~~CHAPTER 5 CODE OF ETHICS AND DISCIPLINARY PROCEDURES~~

~~5-001 Code of Ethics~~

~~5-001.01 All Certified Compulsive Gambling Counselors must:~~

1. ~~Provide and support the highest quality of care in the recovery of all persons served which must include referring, or releasing an individual to other health professionals or services, if that is in the individual's best interest.~~
2. ~~Respect the unique characteristics of the professional counseling relationship which demands sound, non-exploitive inter-personal transactions between client and counselor.~~
3. ~~Respect the therapeutic needs of the client by not engaging in a personal or sexual relationship with the client.~~
4. ~~Respect the therapeutic needs of the client by not conducting any business or political transactions with the client that may jeopardize their therapeutic needs.~~
5. ~~Adhere to a strict policy of non-discrimination in the provision of services by not discriminating based on race, disability, appearance, religion, age, sex, intelligence, sexual orientation, national origin, marital, economic, educational, or social status.~~
6. ~~Respect the basic human rights of all clients, including their right to make their own decisions, to participate in any plans made in their interests, and to reject services unless a court order stipulates otherwise.~~
7. ~~Adhere to the legal requirements for confidentiality of all records, materials, and communications regarding clients, their families and significant others.~~
8. ~~Assess their personal and professional strengths and limitations, biases and effectiveness on a continuing basis. Strive for self-improvement, and assume responsibility for professional growth through further education and training.~~
9. ~~Respect the rights and views of fellow colleagues and members of other professions.~~
10. ~~Refrain from the abuse of mood-altering chemicals or gambling in a manner that will reflect adversely on the credibility and integrity of the profession.~~
11. ~~Report evidence of incompetent, unethical, unprofessional, or illegal practice of a certified compulsive gambling counselor.~~

~~5-002 Grounds on which the Division may deny certification, refuse renewal of, or discipline a certificate holder:~~

~~5-002.01 The Division must deny an application for a certificate when the applicant fails to meet all the requirements for certification specified in 201 NAC 2-003 and 2-004.~~

~~5-002.02 The Division must refuse renewal of a certificate if the certificate holder fails to meet the requirements specified in 201 NAC 4-001 and 4-004.~~

~~5-002.03 The Division must deny, refuse renewal of, limit, suspend, revoke with possibility of reinstatement, or permanently revoke certification on any of the following~~

~~grounds:~~

1. ~~Using fraud, forgery, or misrepresentation of material facts in procuring, or attempting to procure certification, or re-certification as a compulsive gambling counselor, or knowingly assisting another in procuring, or attempting to procure certification, or re-certification using fraud, forgery, or misrepresentation of material facts.~~
2. ~~Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction, and which if committed within this state, would have constituted a misdemeanor or felony under state law, and which has a rational connection with the applicant's or certificate holder's fitness or capacity to practice the profession.~~
3. ~~Refusal of an applicant for certification, or of a certificate holder, to submit to a physical, mental, alcohol/drug abuse, or gambling examination/assessment, requested by the Division to determine his/her qualifications to practice, or to continue in the practice of compulsive gambling counseling and to provide the results to the Division.~~
4. ~~Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.~~
5. ~~Use of mood-altering substances or engaging in gambling behavior in a manner that results in interference with the performance of, or credibility of, professional services provided.~~
6. ~~Practice of the profession fraudulently, beyond its authorized scope, with manifest incapacity, with gross incompetence, with gross negligence, or in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.~~
7. ~~Engaging in the abuse of mood altering substances, or gambling activities, that will reflect negatively on the integrity and credibility of the profession.~~
8. ~~Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.~~
9. ~~When an applicant or a certificate holder is found to be not qualified to practice the profession, because of a physical or mental illness, or physical or mental deterioration or disability.~~
10. ~~Being unable to competently perform compulsive gambling counseling domains because of a psychological impairment.~~
11. ~~Practicing the profession of compulsive gambling counseling while the individual's certificate is revoked, suspended, or in contravention of any limitation placed upon the individuals certificate.~~
12. ~~Permitting, aiding, or abetting the practice of a profession, or the performance of activities requiring a license or certificate by a person not licensed or certified to do so.~~

13. ~~Unlawful invasion of the field of practice of any profession licensed or certified by the State of Nebraska which the certificate holder is not licensed or certified~~

~~to practice.~~

14. ~~Encouraging or promoting the practice of compulsive gambling counseling by untrained or unqualified persons.~~
15. ~~Willful or repeated violations of 201 NAC 5-001 and/or 5-002.03.~~
16. ~~Grossly immoral or dishonorable conduct evidencing unfitness, or lack of proficiency sufficient to meet the standards required for practice of the profession.~~
17. ~~Action taken by another jurisdiction to deny, refuse renewal, limit, suspend, or revoke a license and/or certificate to practice compulsive gambling counseling.~~
18. ~~Distributing intoxicating liquors, controlled substances, or drugs for any other than lawful purposes.~~
19. ~~Obtaining any fee for professional services by fraud, deceit, or misrepresentation including, but not limited to, falsification of third party claim documents.~~
20. ~~Using undue influence to entice clients or significant others to commit actions that are emotionally, physically, or financially detrimental.~~
21. ~~Developing a sexual, dating, or romantic relationship with a client during the provision of professional services, or within two years following the termination of professional services.~~
22. ~~Violating federal or state confidentiality statutes.~~
23. ~~Releasing client information without possession of a signed release when client consent is required by federal or state confidentiality statutes.~~
24. ~~Violating the federal or state discrimination laws.~~
25. ~~The use of any letters, words, or terms, either as a prefix, affix, or suffix on stationery, in advertisements, or otherwise, indicating a person is entitled to practice a system or mode of healing for which he/she is not licensed and/or certified.~~
26. ~~Failure to report through the proper channels the incompetent, unethical, unprofessional, or illegal practice of any Certified Compulsive Gambling Counselor, unless the certificate holder acquired the knowledge in a professional relationship otherwise protected by confidentiality.~~
27. ~~Physically or verbally abusing a client.~~
28. ~~Exploiting another person for one's own advantage.~~
29. ~~Entering into a professional counseling relationship with members of one's own family, with friends, or with other persons closely connected to the certificate holder, or with an individual the certificate holder currently has or previously had a sexual, dating, or romantic relationship.~~
30. ~~Performing or agreeing to perform compulsive gambling counseling services when these services are known to be contraindicated or unjustified.~~
31. ~~Performing or agreeing to perform procedures when these procedures are known to be outside of the compulsive gambling counseling scope of practice.~~
32. ~~Providing services to a client or clients for which the certificate holder is not trained or experienced which must include, but not be limited to: committing any act which endangers client safety or welfare, or which could jeopardize the health, safety, or welfare of a client; or, failure to adhere to, or departure from the standards of acceptable and prevailing practice in compulsive~~

~~gambling counseling.~~

~~33. Delegating to other personnel those client-related services for which the clinical skills of a certificate holder are required.~~

~~34. Failure to safeguard the client's dignity and right to privacy.~~

~~35. The commission of any act of sexual abuse, misconduct, or exploitation in the practice of the profession.~~

~~36. Entering into a dual relationship with a client which includes, but is not limited to: a business, political or close personal relationship, that impairs the certificate holder's professional judgment, or exploits the client.~~

~~37. Engaging in sexual harassment of a client which means making unwelcome sexual advances; requesting sexual favors; or engaging in other verbal or physical conduct of a sexual nature. The sexual harassment may result in, but does not have to result in: providing or denying care to a client; creating an intimidating, hostile, or offensive environment for the client; or, interfering with the clients ability to recover.~~

~~38. Falsification or unauthorized destruction of client records.~~

~~39. Failure to keep and maintain adequate records of treatment or service.~~

~~40. Division of fees, or agreeing to split or share fees received for professional services with any person bringing or referring a client.~~

~~41. Making use of any advertising statements of a character tending to deceive or mislead the public.~~

~~42. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning certificate holder's professional excellence or abilities, in advertisements or otherwise.~~

~~5-003 Disciplinary Procedures~~

~~5-003.01 Filing a Complaint Against a Certificate Holder: The complainant must submit a written statement to the Division, which must include:~~

~~1. The exact nature of the complaint outlining what professional or ethical standards it is alleged the certificate holder has violated.~~

~~2. Information and facts supporting the complaint including; dates, times, locations, names, and addresses of witnesses or other individuals with knowledge about the situation, and any other supporting information. All materials submitted become a part of the record and may be used in the disciplinary review process.~~

~~3. The signature of the complainant, address, and a daytime telephone number.~~

~~5-003.02 The Division determines if the complaint has been properly filed. Further information may be requested from the complainant. All materials submitted become a part of the record and may be used in any disciplinary action.~~

~~5-003.03 The Division may serve as the complainant in any allegation.~~

~~5-003.04 Complaint Processing~~

~~5-003.04A The Division reviews all complaints and determines whether to conduct an investigation, and in making a determination may consider factors as:~~

~~5-003.04A1 Whether the complaint pertains to a matter within the authority of the Division to enforce.~~

~~5-003.04A2 Whether the circumstances indicate that a complaint is made in good faith and is not malicious, frivolous, or vexatious.~~

~~5-003.04A3 Whether the complaint is timely, or has been delayed too long to justify present evaluation of its merits.~~

~~5-003.04A4 Whether the complainant may be a necessary witness if action is taken, and is willing to identify himself/herself and come forward to testify.~~

~~5-003.04A5 Whether the information provided, or within the knowledge of the complainant is sufficient to provide a reasonable basis to believe that a violation may have occurred, or to secure necessary evidence from other sources.~~

~~5-003.04B If after initial investigation there appears to be a possible violation of the criminal laws of the State of Nebraska, the Division must notify the appropriate authorities.~~

~~5-003.04C If after initial investigation there is reasonable cause to believe there may be imminent danger to the public health and safety, the Division may, upon written notification to the certificate holder, immediately suspend certification for a maximum of 90 days while conducting a further investigation.~~

~~5-003.04D If after initial investigation the Division determines there is insufficient documentation of an alleged violation, the case must be dismissed.~~

~~5-003.04E If after initial investigation the Division determines there is sufficient information supporting an alleged violation, a notice of allegation must be sent by certified mail to the certificate holder.~~

~~5-003.04F The certificate holder must be requested to respond in writing to the allegations.~~

~~5-003.04F1 The response must be received at the Division within 20 days of the receipt of the notice.~~

~~5-003.04F2 Failure of the certificate holder to respond to the allegations within 20 days of receipt will be construed as agreement with the allegations, and the Division must act on the certification within 45 days without further investigation.~~

~~5-003.04G The Division must provide for additional investigation of all allegations responded to by the certificate holder.~~

~~5-003.04H The Division has 120 days to act upon the certification after receipt of the certificate holders written reply. This timeframe may be extended by the Division upon notice to all parties.~~

~~5-003.04I Investigational materials and related records will remain confidential within the Department except as part of a hearing contesting disciplinary action.~~

~~5-003.05 Notice of Findings~~

~~5-003.05A The Division must issue its findings by certified mail to the certificate holder.~~

~~5-003.05B If disciplinary action is taken, the certificate holder has 30 days from receipt of the notification to contest the decision and request a hearing with the Department.~~

~~5-003.05B1 The individual must request a hearing in writing as outlined in 207 NAC 1.~~

~~5-003.05C Disciplinary action is a matter of public record.~~

~~5-004 Procedure to Contest Division Decisions~~

~~5-004.01 An applicant may contest Division decisions regarding certification status for the following results.~~

~~5-004.01A Denial of certification following portfolio review.~~

~~5-004.01B Denial of the certificate holder for a waiver of, or extension of time to complete continuing education requirements.~~

~~5-004.01C Denial of the certificate holder of placement on inactive status.~~

~~5-004.01D Denial of reinstatement of certificate after expiration or revocation.~~

~~5-004.02 The individual must request a hearing with the Department within 30 days of receipt of the denial notice. The date of receipt of the denial notice is three days from the date the notice was mailed by the Division to the applicant's last known address.~~

~~5-004.03 The individual must request a hearing in writing as outlined in 207 NAC 1.~~