



**REVIEW AND APPEAL PROCESS FOR ADVERSE DECISIONS
BY THE NATIONAL BOARD ON CERTIFICATION AND RECERTIFICATION OF NURSE ANESTHETISTS
(NBCRNA)**

I. DECISIONS SUBJECT TO REVIEW OR APPEAL

The following Adverse Decisions by the National Board on Certification and Recertification of Nurse Anesthetists (the “NBCRNA”) are subject to review or appeal:

A. Adverse Administrative Decisions

- (1) Denial of a request for extension of an established deadline or for exception to other administrative requirements.
- (2) Denial of a grievance regarding examination administration.

B. Adverse Substantive Decisions

- (1) Denial of eligibility, certification or recertification for nondisciplinary reasons.
- (2) Revocation of eligibility, certification or recertification for nondisciplinary reasons.

C. Reportable Disciplinary Actions based on:

- (1) Irregular behavior before, during or after an NBCRNA examination.
- (2) Manufacture or use of fraudulent NBCRNA credentials.
- (3) Legal, regulatory or credentialing action.

NO APPEAL may be taken from an adverse decision based on an individual’s receipt of a failing score on an NBCRNA examination, or from the imposition of a fee based on a final adverse decision.

II. CONFLICT OF INTEREST POLICY

NBCRNA Directors shall not participate in discussions of, or vote on, any review or appeal in which the Director has or has had a substantial personal or professional relationship with the nurse anesthetist at issue.

III. NOTICE OF ADVERSE DECISION

A nurse anesthetist who has received an Adverse Decision that is subject to review and appeal shall be sent a prompt written Notice of Adverse Decision. The Notice shall state the reason(s) for the Adverse Decision and shall inform the nurse anesthetist that he or she has the right to seek review of the Adverse Decision by filing a timely written Request for Review with the NBCRNA.

IV. THE REVIEW PROCESS

A. Composition and Role of the Review Panel

The Review Panel shall consist of three (3) current NBCRNA Directors. No member of the Review Panel shall be a member of the Executive Committee; and the majority of the members of the Review Panel shall be nurse anesthetists.

The Review Panel shall consider the Notice of Adverse Decision and the Request for Review, including any supporting documentation submitted by the nurse anesthetist or prepared by NBCRNA staff. The Review Panel also may, at its discretion, request or receive, and review, additional information. The foregoing shall constitute the Review Record. A copy of the Review Record shall be forwarded to the nurse anesthetist at least fourteen (14) calendar days before the meeting of the Review Panel.

The review shall be conducted pursuant to the procedures set forth in Section IV.D. (for administrative decisions) or Section IV.E. (for substantive and disciplinary decisions).

B. Request for Review

To be valid, a Request for Review must be postmarked within thirty (30) calendar days after the date of the Notice of Adverse Decision. The Request must contain a statement of why the nurse anesthetist believes that the Adverse Decision was improper, must include any supporting documentation that the nurse anesthetist wishes to have considered as part of the review, and must be accompanied by a Review Fee in the form of a check for \$100.00 made payable to the NBCRNA.

If the nurse anesthetist requests a hearing before the Review Panel, as described more fully in Section IV.C, the nurse anesthetist's intent to appear personally before the Review Panel or to address the Review Panel by telephone must be expressed in the Request for Review.

If a Request for Review is not postmarked within thirty (30) calendar days, the Adverse Decision shall constitute the final decision of the NBCRNA on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by the NBCRNA.

C. Telephonic or In-Person Hearings

A nurse anesthetist requesting review of an Adverse Decision may submit a request for a hearing before the Review Panel in person or by telephone. To be valid, a Request for Review must be postmarked within thirty (30) calendar days after the date of the Notice of Adverse Decision. Not less than thirty (30) calendar days prior to the scheduled date of the hearing, the NBCRNA shall notify the nurse anesthetist in writing of the date, time, and place of the hearing.

If the nurse anesthetist will be accompanied by legal counsel, NBCRNA must be so notified in writing no less than thirty (30) calendar days prior to the date of the hearing.

A nurse anesthetist who chooses to appear before the Review Panel in person or by telephone shall be given the opportunity to make a presentation summarizing the nurse anesthetist's position. The nurse anesthetist's legal counsel may make an opening or closing statement. The total time for the presentation of the nurse anesthetist and/or his or her legal counsel shall not exceed twenty (20) minutes.

At the conclusion of the presentation, members of the Review Panel and NBCRNA legal counsel may ask the nurse anesthetist to respond to questions. The Review Panel shall not be bound by technical rules of evidence usually employed in legal proceedings, but may consider any evidence it deems appropriate.

All expenses incurred by the nurse anesthetist in connection with the hearing shall be borne by the nurse anesthetist. If the nurse anesthetist makes a timely request that the hearing be transcribed, he or she shall bear all costs for such services.

If the nurse anesthetist requests a hearing and, without good cause, fails to appear or fails to advise the NBCRNA in writing more than seven (7) calendar days before the scheduled date of the hearing that he or she will not appear at the hearing, the nurse anesthetist may forfeit his or her opportunity for a hearing, and the Review Panel may proceed with its deliberations in the matter.

Following the hearing, the Review Panel shall determine, by majority vote of those members present, whether to ratify, reverse, or modify the Adverse Decision. The nurse anesthetist shall be notified in writing of the decision, including the reasons therefor within thirty (30) calendar days after the Review Panel reaches its decision.

D. Final Review of Administrative Decisions

If a written Request for Review of a denial of an extension of an established deadline, an exception to any other administrative requirement, or a denial of remedy requested based on a grievance regarding the administration of an NBCRNA examination, is received within thirty (30) calendar days after the date of the notice of adverse decision, it will be finally reviewed by the NBCRNA Review Panel at its next meeting occurring at least thirty (30) calendar days after receipt of the Request for Review.

Based on its review of the Review Record, and consideration of testimony provided during a hearing, if any, the Review Panel may, at its discretion, take one of the following actions:

- (1) Affirm the Adverse Decision,
- (2) Modify the Adverse Decision, or
- (3) Reverse the Adverse Decision.

The nurse anesthetist shall be notified in writing of the Review Panel's action, including the reasons therefor, within thirty (30) calendar days after the Review Panel reaches its decision.

THE REVIEW PANEL'S DECISION ON ADMINISTRATIVE MATTERS SHALL CONSTITUTE THE FINAL DECISION OF THE NBCRNA ON THE MATTER AND SHALL NOT BE SUBJECT TO APPEAL ABSENT EXTRAORDINARY CIRCUMSTANCES, AS DETERMINED SOLELY BY THE NBCRNA.

E. Review of Adverse Substantive or Disciplinary Decisions

A timely Request for Review of an adverse substantive or disciplinary decision shall be considered by the NBCRNA Review Panel at its next meeting occurring at least thirty (30) calendar days after receipt of the Request for Review. Based on its review of the Review Record and consideration of testimony provided during a hearing, if any, the Review Panel may, at its discretion, take one of the following actions:

- (1) Affirm the Adverse Decision,
- (2) Modify the Adverse Decision, or
- (3) Reverse the Adverse Decision, in which event the decision of the Review Panel shall constitute the final decision of the NBCRNA on the matter.

The nurse anesthetist shall be notified in writing of the Review Panel's action, including the reasons therefor, within thirty (30) calendar days after the Review Panel reaches its decision. The notice shall state the reason(s) for the Review Panel's decision and shall inform the nurse anesthetist that he or she has the right to seek a discretionary appeal of the Review Panel's decision by filing a timely written Request for Appeal to the NBCRNA Executive Committee.

V. THE APPEAL PROCESS

A. Request for Discretionary Appeal of Adverse Substantive or Disciplinary Decisions

A nurse anesthetist who has received notice that an adverse substantive or disciplinary decision has been affirmed or modified by the Review Panel may appeal to the NBCRNA Executive Committee by filing a written Request for Appeal to the NBCRNA Executive Committee. To be valid, the Request for Appeal must be postmarked within thirty (30) calendar days after the date of the notice of decision and must state with specificity the grounds on which the nurse anesthetist is requesting the appeal.

The information submitted in the Request for Appeal shall be limited to that submitted to the Review Panel. New information shall not be considered on appeal. If such information was not available at the time of the Review Panel's review, but becomes available within thirty (30) calendar days after the date of the notice of the Review Panel's decision ("Valid New Information"), the nurse anesthetist may submit such Valid New Information for reconsideration by the Review Panel.

If a Request for Appeal is not postmarked within thirty (30) calendar days, the Review Panel's decision shall constitute the final decision of the NBCRNA on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by the NBCRNA.

B. Consideration of a Discretionary Appeal

A timely Request for Appeal from the Review Panel's decision shall be considered by the President of the NBCRNA. To be valid, the Request for Appeal must be postmarked within thirty (30) calendar days after the date of the notice of decision and must state with specificity the grounds on which the nurse anesthetist is requesting the appeal. **The decision to grant an Appeal is at the sole discretion of the President of the NBCRNA, who shall seek advice of counsel.**

If the President determines that the specific grounds on which the nurse anesthetist has requested an appeal do not raise a question of a procedural error or an arbitrary and capricious decision, he or she shall deny the Appeal.

IF A REQUEST FOR APPEAL IS DENIED, THE REVIEW PANEL'S DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE NBCRNA ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.

The nurse anesthetist shall be notified in writing of the final decision, including the reasons therefor, within thirty (30) calendar days after the President reaches his or her decision.

If the President determines that the specific grounds on which the nurse anesthetist has requested an appeal raise a question of a procedural error or an arbitrary and capricious decision, he or she may grant the Appeal. In such event, the appeal will be heard by the Executive Committee at its next meeting occurring at least thirty (30) calendar days after receipt of the Request for Appeal.

C. Standard of Review

The Executive Committee's review shall be limited to a determination of whether (1) a procedural error may have contributed to the Review Panel's decision or (2) the Review Panel's decision was arbitrary and capricious.

Any member of the Executive Committee who was a member of the Review Panel and participated in prior consideration of the Adverse Decision shall not participate in deliberations regarding, or vote on, the matter.

D. Appeal Procedure

The Executive Committee shall consider the Review Record, the Review Panel's Notice of Affirmation or Modification of Adverse Decision, the nurse anesthetist's Request for Appeal and the record of the hearing if one was conducted before the Review Panel. The Executive Committee also shall receive and review a statement from the Review Panel that took the adverse action. The foregoing shall constitute the Appeal Record.

The Executive Committee shall base its review solely on the Appeal Record and shall determine by majority vote of those members present whether to (1) ratify, reverse or modify the Adverse Decision; or (2) remand the matter back to the Review Panel for correction of a procedural error. If during the course of its review, the Executive Committee finds Valid New Information, it shall discontinue the review and remand the matter back to the Review Panel for reconsideration.

A DECISION BY THE EXECUTIVE COMMITTEE TO RATIFY, REVERSE, OR MODIFY AN ADVERSE DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE NBCRNA ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.

IF THE REVIEW PANEL, ON REMAND, CORRECTS THE PROCEDURAL ERROR BUT REACHES THE SAME DECISION, THAT DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE NBCRNA ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.

The nurse anesthetist shall be notified in writing of the final decision, including the reasons therefor, within thirty (30) calendar days after the Executive Committee or the Review Panel reaches its decision.

VI. SUBMISSIONS TO THE NBCRNA

Whenever there is a requirement for a written notice, request or other writing to be submitted to the NBCRNA, such writing shall be addressed to the following:

Karen Plaus, PhD, CRNA, FAAN
Executive Director
National Board on Certification and Recertification of Nurse Anesthetists
222 South Prospect Avenue
Park Ridge, IL 60068
Tel: (847) 655-1109
Fax: (847) 825-2762

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The procedures set forth above for the review and appeal of Adverse Decisions may be subject to an expedited schedule when deemed necessary by the NBCRNA.

Revised: October 16, 2009; May 4, 2010.

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