose written amendments to the Rules and Procedures in writing to the Board at any time, provided that such amendments have been approved by a majority of Committee members. Such amendments shall become effective only upon approval by the Board.

**10.2 By the Board.** The Board may amend the Rules and Procedures at any time it deems such amendment necessary to promote NCBTMB's best interests. Such amendments shall become effective only upon approval by the Board.

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