

## Poche, Kaylee

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**From:** Trapp, Greg, CFB [REDACTED]  
**Sent:** Tuesday, December 15, 2020 9:29 AM  
**To:** [REDACTED]  
**Cc:** Servan, Carlos; [REDACTED] Mallahan, Lucy, CFB; [REDACTED]  
**Subject:** National Blindness Professional Certification Board Recommendations

Dear President Vigil and Dr. Bell,

The New Mexico Commission for the Blind, the Nebraska Commission for the Blind and Visually Impaired, and Ho`opono Services for the Blind have all worked cooperatively with the National Blindness Professional Certification Board to achieve certification of our training Centers. We recognize the benefits of obtaining such certification from a respected certifying body, and we have proudly proclaimed that our centers are certified as NBPCB Structured Discovery Training Centers. We have also worked to hire employees who possess certification from the NBPCB, and especially O&M instructors who have their NOMC and NOMCT certification. Such certification attests to the skill and suitability of the O&M instructor. We also send consumers for training at the three NFB training centers, which are also NBPCB certified.

Unfortunately, there are allegations that some Certified Blindness Professionals have failed to appropriately adhere to the NBPCB Code of Professional Ethics. The NBPCB has responded by distributing the Code of Professional Ethics and the NBPCB grievance procedure. While that is a positive step that demonstrates the ongoing commitment of the NBPCB to provide certification in a credible and appropriate fashion, we urge that the NBPCB also consider implementing the following measures:

1. Change the type of evidence required for the NBPCB to “proceed with prosecution of the issue as though a complaint had been filed.”

The use of “incontrovertible evidence” sets an extremely high bar for the NBPCB to “proceed with prosecution of the issue.” Taken literally, it means that the NBPCB would not initiate action on ethical violations that are supported by substantial evidence, that are supported by a preponderance of the evidence, that are supported by clear and convincing evidence, or arguably even that are supported by evidence that is beyond a reasonable doubt. This creates a situation in which the NBPCB is barred from initiating action unless there is evidence that is essentially the equivalent of DNA evidence. Perhaps even more concerning, the use of such a high standard of evidence could send the message that action will not be taken in cases where the evidence is less than incontrovertible. Since ethical violations often come down to the word of one person against that of another, this could have a chilling effect and keep individuals who are aware of ethical violations from filing a grievance. We believe that the more appropriate standard for the NBPCB to

initiate an investigation is that of “reasonable suspicion.” This one change would have a very positive impact and set a more appropriate tone for the entire grievance procedure. State law may also require that an investigation stop and a report be made to law enforcement upon the establishment of a reasonable suspicion that abuse has taken place. It is therefore critical to be aware of state mandatory reporting laws.

2. Provide and publish a method for current or former employers to report ethical violations or circumstances that create a reasonable suspicion of an ethical violation.

State employees are covered by strict confidentiality laws, which can create an obstacle when it comes to reporting inappropriate conduct. This could be addressed by requiring that Certified Blindness Professionals sign a release that permits such reporting. The release should include a waiver of liability for reports of inappropriate or unprofessional conduct. A release would also aid with an investigation should NBPCB determine that it has a reasonable suspicion of an ethical violation, and the release would also aid with an investigation should a complaint be filed alleging an ethical violation.

3. Ask background questions during application and renewal.

It is important that Certified Blindness Professionals undergo some basic level of vetting as a part of the certification process. For instance, persons applying for certification and renewal of certification could be required to answer specific questions, such as whether they have been the subject of an internal investigation involving misconduct or abuse that resulted in resignation, termination, or suspension. They could also be asked if they have ever been charged with or convicted of a sex crime or crime that involves the abuse of a child or vulnerable adult.

4. Clarify the circumstances in which total revocation of certification is recommended.

The Code of Professional Ethics states that revocation may be recommended “where a violation is clearly intentional and/or flagrant.” This language again creates a high bar for action. We recommend language that includes a broader range of unacceptable conduct or behavior. For instance, revocation may be recommended where a “violation is offensive, serious, harmful, dangerous, negligent, repeated, intentional, pervasive, or criminal.” Revocation should also be available for disqualifying conduct that takes place outside of the context of the professional work of a Certified Blindness Professional. For instance, a felony conviction or certain misdemeanor convictions should be disqualifying, as should civil judgments involving exploitation, violence, abuse, sexual harassment, or civil fraud. The Code of Professional Ethics should also state that revocation may be permanent.

5. Require Continued Ethics Education

Requiring Certified Blindness Professionals to receive annual continued education in ethics as a requirement to maintain certification would highlight the importance of the Code of Professional Ethics. It would also help ensure that Certified Blindness Professionals are aware of the specific provisions of the Code of Professional Ethics, or the standards of ethical behavior should the NBPCB wish to use external ethics training to count towards the continuing education requirements.

We look forward to your response to our recommendations.

Respectfully,

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