

# JCAHPO Standards, Procedures, and Sanctions

## Pertaining to Certification and Recertification

### I. Basic Principles

The Joint Commission on Allied Health Personnel in Ophthalmology (JCAHPO) is an organization of ophthalmological societies and associations. JCAHPO has established criteria for training, examination, certification, recertification and utilization at various levels of expertise for Ophthalmic Medical Personnel.

Certification by JCAHPO means that the individual has fulfilled the educational requirements pertaining to specifically delegated technical ophthalmic services under the direction of an employing ophthalmologist, either in his or her private office, a medical clinic, a hospital, or other medical facility. JCAHPO certification does not warrant the competence or job performance of certificants.

Certification by JCAHPO is a non-exclusive and non-transferable right to use the applicable JCAHPO certification designation(s) for the certification period, so long as the certificant remains in compliance with all JCAHPO rules and requirements. JCAHPO reserves the right to revise its rules and requirements at any time.

References herein to "individual(s)" include applicants for certification and recertification and current JCAHPO certificants.

### II. Eligibility for Certification and Recertification

- A. No individual may apply for certification or recertification, or maintain certification, unless they comply with all JCAHPO rules and standards. Certification or recertification may be denied, revoked or otherwise affected for non-compliance with JCAHPO rules and standards.
- B. The individual must truthfully complete and sign an application in the form provided by JCAHPO and shall provide additional information as requested. The individual must notify JCAHPO within thirty (30) days of occurrence of any change in name, address, telephone number, and any facts bearing on eligibility, certification, or recertification (including but not limited to: (i) disciplinary action by a professional licensing board or professional organization; (ii) indictment, arrest, conviction, or plea of guilty to any felony or misdemeanor; and (iii) any mental or physical condition which impairs the individual's ability to render objective and competent professional performance). Applicants must refrain from and/or correct any statement concerning their certification status which is or becomes untrue or misleading.
- Upon receipt of notice of any information referenced in paragraph II B above, or any other information bearing upon the individual's certification status, JCAHPO may: (i) Request additional information from the individual, including, but not limited to, court records, evidence of rehabilitation, and related medical documentation; and/or (ii) Refer the matter to the Disciplinary Review Committee pursuant to Section VI of these rules.
- C. In applying for certification and recertification, and in maintaining current certification, all individuals agree that:

1. The individual will not use in any way the examinations, certificates, cards, logos, and emblems of JCAHPO, the name "Joint Commission on Allied Health Personnel in Ophthalmology, Inc.," the term "JCAHPO", and abbreviations relating thereto, and JCAHPO's certification designations without the express prior written consent of JCAHPO.
2. The individual shall immediately relinquish, refrain from using, and correct, at the individual's expense, any outdated or other inaccurate use of any JCAHPO certificate, card, logo, emblem, name, and related abbreviations in case of suspension, limitation, or revocation by JCAHPO or as otherwise requested by JCAHPO.

#### D. Unauthorized Use of JCAHPO's Designations and Property

JCAHPO will enforce all rights and legal remedies against any individual found to have misrepresented that they are certified by JCAHPO when they are not, or found to have engaged in unauthorized use or misappropriation of JCAHPO property (as described in Section II.C above). JCAHPO may suspend eligibility for certification in such instances and may require the payment of damages and expenses, including attorney's fees, and a showing of rehabilitation before certification eligibility is permitted.

### III. JCAHPO Examinations

All examinations are delivered in English.

Where questions concerning a test score are raised, individuals are required to cooperate in any JCAHPO review or investigation. JCAHPO reserves the right to disregard or nullify any examination score if, in the sole opinion of JCAHPO, there is adequate reason to question the validity of the score. JCAHPO in its discretion may: (i) offer the individual an opportunity to take the examination again at no additional fee, (ii) offer the individual an opportunity to take the examination again in the ordinary course, including payment of all fees; or (iii) proceed as described in Section VI, below. No detail concerning the candidate's performance on specific examination items or the candidate's examination score will be provided. All examination information and materials are confidential and will not be released to the candidate.

### IV. Review of Application and Certification

A. Grounds for Action. The following are grounds for JCAHPO to deny, revoke, or otherwise act upon certification or recertification eligibility:

1. Obtaining or attempting to obtain certification or recertification for oneself or another by fraud or deception of material fact in an application or any other communication to JCAHPO, including but not limited to: (a) misstatement of a material fact, and (b) failure to make statement of a material fact, or (c) failure to provide information requested by JCAHPO.

2. Providing or attempting to provide ophthalmic services except as specifically delegated by an ophthalmologist.
3. Misrepresentation of JCAHPO certification or certification status, including but not limited to falsification of documents, use of credential while on non-certified status, and use of credentials without attainment.
4. Irregularity in connection with any JCAHPO examination, including but not limited to copying answers or permitting another to copy answers for any examination.
5. Unauthorized distribution of, possession of, use of or access to pertinent materials or information regarding questions or answers relating to any JCAHPO examination or other confidential JCAHPO documents.
6. Gross or repeated negligence or malpractice in providing ophthalmic care.
7. Personal use of alcohol or any drug or substance to a degree which impairs professional performance providing ophthalmic care.
8. Any physical or mental condition which impairs competent professional ophthalmic care performance.
9. Physical or sexual abuse of a patient.
10. The conviction of, plea of guilty, or plea of nolo contendere to a crime which is directly related to public health, safety, or professional performance providing ophthalmic care.
11. Failure to cooperate reasonably with any JCAHPO investigation of a disciplinary matter.
12. Unauthorized disclosure of confidential information.

B. Sanctions may be applied for violations of any of the above grounds for discipline as set forth in Section VI, below.

### V. Disciplinary Review Committee

The Disciplinary Review Committee is composed of three members, all of whom are members of the Certification Committee. A committee member may not serve on any matter in which his or her impartiality or the presence of actual or apparent conflict of interest might reasonably be questioned. It is the responsibility of the committee member to identify any potential conflict and to disclose all appropriate facts to the Chair of the Certification Committee, who shall have final authority to determine whether the Disciplinary Review Committee member shall be replaced for that hearing.

### VI. Review Procedures

A. Submission of Allegations

1. Allegations of a violation of JCAHPO disciplinary rules are to be referred to JCAHPO for disposition. A person concerned with possible violation of JCAHPO rules (the "complainant") must identify the person(s) alleged to be involved and the facts concerning the alleged conduct in as much detail and specificity as possible, with available documentation, in a written statement addressed to JCAHPO's Executive Director. The statement should identify by name, address, and telephone number the person making the information known to JCAHPO and others who may have knowledge of the facts and circumstances concerning the alleged conduct. The complainant may be required to supplement the information provided, or to provide a written complaint, notarized affidavit, release, or other documentation.
2. If a complainant is not available but the Executive Director has reason to believe there may have been a violation of a JCAHPO rule, the Executive Director may still refer the matter to the Disciplinary Review Committee.
3. The Executive Director shall make an initial determination of the allegations of violation. The Executive Director shall determine whether (a) the allegations fail to state a violation of JCAHPO's rules, or (b) good cause may exist to deny eligibility or question compliance with JCAHPO's rules. If the Executive Director determines that the allegations fail to state a violation of JCAHPO rules, no further action shall be taken and the Board and complainant (if any) shall be notified of this decision. Appeals of such decisions by complainants may be made in the manner described in Section VII B and C except that no fees shall be paid and no written decision shall be necessary. The Executive Director may not appeal a decision in a matter where there was no complainant.
4. If the Executive Director determines that a legitimate question of compliance with JCAHPO rules has been presented, the Executive Director shall transmit the allegations to the Disciplinary Review Committee.

B. Procedures of the Disciplinary Review Committee

1. The Disciplinary Review Committee shall review the allegations. If the Committee determines after such review that the complaint does not justify further inquiry into possible violation of JCAHPO disciplinary rules, no further action shall be taken. The Board and the complainant (if any) shall be so informed. Appeals of such decisions may be made in the manner described in Section VII B and C except that no fees shall be paid and no written decision shall be necessary. The Executive Director may not appeal a decision in a matter with no complainant.

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2. If the Committee finds by majority vote that good cause exists to question whether a violation of a JCAHPO rule has occurred, the Committee shall transmit a statement of allegations to the applicant or certificant by certified mail, return receipt requested, setting forth the applicable standard alleged to have been violated and a statement:
  - a. Of facts constituting the alleged violation of the standard;
  - b. That the applicant or certificant may request an oral hearing for the disposition of the allegations, with the applicant or certificant bearing his or her own expenses for such matter;
  - c. That the applicant or certificant shall have fifteen (15) days after receipt of the statement to notify JCAHPO if he or she disputes the allegations and/or requests an oral hearing on the record;
  - d. That the applicant or certificant may attend the hearing with or without the assistance of counsel, may question any witness, and produce evidence on his or her behalf;
  - e. That the truth of allegations or failure to respond may result in sanctions including revocation; and
  - f. That if the applicant or certificant does not dispute the allegations or request a hearing, the applicant or certificant consents that the Disciplinary Review Committee may render a decision and apply available sanctions. (Available sanctions are set out in VI D.)
3. JCAHPO will not review such an application for certification until the Disciplinary Review Committee and/or the JCAHPO Board of Directors renders a final decision on the complaint authorizing staff to proceed with reviewing the application.
4. Where an applicant or certificant has failed to respond to a complaint in the manner provided for above, or does not dispute the allegations or request a hearing, the applicant or certificant consents that the Disciplinary Review Committee may render a decision and apply available sanctions (set out in VI D).

### C. Hearing Procedures

If the applicant or certificant disputes the allegations or requests a hearing:

1. The Disciplinary Review Committee shall:
  - a. Schedule a hearing after the request is received, allowing for an adequate period for preparation for the hearing; and
  - b. Send by certified mail, return receipt requested, a Notice of Hearing to the applicant or certificant. The Notice of Hearing shall include a statement of the time and place of the hearing as selected by the Disciplinary Hearing Committee. The applicant or certificant may request modification of the date of the hearing for good cause.
2. The Disciplinary Review Committee shall maintain a verbatim oral or written transcript.
3. JCAHPO and the applicant or certificant may consult with and be represented by counsel, make opening statements, present documents and testimony, question witnesses, make closing statements, and present written briefs as scheduled by the Disciplinary Review Committee. The extent of this activity is at the complete discretion of the Disciplinary Review Committee.
4. The Disciplinary Review Committee shall determine all matters relating to the hearing. The hearing and related matters shall be determined on the record by majority vote.
5. Formal rules of evidence shall not apply. Relevant evidence may be admitted. Disputed questions shall be determined by majority vote of the Disciplinary Review Committee.
6. Proof shall be by preponderance of the evidence.
7. Whenever mental or physical disability is alleged, the applicant or certificant may be required to undergo a physical or mental examination at the expense of the applicant or certificant. The report of such an examination shall become part of the evidence considered.
8. The Disciplinary Review Committee shall issue a written decision following the hearing and any briefing. The decision shall contain factual findings, conclusions and any sanctions applied. It shall be mailed promptly by certified mail, return receipt requested, to the applicant or certificant.

### D. Sanctions

Sanctions for violation of any JCAHPO rule may include one or more of the following:

1. Denial or suspension of eligibility;
2. Re-examination or suspension from the examination process for one (1) year;
3. Revocation;
4. Non-renewal;
5. Censure;

6. Reprimand;
7. Suspension;
8. Training, education, treatment, or other corrective action;
9. Probation for up to five (5) years; and
10. Conditions relating to the above.

A failure to comply with conditions of sanctions (such as corrective action) may result in a re-evaluation of sanctions by the committee issuing the sanctions.

## VII. Appeal Procedures

- A. If the decision of the Disciplinary Review Committee finds that the allegations are not established, no further action on the appeal shall occur and the individual shall be notified.
- B. If the decision rendered by the Disciplinary Review Committee is not favorable to the applicant or certificant, and the applicant or certificant alleges that the decision of the Disciplinary Review Committee was arbitrarily or capriciously rendered, the decision may be appealed to the JCAHPO Board of Directors. The ground for appeal is limited to only those adverse decisions alleged to have been arbitrarily or capriciously rendered. The applicant or certificant may appeal the adverse determination by submitting a written appeals statement within thirty (30) days following receipt of the decision of the Disciplinary Review Committee. A fifty dollar (\$50) filing fee must accompany the written appeals statement. This fee may be waived in instances of documented and severe financial hardship. JCAHPO, through its Executive Director or a designee, may file a written response to the statement of the applicant or certificant.
- C. The JCAHPO Board of Directors by majority vote shall render a decision on the record below without hearing, although written briefs or other submissions may be submitted at the request and discretion of the JCAHPO Board of Directors.
- D. The decision of the JCAHPO Board of Directors shall be rendered in writing following any briefing. The decision shall contain factual findings, conclusions and any sanctions applied and shall be final. (Available sanctions are set out in Section VI D 1-10, above.) The decision shall be transmitted to the applicant or certificant by certified mail, return receipt requested.

## VIII. Summary procedure

Whenever JCAHPO determines that there is cause to believe that a threat of immediate and irreparable injury to the health of the public exists, such allegations shall be forwarded to the Disciplinary Review Committee, who shall review the matter immediately by telephone or other expedited notice and hearing procedure. Following such notice and opportunity by the individual to be heard, if the Disciplinary Review Committee determines that a threat of immediate and irreparable injury to the public exists, certification may be suspended for up to sixty (60) days pending a full hearing under the procedures outlined in Section VI.

## IX. Release of Information

- A. All candidate applications, forms, and information are the property of JCAHPO.
- B. JCAHPO is not required to return, provide, or permit access to such information.
- C. By virtue of application for and/or receipt of certification, the individual applicant or certificant authorizes JCAHPO and its officers, directors, agents, employees, committees, committee members, counsel, and others to communicate any and all information relating to any JCAHPO application, certification, and review thereof including pendency or outcome of disciplinary proceedings to state and federal authorities, employers, other certifiants, training programs, and others by any means.

## X. Waiver

The individual applicant or certificant agrees that he or she releases, discharges, and exonerates JCAHPO, its officers, directors, agents, employees, committees, committee members, counsel, and others for any actions taken in good faith pursuant to JCAHPO rules, standards, and procedures from any and all liability, including but not limited to liability arising out of (i) the furnishing or inspection of documents, records, and other information, and (ii) any investigation and review of application or certification made by JCAHPO.

## XI. Consideration of Eligibility

Eligibility and/or certification is considered on the following basis:

- A. In the event of a felony or misdemeanor conviction described in Section IV, a candidate may make application upon exhaustion of appeals and the completion of sentencing (including but not limited to probation, final release from confinement, or parole [if any], whichever is later);
- B. In any other event that has rendered a decision of ineligibility or revocation, a candidate may make application no earlier than one (1) year from the final decision of ineligibility or revocation.

In addition to other facts required by JCAHPO, such an individual must fully set forth the circumstances of the decision denying eligibility or revoking certification, information concerning all convictions, sentences received, and conditions of probation and parole, as well as all relevant facts and circumstances since the decision relevant to the application. The individual bears the burden of demonstrating by clear and convincing evidence that the individual has been rehabilitated and poses no danger to others.