

# BOSWC Conduct, Sanction, Discipline, and Appeals Policy

## Conduct and Sanction

The purpose of BOSWC certification is to provide assurance to professionals, employers, and the public that those recognized as a Certified Oncology Social Workers and allowed to use of the OSW-C™ credential mark possess knowledge essential to providing biopsychosocialspiritual services to patients, families, and significant others facing the impact of a potential or actual diagnosis of cancer and to practice within professional expectations of the field. Consequently, individuals holding and allowed to use/display the OSW-C™ credential must demonstrate the required level of knowledge, meet the requirements for attainment and maintenance of the credential, and conduct themselves in accordance with standards and expectations of practice for the profession. Failure to meet these standards may result in the issuance of sanctions.

1. Under certain circumstances, initial or renewal of certification by BOSWC may be denied or active OSW-C™ certification sanctioned due to:
  - a. Failure to meet eligibility requirements or pay required fees
  - b. Falsification of any information requested by BOSWC
  - c. Misrepresenting or falsifying any information on the application or portfolio materials for initial or renewal of certification
  - d. Assisting others to misrepresent or falsify any information on the application or portfolio materials Misrepresentation of the OSW-C™ credential
  - e. Failure of the portfolio review (i.e., examination)
  - f. Failure to meet requirements for renewal of certification
  - g. Fraudulent or other misuse of the OSW-C™ credential
  - h. Lack of current, active, unencumbered social work license, including licenses currently subjected to formal discipline by any state board and licenses with provisions or conditions that limit the social worker's practice in any way.
  - i. Failure to notify BOSWC in writing within 30 days of any restriction placed on the social work license
  - j. Criminal convictions under federal or state law in a matter related to the practice of, or qualifications for, professional activity covered by the OSW-C™. Criminal activity includes indictment, arrest, conviction, or plea of guilty to any felony and/or misdemeanor within the past three (3) years OR limitation, sanction, revocation, or suspension by a healthcare organization, professional organization, or other private or governmental body relating to social work practice or public health safety.
  - k. Gross or repeated negligence, malpractice, or willful misconduct in professional practice
  - l. Violation of the NASW's Code of Ethics
2. BOSWC may issue sanctions that include, but are not limited to, limitation of application for certification or renewal, denial of initial certification, renewal (or recertification), revocation, suspension, or any combination of sanctions.
3. Upon being notified of a possible violation, BOSWC shall, in its sole discretion, investigate the allegation or decline to act on the matter. If BOSWC believes that there has been a possible violation of

the conditions identified above, BOSWC shall provide the individual with written Notice of the Allegations (see Discipline Review).

4. The discipline review and appeals process may be instituted.
5. If an official sanction is issued, it shall state whether official notice of the sanction will be provided to the individual's state licensing board(s), employer(s), professional membership societies, and/or others. Such notice, if authorized by the sanction, shall not be given until the expiration and/or resolution of any appeal.

## **Discipline Review**

**Discipline Subcommittee** – This subcommittee of the BOSWC Board of Directors shall be responsible for reviewing and rendering a decision regarding matters related to violations of BOSWC rules. It shall be composed of four (4) members: the chair, the chair-elect (who will serve as Chair), the secretary-treasurer, and one (1) other non-officer member of the BOSWC Board of Directors.

**Review of Alleged Violations of BOSWC's Rules (other than eligibility decisions)** – This section outlines the process to be followed in the event that an individual is alleged to have violated BOSWC rules. These rules are published and available to the public.

1. BOSWC shall provide the individual with written notice of the alleged violation. The written notice shall include:
  - a. The rule or rules identified in "Conduct and Sanction" alleged to have been violated by the individual;
  - b. The facts surrounding the allegation;
  - c. An opportunity for the individual to respond in writing to the allegation within thirty **(30) days** of the individual's receipt of the allegation (sent via US Post "Notice of Delivery"); and
  - d. Notice that a failure to timely respond to the allegation may result in the issuance of sanctions against the individual's certification or eligibility for certification or recertification.
2. If the individual has filed an application for certification or recertification with BOSWC at the time of receipt of the alleged violation, the application shall be suspended pending determination of the alleged violation.
3. Upon receipt of the individual's response or expiration of the thirty (30) day response period, the executive director and/or Discipline Subcommittee shall authorize an investigation into its specific facts or circumstances to whatever extent is necessary to clarify, expand, or corroborate the information provided by the submitted.
  - a. The executive director and/or Discipline Subcommittee may be assisted in the conduct of its investigation by other members of the BOSWC Board of Directors, staff, and/or legal counsel.
  - b. The submitter, certificant who is the subject of the investigation, or other individuals who may have knowledge of the facts and circumstances surrounding the complaint may be contacted as part of the investigation.

4. All investigations and deliberations are conducted in confidence, with all written communications sealed and marked “Personal and Confidential,” and they are conducted objectively, without any indication of prejudice. An investigation may be directed toward any aspect of a complaint which is relevant or potentially relevant. Formal hearings are not held, and the parties are not expected to be represented by counsel, although the executive director and/or Discipline Subcommittee may consult their own counsel. The rules of evidence do not apply, and there are no witnesses, cross-examination, or other features of a court trial.
5. Upon completion of an investigation and deliberations, the executive director and/or Discipline Subcommittee shall render a decision on the matter.
  - a. The decision shall be documented in a written report or minutes that address the investigation, deliberation, determination of violation or dismissal, sanction (if appropriate), and rationale.
  - b. The decision may include the issuance of sanctions against the individual’s certification, recertification or eligibility for certification or recertification.
  - c. These sanctions may be reported to appropriate individuals and/or institutions (e.g., state licensing boards, employers, and membership societies). Such notice, if authorized by the sanction, shall be included in the sanction notification to the individual and shall NOT be given until the expiration and/or resolution of any appeal.
6. It should be emphasized that:
  - a. Actions taken under these Policies do not constitute enforcement of the law, although referral to appropriate federal, state, or local government agencies may be made about the conduct of the certificant in appropriate situations.
  - b. Individuals initially bringing complaints are not entitled to any relief or damages by virtue of this process, although they may receive notice of the actions taken to be determined by BOSWC.
  - c. Commercial disputes are not considered under these Policies.

## **Appeals of Eligibility and/or Disciplinary Action**

**Appeals Committee** – The Appeals Committee shall be responsible for reviewing all appeals made by individuals who have been denied eligibility to apply for certification or who have had sanctions imposed on their certification. If a member of the Appeals Committee receives an appeal with which the member has a conflict of interest with the matter being appealed and/or the individual filing the appeal, the member shall immediately notify the committee chair. The member shall not participate in deciding the appeal.

**Appeals Committee Composition** – The Appeals Committee shall have five (5) voting members, none of whom concurrently serve as a member of the BOSWC Board of Directors or on any other BOSWC committee or volunteer role. The chair shall appoint individuals to serve on the Appeals Committee for a 2-year, renewable term not to exceed two (2) consecutive terms—or a total of four (4) years of committee service. The chair shall designate one (1) member to serve as chair. The chair shall appoint individuals to fill vacancies as they occur. The Appeals Committee shall include at least one (1) representative from each of the following categories:

1. A social worker who is currently certified by BOSWC.

2. A social worker who is a member of either AOSW or APOSW but not currently BOSWC certified.
3. At least one (1) person, but not more than two (2) people, who previously served as a member of the BOSWC Board of Directors.

All members should be knowledgeable about social worker credentialing or certification processes.

**Appeals Committee Duties and Responsibilities** – The Appeals Committee shall review appeals requests as outlined in the Procedure for Appeals Review policy.

### **Procedure for Appeals Review**

1. In the event of a determination that an individual has been denied certification or recertification based on a failure to satisfy application or eligibility requirements, pay fees required by BOSWC, or discipline sanction, the individual shall have thirty (30) days to file a written request for review. The “application and eligibility requirements” do **NOT** include the “portfolio” of CE, Demonstrated Practice, and Attestations (when required) that constitute the “exam” upon which the Board Reviewer makes the final decision regarding BOSWC certification. Portfolio decisions may not be appealed. The BOSWC Appeals Committee shall review and issue a decision on the request.
2. In the written appeal application, the individual must provide all information they wish to present for the Appeals Committee consideration in reviewing their request and carries a **\$50 processing fee**.
3. The appeal shall not include a hearing or any similar trial-type proceeding. The rules of evidence do not apply, and there are no witnesses, cross-examination, or other features of a court trial. Legal counsel is not expected to participate in the appeals process, unless requested by the appellant and approved by the BOSWC Appeals Committee. The BOSWC Board and/or BOSWC Appeals Committee may consult BOSWC legal counsel.
4. The appeal shall be decided by the Appeals Committee. The appellant shall bear the burden of demonstrating that the decision denying eligibility for certification or recertification, or to not grant the credential was based on erroneous factual determination; or was arbitrary, capricious, or unreasonable. All decisions of the Appeals Committee shall be final unless appealed to the BOSWC Board of Directors.
5. All investigations and deliberations under these policies are conducted in confidence, with all written communications sent to individuals by a secure delivery service. Actions taken under these policies do not constitute enforcement of the law, although referral to appropriate federal, state, or local government agencies may be made about the conduct of the certificant in appropriate situations.
6. Decision of the Appeals Committee may be submitted to the BOSWC Board of Directors for written review and action by the Board. The Appeals Committee decision must be submitted to the BOSWC Board of Directors within sixty (60) days of the individual’s receipt of the Appeal Committee decision.
7. Appellants may further appeal to the BOSWC Board of Directors. There will be a **\$150 filing fee** for this level of review. The Board of Directors will review and decide the matter based on the written record of the Appeals Committee. No additional information may be provided at this stage. The decision of the Board of Directors shall be final and may not be appealed.