

April 11, 2019

MEMORANDUM

TO: ATCB Credentialed Art Therapists and Members of the Public
FROM: ATCB Board of Directors
RE: Proposed revisions to the ATCB *Code of Ethics, Conduct, and Disciplinary Procedures*

The ATCB Board of Directors has made revisions to the [ATCB Code of Ethics, Conduct, and Disciplinary Procedures](#) (“the Code”). Your feedback is important to us. Credentialed art therapists as well as members of the public are asked to read and respond by **June 15, 2019**.

The proposed addition to the Code relates to access to client records (Section 1.1). The proposed changes to the Code are intended to clarify terminology and procedures related to the disciplinary process (Section 5). Proposed changes are highlighted in blue font.

Proposed addition

1.1 Responsibility to Clients

1.1.15 Art therapists shall provide clients with reasonable access to their records. Art therapists who are concerned that access to records could cause misunderstanding or harm shall assist with review, interpretation, or consultation with the client regarding the records. Access should be limited only in exceptional circumstances as permitted by law such as when the art therapist determines in the exercise of professional judgement that the requested access is reasonably likely to endanger the life or physical safety of the client or another person or the access requested is reasonably likely to cause substantial harm to a person referenced in the client’s records. Confidential information about any other client should not be disclosed to clients requesting access to records. Client requests and the art therapist’s rationale for granting or withholding the records should be documented in the client file.

Proposed changes

5. Disciplinary Procedures

5.2.1 Any person concerned about a possible violation of the ATCB Standards of Ethics and Conduct, or other ATCB standard, policy or procedure, may initiate a written grievance and send it to the Executive Director. Grievances should include as much detail and specificity as possible, including identifying the person(s) alleged to be involved and the facts concerning the alleged conduct, and should be accompanied by all available documentation. A person initiating a grievance shall be referred to as the complainant. The applicant, certificant, or registrant who is the subject of the grievance shall be referred to as the respondent.

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Proposed changes (cont)

5.2.10 If the Ethics Officer concurs that probable cause may exist to deny eligibility or that probable cause exists of a failure to comply with the Standards of Ethics and Conduct or any other ATCB policy or procedure, the Ethics Officer shall transmit a copy of the grievance and written notification containing the allegations and findings to the full Disciplinary Hearing Panel, the complainant and the applicant, certificant or registrant who is the subject of the grievance and any attorneys representing them. Care should be taken to redact information and the identity of any person identified in the grievance who is not a complainant when appropriate to protect the privacy rights of such person. All written notices to the **respondent** shall be sent by certified mail, return receipt requested, to their addresses listed in the ATCB records. However, if the Ethics Officer, in agreement with the Public Member, determines that the probable **cause determination is based on circumstances that** are minor or technical in nature, **or are not caused by the actions of the respondent**, and have neither caused nor presented a danger of serious harm to a client **or other individual(s)**, the Ethics Officer may choose to resolve the complaint by the issuance of an advisory letter to the **respondent** setting out the identified probable **cause determination, assessment and any** corrective or preventative measures that should be implemented by the registrant or certificant in the future. All such advisory letters shall be maintained as part of the **respondent's** file and may be taken into consideration of the sanctions to be assessed in connection with any future complaints brought against the **respondent**. Advisory letters shall not be made public.

5.3.1 Upon receipt of notice from the Ethics Officer containing a statement of the complaint allegations and the finding(s) that probable cause may exist to deny eligibility for credential or question compliance with the Standards of Conduct or any other ATCB policy or procedure, the applicant, registrant, or certificant (**the "respondent"**) shall have thirty (30) days after receipt of the notice to notify the Ethics Officer in writing **of the following**:

- 1. Whether or not he or she disputes the allegations of the complaint;**
- 2. Whether or not he or she requests a hearing by the Disciplinary Hearing Panel; and**
- 3. Whether or not he or she desires the hearing to be conducted by written submissions or a telephone conference.**

In the event that no written statement is submitted or participation in a telephone conference occurs, the Disciplinary Hearing Panel shall render a decision based on the evidence available and apply sanctions as it deems appropriate.

5.3.4 If the **respondent** requests a **hearing conducted by written submissions** or telephone conference the following procedures shall apply:

5.3.4.1 The Ethics Officer shall forward the **grievance**, allegations and written statement from the respondent to the Disciplinary Hearing Panel. **At the hearing, the Ethics Officer shall** present the allegations and any substantiating evidence, witnesses, and otherwise present the matter **for consideration by the Disciplinary Hearing Panel**.

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Proposed changes (cont)

5.3.4.2 The Disciplinary Hearing Panel shall notify the **respondent** in advance of the hearing with an adequate period of time for preparation, and shall notify the **respondent** (and complainant, if appropriate) of the allegations and standards implicated, the hearing procedures, the date for submission of materials for written review, or the **date and** time of any hearing. The **respondent** may request a change in the date of any hearing for good cause, which shall not unreasonably be denied.

5.3.4.5 The Disciplinary Hearing Panel shall determine all evidentiary and procedural **questions that arise during** any hearing or written review. Formal rules of evidence **are not followed**. Relevant evidence may be **introduced**. The chair, subject to the majority vote of the full panel, shall determine disputed questions regarding procedures or the admission of evidence. All decisions shall be made on the record.

5.3.4.6 **Unless where otherwise explicitly stated in the Code**, the burden shall be upon the ATCB to demonstrate a violation **has occurred** by preponderance of the evidence.

5.5.1 At all times during the ATCB’s handling of any **disciplinary** matter, the ATCB shall extend impartial review. If at any time during the ATCB’s review of a **disciplinary** matter a **respondent**, or any other person identifies a situation where the judgment of a reviewer may be biased or prejudiced or impartiality may be compromised (including employment with a competing organization), such person shall immediately report such matter to the Executive Director or President of the ATCB.

We appreciate your taking time to review the changes and provide feedback. Once received, your comments will be reviewed and considered by the Board. Please send your comments by email, atcbinfo@atcb.org, or by postal mail: ATCB, Attn: Code Revisions, 7 Terrace Way, Greensboro, NC 27403.

A full copy of the ATCB *Code of Ethics, Conduct, and Disciplinary Procedures* is accessible on the ATCB website, <https://www.atcb.org/Ethics/ATCBCode>.

The period for public comment will end on June 15, 2019.

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