

APPENDIX E

ARC DISCIPLINARY POLICY

The Aromatherapy Registration Council ("ARC") has developed and administers the Registered Aromatherapist registration program as a means to fulfill its mission of promoting the safe delivery and effective practice of aromatherapy, with the ultimate purpose of protecting public health and safety. ARC adopted this Disciplinary Policy to articulate standards of conduct required for eligibility for registration and continued registration as a Registered Aromatherapist. ARC welcomes comment and inquiry from aromatherapists and the public.

Please note: All references to “days” in this Disciplinary Procedure and other ARC standards, policies, and procedures refer to calendar days. Any communications required by ARC must be in writing and sent to ARC by certified mail (return receipt requested) or by delivery service.

A. ELIGIBILITY FOR REGISTRATION

The initial determination of an individual's eligibility for registration as a Registered Aromatherapist will be made by the ARC Executive Director (in consultation with the ARC President). A decision by the Executive Director to deny eligibility may be appealed under section E, below. Any such appeal shall be limited to written briefs; an oral hearing will not be permitted.

As a condition of eligibility for and continued registration as a Registered Aromatherapist, each applicant/candidate/registrant agrees to comply with the following:

1. Complete Application

Each applicant must truthfully complete and sign an Application in the form provided by ARC, pay the required fee(s), and provide additional information upon request by ARC.

2. Misrepresentation Prohibited

No applicant/candidate/registrant shall make any inaccurate, untrue, or misleading statements concerning their Application or registration status, and the individual shall take all steps reasonably necessary to immediately correct any such false information.

3. Compliance with ARC Standards, Policies, and Procedures.

In order to be and remain eligible for registration, an individual must be in compliance with this Disciplinary Policy as well as all other ARC standards, policies and procedures and ARC may deny, revoke, or otherwise limit an individual's registration for non-compliance. The responsibility to prove eligibility or compliance rests with the

individual. ARC may request additional information regarding eligibility or compliance at any time. By submitting an Application or maintaining registration, each individual agrees to provide ARC with confirmation of compliance with ARC's standard, policies, and procedures upon request by ARC.

4. Civil & Criminal Actions

Within ninety (90) days of its occurrence, an applicant/candidate/registrant must notify ARC of any inquiry, indictment, or charge pending against her/him before a state or federal regulatory agency, professional organization, or judicial body, directly relating to public health or aromatherapy, or any matter described in Section C. 1-12. The applicant/candidate/registrant shall also notify ARC of any developments related to the matter within ninety (90) days of their occurrence, including but not limited to providing documentation of the matter's resolution.

5. Criminal Convictions

An applicant/candidate/registrant convicted of a felony directly related to public health or aromatherapy shall be ineligible to apply for registration for a period of ten (10) years from the exhaustion of appeals or final release from confinement (if any), whichever is later. Convictions of this nature include but are not limited to felonies involving rape, sexual abuse of a patient or child, actual or threatened use of a weapon or violence, and prohibited sale, distribution, or possession of a controlled substance. An applicant who is incarcerated, or for whom incarceration is pending, on the Application deadline date shall be ineligible for registration until eligibility is reinstated as provided in section J, below.

6. Property of ARC

The names "Registered Aromatherapist", "RA", "Aromatherapy Registration Council", "ARC" and related logos, the Examination and all related materials, certificates, and other items produced or provided by ARC are all the exclusive property of ARC. These items may not be used in any way except as permitted by the ARC Policy on Use of Registration Marks or otherwise authorized by ARC in advance and in writing. An applicant/candidate/registrant shall immediately stop and correct at the individual's expense any inaccurate, false, outdated, or otherwise unauthorized use of any ARC property.

ARC, in its sole and absolute discretion, will determine whether any use of its property is inconsistent with this Disciplinary Policy or ARC's other standards, policies, and procedures. Failure to comply with this Policy may result in revocation of registration or other sanction as described below.

Upon the expiration, suspension, or revocation of an individual's registration as a Registered Aromatherapist, the individual shall no longer use ARC's property in any manner and must immediately stop all use of ARC's property (including no distribution of materials already prepared). Each applicant/candidate/registrant agrees that ARC shall

be entitled to obtain all relief permitted by law in the event he/she fails to comply.

7. Required Notifications to ARC

Every applicant/candidate/registrant must notify ARC within ninety (90) days of any change in name, address, or telephone number. ARC must also be notified, in writing, of any event or development affecting eligibility for registration, including but not limited to any criminal conviction or disciplinary action taken by a governmental agency or other professional organization.

B. SCORE REPORTS

ARC is committed to reporting only valid Examination scores. Should misconduct or other circumstances beyond a candidate's control occur and cause ARC to question a score's validity, ARC will investigate further and requires that all applicants/candidates/registrants cooperate. In its sole discretion, ARC reserves the right to cancel any Examination score if there is a reasonable basis to doubt its validity, and may (i) offer the affected candidate an opportunity to take the Registration Examination again at no additional fee or (ii) proceed as described below.

C. APPLICATION AND REGISTRATION STANDARDS

ARC, in its sole discretion, may deny, suspend, or revoke registration, or take other appropriate corrective action with regard to an applicant/candidate/registrant in the event of:

1. Ineligibility for ARC registration;
2. Irregularity in connection with any Examination administration;
3. Failure to pay fees as required by ARC;
4. Unauthorized possession of, use of, or access to the Examination and related materials, the names "Registered Aromatherapist", "RA", "Aromatherapy Registration Council", "ARC" and related logos, certificates, and any other ARC documents and materials;
5. False or misleading statements, fraud, deceit, or failure to provide any information requested by ARC;
6. Failure to provide timely updated information to ARC;
7. Misrepresentation of Registered Aromatherapist registration status;
8. Habitual use of alcohol or any drug or substance, or any physical or mental condition, which impairs competent and objective professional performance;
9. Gross or repeated negligence in professional work, including but not limited to unsafe professional practice;
10. Limitation or sanction, whether voluntary or involuntary, by a governmental regulatory board or professional organization relating to public health or the specialty of aromatherapy;
11. The conviction of, plea of guilty, or plea of nolo contendere to a felony or misdemeanor related to public health or aromatherapy. This includes but is not limited to

a felony involving rape, sexual abuse of a patient or child, actual or threatened use of a weapon or violence, and the prohibited sale, distribution, or use of a controlled substance; or

12. Other violation of an ARC standard, policy, or procedure as set forth in the ARC Handbook for Candidates or other material provided to applicants/candidates/registrants (and as amended from time to time by ARC).

D. DISCIPLINARY REVIEW AND HEARING COMMITTEES

A Disciplinary Review Committee and a Disciplinary Hearing Committee shall be elected by the ARC Board of Directors to investigate alleged violations of this Disciplinary Policy or any other ARC standard, policy or procedure. Each Committee shall be composed of three (3) members drawn from current Registered Aromatherapists. Current voting members of the Board of Directors shall not be eligible to serve on either Committee. No individual may serve on both Committees simultaneously. A Committee member shall serve for an initial term of three (3) years and may be re-elected for consecutive terms. A member of a Committee shall not serve on any matter in which her/his objectivity and impartiality might reasonably be questioned or which presents an actual or apparent conflict of interest. If a Committee member is unavailable due to resignation, disqualification, or other circumstance, the President of ARC shall appoint a temporary replacement. Committee action shall be determined by majority vote of the entire Committee.

E. REVIEW AND APPEAL PROCEDURES

1. Submission and Initial Review of Allegations

a. Persons concerned with a possible violation of this Disciplinary Policy or any other ARC standard, policy, or procedure, or a wrongful determination of ineligibility by the ARC Executive Director, are encouraged to submit a complaint to ARC. The complaint must be in writing, signed and dated, and identify the person(s) involved and the surrounding circumstances in as much detail as possible. The complaint should also include the name, address, and telephone number of the person making the complaint and any other individual(s) who may have information regarding the alleged violation.

b. Alleged violations must be sent to the ARC Executive Director for forwarding to the ARC President for initial review. Supplementation relating to the content or form of the complaint may be requested by either the Executive Director or the President, including but not limited a written testimonial from the individual who is the subject of the complaint.

c. The President, in consultation with legal counsel, shall make a determination regarding the allegations.

d. If the President determines that the allegations are frivolous or fail to state a violation of ARC's rules, no further action shall be taken. The President will inform the ARC Board of Directors, Executive Director, and the complainant (if known).

e. If the President determines that good cause may exist to deny eligibility or question compliance with ARC's rules, the President shall forward the matter to the

Disciplinary Review Committee for investigation.

2. **Procedures of the Disciplinary Review Committee**

- a. The Disciplinary Review Committee shall investigate the allegations after receipt from the President.
- b. If the Committee determines that the facts are inadequate to sustain the allegations and a finding of a violation of ARC's rules, no further action shall be taken. The Committee will inform the ARC Board of Directors, President, Executive Director, and the complainant (if known).
- c. If the Committee determines that good cause exists to question whether eligibility was improperly denied or ARC's rules were violated, the Committee shall transmit a written statement of allegations to the subject individual by certified mail (return receipt requested). This statement shall set forth:
 - i. the applicable rule;
 - ii. the facts constituting the alleged violation of the rule or determination of ineligibility;
 - iii. for allegations not related to a denial of eligibility, the right of the applicant/candidate/registrant to request an oral hearing at which to dispute the allegations, with the applicant/candidate/registrant bearing her/his own expenses for the hearing;
 - iv. that the applicant/candidate/registrant shall have thirty (30) days after receipt of the statement to notify the ARC President and the Committee, in writing, that he/she disputes the allegations, has comments on available sanctions, desires review of the written record, and/or requests an oral hearing on the record;
 - v. that, in the event of an oral hearing, the applicant/candidate/registrant may appear in person with or without legal counsel, examine and cross-examine any witness under oath, and produce evidence on her/his behalf;
 - vi. that failure to respond may result in sanctions, including revocation of registration;
 - vii. that a finding by the Disciplinary Hearing Committee of the allegations to be truthful may result in sanctions including revocation; and
 - viii. that if the applicant/candidate/registrant does not dispute the allegations or request a review or hearing, the applicant/candidate/registrant thereby agrees that the Disciplinary Review Committee may render a decision on the evidence before it and apply available sanctions (as set out below in F(1-6)).
- d. In matters related to a denial of eligibility by the ARC Executive Director, if the applicant/candidate/registrant disputes the denial or requests a written review, the Disciplinary Review Committee shall forward the allegations and response of the applicant/candidate/registrant to the Disciplinary Hearing Committee.
- e. In all other cases, if the applicant/candidate/registrant disputes the allegations or available sanctions or requests an oral hearing, the Disciplinary Review Committee may offer the applicant/candidate/registrant the opportunity to accept an identified sanction in lieu of proceeding with the requested oral hearing. Such an offer shall be provided in

writing. The candidate or registrant may ask the Disciplinary Review Committee to modify its offer, and the Committee may do so in its sole discretion. If the candidate or registrant is unwilling to accept the Committee's offer, the Disciplinary Review Committee shall:

- i. forward the allegations and response of the applicant/candidate/registrant to the Disciplinary Hearing Committee; and
- ii. designate one of its members to present the allegations and any substantiating evidence, examine and cross-examine witnesses, and otherwise present the matter during any hearing before the Disciplinary Hearing Committee.

3. Procedures of the Disciplinary Hearing Committee

a. In matters related to a denial of eligibility by the ARC Executive Director, the Disciplinary Hearing Committee shall render a decision within thirty (30) days following receipt of the matter from the Disciplinary Review Committee. This decision shall be based on the written record below without an oral hearing, although written briefs may be submitted by the applicant/candidate/registrant and the Disciplinary Review Committee.

b. In all other cases, after receiving the allegations and response, the Disciplinary Hearing Committee shall:

- i. schedule a location and date for a hearing, allowing for an adequate period of time for preparation by both sides; and
- ii. send a Notice of Hearing to the applicant/candidate/registrant by certified mail (return receipt requested) stating the time and place of the hearing. The applicant/candidate/registrant may request a change of date or location of the hearing for good cause, which may be granted by the Disciplinary Hearing Committee in its sole discretion. Failure to respond to the Notice of Hearing shall permit the Disciplinary Review Committee to administer any sanction which it considers appropriate.

a. The Disciplinary Hearing Committee shall maintain a verbatim oral or written transcript.

b. ARC and the applicant/candidate/registrant may consult with and be represented by legal counsel, make opening statements, present documents and testimony, examine and cross-examine witnesses under oath, make closing statements, and present written briefs as scheduled by the Disciplinary Hearing Committee.

c. Formal rules of evidence shall not apply. Relevant evidence may be admitted.

d. The Disciplinary Hearing Committee shall determine all matters relating to the hearing.

e. Resolution of disputed questions shall be determined by the Disciplinary Hearing Committee.

f. In all written reviews and oral hearings before the Disciplinary Hearing Committee:

- i. Proof shall be by preponderance of the evidence.
- ii. Whenever mental or physical disability is alleged, the applicant/candidate/registrant may be required to undergo a physical or mental examination at her/his expense. The report of such an examination

shall become part of the evidence considered.

- iii. The Disciplinary Hearing Committee shall issue a written decision following the review or hearing and any briefing. The decision shall contain factual findings, conclusions of law, and any sanctions applied. It shall be promptly mailed to the applicant/candidate/registrant by certified mail (return receipt requested). The Committee will also inform the ARC Board of Directors, Disciplinary Review Committee, and Executive Director.

4. **Appeal Procedures**

- a. If the decision rendered by the Disciplinary Hearing Committee finds that the allegations are not established, no further action on the matter shall be taken.
- b. If the decision rendered by the Disciplinary Hearing Committee is not favorable to the applicant/candidate/registrant, he/she may appeal the decision to the ARC Board of Directors by submitting a written appeals request within thirty (30) days following receipt of the decision of the Disciplinary Hearing Committee. The Disciplinary Review Committee may file a written response to the request of the applicant/candidate/registrant.
- c. The Board of Directors by majority vote of those Directors present and voting shall render a decision within thirty (30) days following receipt of the appeal request. This decision shall be based on the written record below without an oral hearing, although written briefs may be submitted by the applicant/candidate/registrant and the Disciplinary Review Committee. Alternatively, the Board of Directors may choose, in its sole discretion, to conduct a *de novo* review of the Disciplinary Hearing Committee decision, and in such event shall follow the procedures set forth in section 3, above (with the Board of Directors in place of the Disciplinary Review Committee).
- d. The decision of the ARC Board of Directors shall be rendered in writing. The decision shall contain factual findings, conclusions of law, and any sanctions applied (as set forth below in Section F(1-6)). The Board's decision shall be final. The decision shall be mailed to the applicant/candidate/registrant by certified mail (return receipt requested).

F. **SANCTIONS**

The sanction for violation of any ARC rule may include one or more of the following:

1. Denial or suspension of eligibility;
2. Revocation of registration;
3. Non-renewal of registration;
4. Reprimand;
5. Suspension of registration; or
6. Other corrective action.

G. **SUMMARY PROCEDURE**

Whenever the ARC President determines that there is cause to believe that a threat of immediate and irreparable injury to the public exists, the President shall forward the allegations to the ARC Board of Directors. The Board shall review the matter immediately and provide telephonic or other expedited notice and review procedures to the subject Registered Aromatherapist. Following such notice and opportunity by the Registered Aromatherapist to be heard, if the Board determines that a threat of immediate and irreparable injury to the public exists, registration may be suspended for up to ninety (90) days pending a full review as provided herein.

H. RELEASE OF INFORMATION

Each applicant/candidate/registrant agrees that ARC and its officers, directors, committee members, panel members, employees, and agents may communicate any and all information relating to her/his registration status and Application and review thereof (including but not limited to the pendency or outcome of any disciplinary proceedings) to state and federal authorities, licensing boards, employers, other registrants, and the public upon request.

I. WAIVER

Each applicant/candidate/registrant releases, discharges, and exonerates ARC, its officers, directors, committee members, panel members, employees, and agents, and any other persons from any and all liability arising out of or in connection with any action taken pursuant to this Disciplinary Policy or other ARC standards, policies, and procedures, 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 an Application or registration made by ARC.

J. RECONSIDERATION OF ELIGIBILITY AND REINSTATEMENT OF REGISTRATION

If eligibility or registration is denied or revoked, eligibility or registration may be reconsidered on the following basis:

1. In the event of a felony conviction directly related to public health or aromatherapy no earlier than three (3) years from the exhaustion of appeals or release from confinement, whichever is later;
2. In any other event, no earlier than three (3) years from the final decision of ineligibility or revocation.

In addition to other facts required by ARC, such an individual must fully set forth the circumstances of the decision denying eligibility or revoking registration, as well as all relevant facts and circumstances since the decision relevant to the Application. When eligibility has been denied because of felony conviction, the individual bears the burden of demonstrating by clear and convincing evidence that the individual has been rehabilitated and does not pose a danger to others. Such evidence shall be submitted to

the ARC Executive Director, who shall determine whether the evidence meets this burden. Unless and until clear and convincing evidence is submitted, the individual will remain ineligible for reinstatement. The decision of the Executive Director may be appealed as provided in section E, above.

K. SUBMISSION OF INFORMATION TO ARC CONCERNING POSSIBLE VIOLATION OF RULES

Persons concerned with a possible violation of this Disciplinary Policy or any other ARC standards, policies, or procedures are encouraged to submit a complaint to ARC. The complaint must be in writing, signed and dated, and identify the person(s) involved and the surrounding circumstances in as much detail as possible. The complaint should also include the name, address, and telephone number of the person making the complaint and any other individual(s) who may have information regarding the alleged violation. Alleged violations must be sent to the ARC Executive Director for forwarding to the ARC President for initial review. Supplementation relating to the content or form of the complaint may be requested by either the Executive Director or the President, including but not limited a written testimonial from the individual who is the subject of the complaint.

