



## Certification Appeals Procedures

### **A. Introduction**

The Board of Certification/Accreditation (BOC) is a private, non-profit, professional credentialing organization that sponsors the development, maintenance, evaluation, promotion, and administration of a rigorous, clinical practice-related, examination-based, certification program in the field of orthotics and prosthetics. The mission of BOC is to develop and promote policies and procedures that assure patients, their physicians and the public at large of the competence of BOC-certified practitioners and to ensure the availability of comprehensive orthotic and prosthetic care and services as well as DME suppliers and other related facility/practice specialties, in safe practice environments.

In order to be certified by BOC, each candidate must satisfy all education and experience eligibility and credentials requirements established by the BOC Board of Directors; and, pass the required certification examination(s). In addition, all individuals certified by BOC must demonstrate an ongoing professional commitment to the field of orthotics and prosthetics in order to maintain certification.

BOC certification requirements and eligibility standards are applied fairly, impartially, and consistent with applicable laws. BOC will not discriminate against any applicant or candidate on the basis of an unlawful reason and will grant certification without regard to a candidate's membership or non-membership in any organization, association, or other group.

BOC certificants and candidates seeking certification or recertification agree that: these procedures are the sole process for resolving certification complaint or appeal matters; they will be bound by decisions made pursuant to these procedures; these procedures are governed by the principles of the law of the State of Maryland; and, these procedures do not constitute a contract between BOC and the candidate or certificant.

### **B. General Provisions**

- 1. Nature of the Process.** BOC is directed, administered, and supervised by the BOC Board of Directors. All challenges regarding actions of and by BOC are governed by the comprehensive and exclusive rules contained in these procedures. This appeal process is the only way to resolve all BOC application, eligibility, examination, and other certification or recertification challenges, complaints, and/or claims of irregularities.

Because these informal procedures are not legal proceedings, they are designed to operate without the assistance of attorneys. While a party may choose to be represented by an attorney, candidates and certificants are encouraged to communicate directly with BOC. If a party has retained an attorney, that attorney will be directed to communicate with BOC through BOC Legal Counsel.

- 2. Participants.** The BOC Chief Executive Officer, the Credentialing Director, the Peer Review Committee, the BOC Board of Directors, and any other authorized representative of BOC, may be involved in deciding matters to be resolved or arising under these procedures.
- 3. Time Requirements.** BOC will make every effort to follow the time requirements noted in these appeal procedures. However, BOC's failure to meet a time requirement will not prohibit the handling or final resolution of any matter arising under these procedures. BOC candidates or certificants are required to

comply with all time requirements specified in this document. Unless provided otherwise, time extensions or postponements may be granted by BOC if a timely, written request explaining a reasonable cause is submitted.

4. **Litigation/Other Proceedings.** BOC may accept and resolve a dispute arising under these proceedings when civil or criminal litigation, or other proceedings related to the dispute are also before a court, regulatory agency, or professional body. BOC may also continue or delay the resolution of any appeal, complaint, or other matter.
5. **Confidentiality.** In order to protect the privacy of all parties involved in matters arising under these procedures, all material prepared by, or submitted to, BOC will be confidential. Disclosure of material prepared by, or submitted to, BOC is permitted only when specifically authorized by BOC policy, the Board of Directors, the Certification Appeals Committee, the Credentialing Director, or the Chief Executive Officer.

Among other information, BOC will not consider the following materials and documents to be confidential:

- a. Published certification and eligibility criteria;
  - b. Records and materials, which are disclosed as the result of a legal requirement;
  - c. Upon the written request of a candidate, or certificant, any certification information concerning certification status or application materials which the candidate or certificant would like made available to other credentialing agencies, professional organizations, or similar bodies; and,
  - d. All decisions and orders of the Board of Directors, the Certification Appeals Committee, the Credentialing Director, or the Chief Executive Officer, which are considered final and closed, consistent with these procedures.
6. **Failure To Disclose/Improper, False, Or Misleading Representations.** Where a candidate or certificant fails to disclose information related to certification or recertification requested by BOC, or where a candidate or certificant makes an improper, false, or misleading representation to BOC, the Credentialing Director may penalize or discipline the individual, and/or issue corrective action related to such failure or improper representation. Among other penalties or disciplines, BOC may temporarily or permanently prevent and bar an individual from being certified or recertified, or may issue any other appropriate directive(s).

Where a penalty, discipline, order, or other directive is issued by BOC under this Section, the candidate or certificant involved may seek review and appeal under these procedures.

7. **Failure To Cooperate.** Where a candidate or certificant fails or refuses to cooperate fully with BOC concerning matters arising under, or related to, these procedures, and it is determined that the lack of cooperation is without good cause, the Credentialing Director may penalize or discipline the individual. Among other penalties or disciplines, BOC may temporarily or permanently prevent and bar an individual from being certified or recertified, or may issue any other appropriate directive(s).

Where a penalty, discipline, order, or other directive is issued by BOC under this Section, the candidate or certificant involved may seek review and appeal under these procedures.

8. **Professional Complaint Matters.** Following notice, and a reasonable opportunity to present a response, the Credentialing Director may temporarily or permanently prevent an individual from being certified or recertified, or may issue any other appropriate directive(s), where the candidate or certificant was the subject of any complaint or similar matter relating to his/her professional activities as a practitioner, or where the candidate or certificant is the subject of matters or proceedings involving criminal charges, lesser offenses, or similar matters regardless of: when the alleged violation occurred; and, whether the professional license of the candidate or certificant was in good standing at the time of BOC decision or action.

Where a penalty, discipline, order, or other directive is issued by BOC under this Section, the candidate or certificant involved may seek review and appeal under these procedures.

**C. Actions and Decisions Concerning the Certification Process.**

1. **Certification Application Actions.** Under the supervision of the Credentialing Director, BOC will make one of the following determinations and decisions with regard to a candidate's application for BOC certification examination eligibility: (a) accept the application; (b) request additional or supplemental information; or, (c) reject the application on the ground(s) that the candidate does not meet the relevant certification eligibility requirements, or the candidate has violated, or acted contrary to, a BOC policy or rule.
2. **Certification Examination(s) Actions.** BOC will notify each candidate whether he/she has achieved a passing or failing score on the Certification Examination. Where a candidate acts contrary to BOC policies during the administration of any Certification Examination(s) or section, the candidate may be prevented from taking or completing the Examination(s), or other appropriate action may be issued.
3. **Recertification Application Actions.** BOC will make one of the following decisions with regard to a certificant's Recertification Application: (a) grant recertification; (b) conditionally accept the Recertification Application, pending satisfactory completion of all recertification requirements; (c) request additional information; or, (d) reject the application on the ground(s) that the certificant does not meet the necessary criteria for recertification, or the certificant has violated, or acted contrary to, a BOC policy or rule.

**D. Level 1 Request for Review/BOC Credentialing Director**

1. **Grounds for Initial Appeal (Request for Review).** A candidate or certificant may submit to the Credentialing Director an initial appeal (request for review) of an adverse BOC action or decision based on any of the following grounds:
  - a. The candidate was found to be ineligible to take or complete the Certification Examination(s);
  - b. The candidate did not pass or successfully complete the Certification Examination(s); or,
  - c. The candidate or certificant failed to satisfy a certification or recertification requirement, including those requirements related to qualifications, education, and experience, or was otherwise ineligible for certification or recertification.
2. **Content of a Request for Review.** A candidate or certificant may submit a written request for review of

an adverse certification-related action or decision by notifying the Credentialing Director in writing. The candidate or certificant must state and explain in detail the nature of the request and the specific facts and circumstances supporting the request, including all reasons why the action or decision should be changed or modified. The candidate or certificant must also provide accurate copies of all supporting documents.

3. **Time Period for Submitting Request for Review.** In order for a request for review to be considered Credentialing Director, the written request must be received by BOC within thirty (30) days of the date of the adverse action.
4. **Credentialing Director Actions.** Upon receipt, all requests for review will be considered informally by the Credentialing Director. Following review of the candidate's or certificant's request for review, the Credentialing Director will acknowledge receipt of the request within thirty (30) days, and may take the following actions:
  - a. Informal Resolution. The Credentialing Director will resolve and decide the appeal based on the record, including relevant and credible information presented by the candidate or certificant. The informal resolution will include the findings of the Credentialing Director and a summary of the relevant facts upon which the decision is based and may uphold or modify the adverse action or decision, or indicate other appropriate action. The Credentialing Director will issue the informal resolution within thirty (30) days of receipt of the request, or as soon thereafter as is practical; or,
  - b. Referral of Request. The Credentialing Director will refer the matter to the Peer Review Committee for resolution as an appeal. The Credentialing Director will provide the Certification Appeals Committee with all relevant materials, including the documents and materials submitted by the candidate or certificant.

#### **E. Level 2 Appeal/Peer Review Committee**

1. **Peer Review Committee.** At least three (3) members will be appointed to serve as the Peer Review Committee to resolve appeals or referred matters. Subject to the limitations set forth in these procedures, the Peer Review Committee may hear and resolve a first appeal where the matter has been referred by the Credentialing Director; or, a candidate or certificant is dissatisfied with the final informal review and action of the Credentialing Director and requests an appeal consistent with these procedures. The Peer Review Committee has the right to refuse an appeal. A decision not to hear an appeal cannot be appealed; the case will be closed thereafter subject to the provisions of these procedures.
2. **Grounds for Appeal.** In order for an appeal to be considered by the Peer Review Committee, the appeal submission must contain substantial information supporting at least one of the following grounds:
  - a. The candidate's eligibility to sit for the Certification Examination(s), or other eligibility for certification, was denied incorrectly;
  - b. The candidate's Certification Examination(s) was scored incorrectly, or was not credited with an appropriate response to particular questions, and as a direct result of the incorrect scoring the candidate is entitled to receive a passing score on the examination(s);

- c. The candidate was barred or otherwise prohibited incorrectly from taking the Certification Examination(s) or from becoming certified; or,
- d. The certificant's Recertification Application was incorrectly rejected under the relevant recertification standards, and the certificant would have qualified for recertification if the correct standards had been applied, or the certificant was otherwise incorrectly found ineligible for recertification.

**3. Content of Appeal.** In order for an appeal to be considered by the Peer Review Committee, the appeal submission must contain the following information:

- a. The identity and signature of the candidate or certificant submitting the appeal;
- b. A detailed explanation of the reasons and basis for the appeal, as defined and limited by Section E.2, above;
- c. All objections, corrections, and factual information the candidate or certificant believes to be relevant to the appeal;
- d. The names, addresses, and telephone numbers of any persons with factual information relevant to the appeal, and a clear description of the factual information available from these persons; and,
- e. Copies of any and all relevant documents, exhibits, or other information the candidate or certificant wants to submit in support of the appeal.

**4. Time Period for Submitting Appeal.** A candidate or certificant seeking to present an appeal must submit a written, signed appeal, consistent with the requirements of these procedures, to the Credentialing Director within thirty (30) days of the date of the final action and decision of the Credentialing Director.

**5. Time Period for Requesting an Extension.** A candidate or certificant may request an extension of the time in which to submit an appeal. This request must be in writing and received by BOC (Attention: Credentialing Director), at least ten (10) days prior to the appeal deadline. The Peer Review Committee Chair may, in his or her discretion, extend the time period for filing the appeal. Denials of time extension requests are not subject to appeal. Any appeals received beyond given time periods will not be reviewed or considered by the Peer Review Committee.

**6. Appeal Deficiencies.** The Peer Review Committee Chair may require the candidate or certificant to clarify, supplement, or amend an appeal submission.

**7. Appeal Rejection.** If the Peer Review Committee Chair determines that an appeal does not meet the appeal requirements or otherwise warrant further formal review, consistent with the requirements set forth in these procedures, the appeal will be rejected. The Credentialing Director will notify the candidate or certificant of the rejection, as well as the reason(s) for the rejection, by letter within twenty-one (21) days of the determination. Appeal rejection determinations are not subject to appeal.

**8. Appeal Hearing Requests.** In the first appeal submission, the candidate or certificant may request to participate in the informal hearing. In the event that the candidate or certificant does not request to participate in the hearing, the appeal will be resolved and decided based on the appropriate written record, as determined by the Peer Review Committee.

9. **Scheduling of Appeal Hearing.** Within fifteen (15) days of receipt of a complete and proper written appeal, the Certification Appeals Committee will schedule a hearing date and time for appeal consideration, generally not later than one-hundred twenty (120) days after receipt of the appeal, and will notify the candidate or certificant of the hearing date and time. Where the candidate or certificant has requested participation in the hearing, the candidate or certificant may be required to provide additional information concerning hearing presentation requirements prior to the hearing date. The Peer Review Committee will conduct an informal hearing designed to review and consider all of the available proof and information, including the record of the initial request for review and the materials submitted by the candidate or certificant.
10. **Decision of the Peer Review Committee.** The Certification Appeals Committee will resolve and decide the appeal based on the record, including relevant and credible information presented by the candidate or certificant, BOC policies, and, if applicable, the action or decision of the Credentialing Director. The Peer Review Committee Decision will include the Committee findings and a summary of the relevant facts upon which the decision is based, and may uphold or modify the decision of the Credentialing Director, or indicate other appropriate action. The Peer Review Committee will issue the Decision within fifteen (15) days of the end of the appeal review, or as soon thereafter, as is practical.

#### **F. Level 3 Appeal/BOC Board of Directors**

1. **BOC Board of Directors.** The BOC Board of Directors, or a panel of three (3) or more Board Directors designated to represent the Board of Directors, will resolve each final appeal. Subject to the limitations set forth in these procedures, the Board of Directors will hear and resolve a final appeal where a candidate or certificant is dissatisfied with the Peer Review Committee Decision, and submits an appropriate appeal consistent with these procedures.
2. **Grounds for Final Appeal.** In order for an appeal to be considered by the Board of Directors, the appeal submission must contain substantial information supporting at least one of the following grounds. The grounds upon which a final appeal may be based are strictly limited to the following:
  - a. **Procedural Error:** The Peer Review Committee Decision misapplied a procedural rule contained in these rules, and the rule misapplication significantly prejudiced the candidate or certificant with respect to the outcome of the appeal decision;
  - b. **New or Previously Undiscovered Information:** Following the issuance of the Peer Review Committee Decision, the candidate or certificant located relevant information and facts that were not previously available and that would have significantly affected the outcome of the Peer Review Committee Decision in the candidate's or certificant's favor;
  - c. **Misapplication of Certification Standards:** The Peer Review Committee Decision misapplied the relevant certification or recertification standards, and the misapplication significantly prejudiced the candidate or certificant and the outcome of the appeal decision; or,
  - d. **Contrary to the Information Presented:** The Peer Review Committee Decision clearly is contrary to the most substantial information in the record.

With respect to the grounds listed in Sections 2.a. and 2.c. above, the Board of Directors will consider only arguments that were previously presented to the Peer Review Committee.

3. **Contents of Final Appeal.** In order for an appeal to be considered by the Board of Directors, the appeal submission must contain the following information:
  - a. The identity and signature of the candidate or certificant submitting the appeal;
  - b. A detailed explanation of the reasons and basis for the appeal, as defined and limited by Section F.2, above;
  - c. All objections, corrections, and factual information the candidate or certificant believes to be relevant to the appeal, including all documents and exhibits in support of the appeal;
  - d. The names, addresses, and telephone numbers of any persons not previously identified with factual information relevant to the appeal, and a clear description of the factual information available from these persons; and,
  - e. Copies of any and all relevant documents, exhibits, or other information the candidate or certificant wants to submit in support of the appeal.
4. **Time Period for Submitting Final Appeal.** A candidate or certificant seeking to present a final appeal must submit a written, signed appeal, consistent with the requirements of these procedures, to the Credentialing Director within ten (10) days of the date of the Peer Review Committee Decision. Upon written request by the candidate or certificant received at least ten (10) days prior to the appeal deadline, the Board Chair or authorized representative may, in his or her discretion, extend the time period for filing the appeal. Denials of time extension requests are not subject to appeal. Any appeals received beyond given time periods will not be reviewed or considered by the Board of Directors.
5. **Final Appeal Deficiencies.** The Board Chair or authorized representative may require the candidate or certificant to clarify, supplement, or amend an appeal submission.
6. **Final Appeal Rejection.** If the Board Chair or authorized representative determines that an appeal does not meet the final appeal requirements or otherwise warrant further formal review, consistent with the requirements set forth in these procedures, the appeal will be rejected. The Board Chair or authorized representative will notify the candidate or certificant of the rejection, as well as the reason(s) for the rejection, by letter within approximately ten (10) days of the determination. Appeal rejection determinations are not subject to appeal.
7. **Scheduling of Final Appeal Hearing.** Within fifteen (15) days of receipt of a complete and proper written appeal, the Board of Directors will schedule a hearing date for appeal consideration, generally not later than the next or second regularly scheduled Board meeting, and will notify the candidate or certificant of the date. The Board of Directors will conduct an informal hearing designed to review and consider all of the available proof and information, including the record of the first appeal and the materials submitted by the candidate or certificant.
8. **Final Appeal Decision of the Board of Directors.** The Board of Directors will resolve and decide the appeal based on the record, including relevant and credible information presented by the candidate or certificant, BOC policies, and the action or decision of the Peer Review Committee. The Final Appeal Decision will include the findings of the Board of Directors and a summary of the relevant facts upon which the decision is based, and may uphold or modify the decision of the Certification Appeals

Committee, or indicate other appropriate action. The Board of Directors will issue the Final Appeal Decision within fifteen (15) days of the end of the appeal review, or as soon thereafter, as is practical.

**G. Finalizing and Closing Appeals**

1. **Conditions for Closing the Appeal.** An appeal will be closed, and all proceedings ended, when any of the following occurs:
  - a. An appeal has been resolved and decided by the Chief Executive Officer, the Certification Appeals Committee, or the Board of Directors, and the allowable time period for the filing of an appeal under these procedures and rules has passed or lapsed; or,
  - b. The appeal has been withdrawn or terminated by the candidate or certificant.