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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
Phoenix Division**

National University of Health Sciences,	)	Case No.: _____
)	
Plaintiff,	)	PLAINTIFF’S EMERGENCY
	)	EX PARTE MOTION FOR
v.	)	TEMPORARY RSTRAINING
	)	ORDER AND
The Council on Chiropractic Education, Inc.,)		MEMORANDUM IN
	)	SUPPORT THEREOF
Defendant.)	
_____)	

Plaintiff, National University of Health Sciences (“NUHS”), by counsel, hereby moves this Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for An ex parte temporary restraining order, enjoining Defendant from enforcing the sanction of Probation or making public disclosure of the same for as long as the Court requires to set a briefing schedule, hold a hearing, and rule on a motion for preliminary injunction. This

1 Motion is supported by the following Memorandum of Points and Authorities, the
2 accompanying Declaration of Dr. Joseph Stiefel and exhibits, and the entire court record,
3 which is incorporated herein by reference.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. INTRODUCTION**

6 NUHS, a university that offers a Doctor of Chiropractic Degree program (“DCP”),
7 seeks a temporary restraining order and preliminary injunction, among other relief, to
8 prevent the immediate and irreparable harm it will face as a result of the arbitrary and
9 capricious decision of its programmatic accrediting agency, CCE, to place NUHS on
10 Probation effective May 21, 2018, in violation of NUHS’s common law due process
11 rights and in violation of CCE standards.

12 On May 21, 2018, CCE informed NUHS that the Appeals Panel had affirmed the
13 Council’s decision to place NUHS on Probation. CCE provided NUHS with a draft
14 Public Disclosure Notice that CCE intended to publish to inform the public of NUHS’s
15 Probation and informed NUHS that it had until May 23, 2018 to provide comments to be
16 included in the Notice prior to CCE’s publication. It is anticipated that CCE will publish
17 the Notice on the evening of May 23, 2018 if this Court does not grant NUHS the
18 temporary injunctive relief sought in this motion. As set forth more fully in this
19 memorandum, NUHS is likely to succeed on the merits that CCE violated NUHS’s
20 common law due process rights, failed to follow its standards, policies, and procedures,
21 and made arbitrary and capricious decisions. The public notice of CCE’s imposition of
22 Probation, which was wrongfully decided, will cause immediate and irreparable harm to
23 NUHS. The balance of the hardships weighs in NUHS’s favor and it is in the public’s
24 interest that accrediting agencies afford institutions and programs they accredit common
25 law due process.

26 **II. STATEMENT OF FACTS**

27 Following review of NUHS’s Self Study Report and site visits to NUHS’s Illinois
28 and Florida campuses, on November 8, 2017, CCE’s Site Team issued the Final Site

1 Team Report. **Exhibit A:** Stiefel Decl. at ¶ 16; **Exhibit 5.** Therein, the Site Team
 2 identified certain areas of “concern,” not no “noncompliance.” *Id.* According to CCE’s
 3 Accreditation Manual, **Exhibit 3**, and Site Team Manual, **Exhibit 4**, the Site Team is not
 4 authorized to identify or determine compliance; determinations of non-compliance are
 5 solely within the authority of the Council. *See Ex. 3* at §§ V(A), VI(C), VII(A) and (B),
 6 and X(B); **Ex. 4** at §§ VI(The Report, Nature of the Report, Concerns with
 7 Recommendations and Suggestions, and Program Response). On December 6, 2017,
 8 NUHS transmitted to CCE its Response to Final Site Team Report, which responded to
 9 the “concerns” identified in the Final Site Team Report. **Ex. A** at ¶ 16; **Exhibit 6.**
 10 Because the Site Team did not identify any noncompliance, NUHS’s Response did not
 11 respond to any written notice of noncompliance. *Id.* During the January 13, 2018 Status
 12 Review Meeting, the Council and NUHS representatives discussed the “concerns”
 13 identified by the Site Team. **Ex. A** at ¶ 17. At no time during the Status Review Meeting
 14 did the Council state that it had determined that NUHS was not in compliance with any
 15 Standards or Policies. *Id.* ¶ 18.

16 On February 2, 2018, CCE gave public notice that it had reaffirmed NUHS’s
 17 accredited status. *Id.* ¶ 19. Subsequent to the public announcement, NUHS received a
 18 letter from CCE dated February 2, 2018 notifying NUHS that CCE had reaffirmed
 19 NUHS’s accredited status, but then notifying NUHS of the contradictory decision that
 20 CCE had decided to place NUHS on Probation. **Exhibit 7.** NUHS was never provided
 21 the opportunity to respond to CCE’s determination that NUHS was not in compliance
 22 with CCE Standards or Policies as CCE’s February 2, 2018 letter was the first notice
 23 NUHS received that CCE had determined NUHS’s DCP had a deficiency of
 24 “noncompliance,” as opposed to a deficiency of “concern.” **Ex. A** at ¶ 21.

25 After timely noticing its appeal, NUHS provided CCE with its Grounds for
 26 Appeal. **Exhibit 8.** During the May 11, 2018 Appeals Panel hearing, NUHS provided
 27 the Panel and CCE with a power point to aid in the Panel’s understanding of NUHS’s
 28 grounds for appeal. **Exhibit 9.** The hearing was transcribed. **Exhibit 10.** On May 21,

2018, CCE transmitted the Appeals Panel Report, **Exhibit 12**, indicating that the Appeals Panel had reaffirmed the Council's decision to impose the sanction of Probation, thereby making the decision final. **Ex. A** at ¶ 28. CCE's May 21, 2018 transmittal letter informed NUHS that it had until May 23, 2018 to provide its comments to be included in the Public Disclosure Notice, thereby indicating that it would not publish CCE's imposition of Probation until after receiving NUHS's comments on May 23, 2018. *Id.* at ¶ 29; **Ex. 11**. As a result of CCE's wrongful imposition of Probation and soon to be published Public Disclosure Notice of the same, NUHS will suffer immediate, substantial, and irreparable harm and prejudice. **Ex. A** at ¶¶ 32-39.

III. APPLICABLE LAW

"A plaintiff seeking a preliminary injunction must establish (1) likely success on the merits; (2) likely irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in the plaintiff's favor; and (4) that an injunction is in the public interest." *Pimentel v. Dreyfus*, 670 F.3d 1096, 1105 (9th Cir. 2012) (citing *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008)).

IV. ARGUMENT

NUHS's emergency ex parte motion should be granted because it is likely to succeed on the merits, it is likely to be irreparably harmed in the absence of preliminary relief, the balance of the equities tip in its favor, and a temporary restraining order is in the public interest.

A. Likelihood of Success on the Merits

NUHS is likely to succeed on the merits that (1) the Appeals Panel denied NUHS its common law due process rights when it affirmed the decision of the Council and (2) the Council denied NUHS its common law due process rights when it imposed a sanction of Probation. Courts have repeatedly granted preliminary injunctive relief to preserve educational institution's accreditation where there was concern that due process had been denied those institutions. *See, e.g., W. State Univ. S. Cal. v. Am Bar Ass'n*, 301 F. Supp.

2d 1129, 1138 (C.D.Cal. 2004) (granting preliminary injunction prohibiting withdrawal of accreditation); *St. Andrews Presbyterian Coll. v. S. Ass’n of Colls. & Schs.*, 1:07CV00640, 2007 WL 4219402, at *6 (M.D.B.C. Nov. 29, 2007) (granting preliminary injunction to preserve accreditation); *Fla. Coll. of Bus. v. Accrediting Council for Indep. Colls. & Schs.*, 954 F. Supp. 256, 260 (S.D. Fla. 1996) (granting emergency motion for injunctive relief to preserve accreditation status).

“Accreditation agencies are private entities, not state actors, and as such are not subject to the strictures of constitutional due process requirements.” *Prof’l Massage Training Ctr. v. Accreditation Alliance of Careers Sch. & Colls.*, 781 F.3d 161, 169 (4th Cir. 2015). However, accrediting agencies are “quasi-public” and “wield enormous power over institutions – life and death power,” and therefore they owe a “common law duty ... to employ fair procedures when making decisions affecting their members.” *Id.* at 169-70. The proper scope of a fairness review authorizes a reviewing court “to consider only whether the decision of an accrediting agency...is arbitrary and unreasonable or an abuse of discretion and whether the decision is based on substantial evidence.” *Id.* at 171. “[C]ourts focus primarily on whether the accrediting body’s internal rules provide a fair and impartial procedure and whether it has followed its rules in reaching its decision.” *Wilfred v. So. Ass’n of Colls. & Schs.*, 957 F.2d 210, 214 (5th Cir. 1992). Federally recognized accrediting agencies are subject to the due process requirements of 20 U.S.C. § 1099b(a)(6) and its supporting regulation 34 C.F.R. § 602.25. *Bristol Univ. v. Accrediting Council for Indep. Colls. & Schs.*, 691 Fed. Appx. 737, 741 (4th Cir. 2017). “Courts adjudicating common law due process claims against accrediting agencies ‘should focus primarily on whether the accrediting body’s internal rules provided a fair and impartial procedure and whether it followed its rules in reaching its decision.’” *Bristol Univ.*, 691 Fed. Appx. at 741 (quoting *Prof’l Massage*, 781 F.3d at 172); *see also Wilfred*, 957 F.2d at 214. “Agency actions are generally invalid where the ‘agency fails to follow its own procedures or regulations.’” *Bristol Univ.*, 691 Fed. Appx. at 741 (quoting *Nader v. Blair*, 549 F.3d 953, 962 (4th Cir. 2008)).

1 **1. The Appeals Panel’s Decision was Arbitrary and Capricious and**
 2 **Denied NUHS Its Due Process Rights.**

3 *i. Appeals Panel Considered Information Not Reviewed by the*
 4 *Council*

5 CCE Policy 8 states, “With the exception of new information pertaining to failure
 6 to meet a standard related to finances, information to an appeals hearing will consist of
 7 that evidence presented to the Council prior to the adverse action. Information not
 8 reviewed by the Council prior to the Council decision cannot be considered by the
 9 Appeals Panel.” **Ex. 2.**

10 The Appeals Panel Report itemizes the entirety of the Record of Accreditation
 11 Proceedings in Appendix 1. **Ex. 12.** During the Appeals Panel hearing, the Council
 12 asserted in its verbal response to NUHS’s first ground for appeal that the Council’s
 13 decision to reaffirm and place NUHS on probation simultaneously was not contradictory
 14 based on the written language of CCE’s Standards because the Council had done the
 15 same thing with another school in 2016 at a Council accreditation meeting that was
 16 attended by a staff member of the Department of Education. **Ex. 10:** 57:5-13. The
 17 Council asserted that the Department’s recognition of CCE in 2016 constituted an
 18 endorsement by the Department of CCE’s reaffirming accreditation at the same time as it
 19 placed the school on probation. *Id.* The Council provided no evidence at the Appeals
 20 Panel hearing to support its statement that its prior example of reaffirming the
 21 accreditation of an institution while simultaneously sanctioning it with probation was
 22 “recognized by the Department of Education.” NUHS asserted that that information was
 23 not evidence and was not in the record on appeal.

24 A review of the Record of Accreditation Proceedings confirms that there was no
 25 evidence submitted to the Council regarding other accreditation actions that would
 26 displace CCE’s written standards and policies. *See Ex. 12* at Appendix I. In determining
 27 that CCE followed its procedures, policies, and practices, the Appeals Panel specifically
 28 cited as the basis for its decision the example CCE provided during the hearing. *Id.* at

p.8. The Appeals Panel therefore impermissibly and in violation of CCE's Policy 8 considered information not reviewed by the Council.

ii. Appeals Panel Substantially Disregarded CCE's Standards and Policies Regarding Reaffirmation and Probation

The U.S. Code states that an accrediting agency's action to accredit a program "ensure[s] that the courses or programs of instruction, training, or study offered by the institution of higher education...are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered." 20 U.S.C. § 1099b(a)(4)(A). CCE Standards states that "CCE accreditation is granted to DCPs deemed by the Council to comply with the eligibility requirements and requirements for accreditation." **Exhibit 1** at § 1(I).

On the other hand, pursuant to CCE Standards, "Probation is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements." *Id.* at § 1(V)(B). Reaffirmation of accreditation and probation require that the Council reach contradictory conclusions about the compliance of a DCP.

The Appeals Panel ignored the express language of CCE's Standards and the U.S. Code and instead based its decision that the Council followed CCE's procedures, policies, and practices on a single example where the Council made the same decision. Rather than an example of CCE following its standards, the example is an admission by the Council that it does not follow its written standards. CCE's failure to provide adequate written specifications of its requirements is a violation of its due process requirements under 34 C.F.R. § 602.25(a).

iii. Appeals Panel Failed to Decide Each of NUHS's Grounds for Appeal

Under 34 C.F.R. § 602.25(f)(iii), the accrediting agency's appeals panel must not serve only an advisory or procedural role, but rather, must make a decision to affirm,

1 amend, or reverse the accrediting agency's decision-making body. CCE Policy 8 states:
2 "The panel members shall decide on the issues presented in the appeal." **Ex. 2.**

3 The Appeals Panel Report identifies NUHS's five grounds for appeal. **Ex. 12** at 4-
4 5. Section "C" of the Appeals Panel Report identifies "Panel Review and Findings." *Id.*
5 at 5. Instead of analyzing and deciding any of the five grounds for appeal NUHS raised,
6 the Appeals Panel Report analyzes two issues that were not before it on appeal: (a)
7 "Whether each concern or area of non-compliance was supported by substantial evidence.
8 Substantial evidence is such relevant evidence which might reasonably be accepted as
9 supporting the concern or area of non-compliance cited." (b) Whether the concern or
10 area of non-compliance that are supported by substantial evidence are sufficient to
11 support the adverse action of the Council." *Id.* at 5-8.

12 The Appeals Panel Report fails to address or analyze NUHS's specific grounds of
13 appeal in reaching its conclusion that it "found no evidence that the procedures, policies,
14 or practices followed during the reaffirmation process were contrary to established CCE
15 procedures, policies, or practices." *Id.* at 8. The Appeals Panel states as its basis for its
16 conclusory statement that "review of CCE by the Department of Education in 2013 and
17 2016 demonstrates that CCE is in compliance with the requirements for recognition by
18 the DOE." *Id.*

19 The fact that the Department re-recognized CCE as an accrediting agency means
20 that the CCE was in compliance at the time of the re-recognition. Re-recognition does
21 not establish that CCE's accreditation decisions subsequent to the Department's re-
22 recognition constitute compliance with Department requirements or common law due
23 process requirements or that those decisions are immune from judicial review. Similar to
24 CCE's authority to reaffirm accreditation of a program and, after complying with due
25 process requirements, sanction or withdraw accreditation, so too does the Department
26 have authority to determine that an accrediting agency is no longer in compliance with
27 the Secretary's criteria. *See* 29 U.S.C. § 1099b(1).

1 The Appeals Panel failed to decide NUHS's second ground for appeal: whether
2 the Council's action to place NUHS on probation violates NUHS's due process rights as
3 set forth in 34 C.F.R. § 602.25. The Appeals Panel did not decide whether the Council
4 complied with the requirements of 34 C.F.R. § 602.25(c) and (d). In the "Background
5 Information" section of the Appeals Panel Report, the panel stated, "The CCE followed
6 its policy and provided NUHS written notification of noncompliance in the Final Site
7 Team Report and provided an opportunity for response in the Response to the Final
8 Report and also at the CCE Status Review Meeting. Institutions are obligated to
9 understand terminology used in the accreditation process such as concern and
10 recommendations following a concern." **Ex. 12** at 5.

11 The Appeals Panel, like the Council, conflate two terms that are specifically
12 differentiated in CCE's Standards and policies – "concern" and "noncompliance" – in
13 order to find compliance with CCE's due process requirements. Under 34 C.F.R. §
14 602.25(c), CCE is required provide written specification of any deficiencies. Section
15 602.25(d) requires that CCE provide sufficient opportunity for a written response to the
16 deficiencies identified in Section 602.25(c) before any adverse action is taken.

17 CCE's February 2, 2018 letter identifies the deficiencies in NUHS's program as
18 noncompliance. **Ex. 7**; *see also* **Ex. 1** at § 1(V)(B). However, CCE never provided
19 written specification of NUHS's noncompliance prior to February 2, 2018.

20 CCE's Site Team Manual and Accreditation Manual specifically differentiate the
21 terms "concern" and "noncompliance," stating that the site visit team must not indicate
22 compliance as it is solely in the authority of the Council to make determinations of non-
23 compliance. *See* **Exs. 3** at § VII(A) and **4** at § VI(Nature of Report). Because the Site
24 Team does not have the authority to determine non-compliance, its Final Site Team
25 Report cannot be written notice to NUHS of the deficiency of noncompliance to satisfy
26 the due process requirements of 34 C.F.R. 602.25(c). Indeed the term "noncompliance"
27 does not appear in the Final Site Team Report. *See* **Ex. 5**.

1 Because the Final Site Team Report does not constitute written notice of the
2 deficiency of noncompliance for purposes of 34 C.F.R. § 602.25(c), NUHS's Response to
3 Final Site Team Report cannot constitute written response to the deficiency of
4 noncompliance to satisfy CCE's due process requirements set forth in 34 C.F.R. §
5 602.25(d). NUHS's written grounds of appeal does not satisfy 34 C.F.R. § 602.25(d)
6 because CCE is required pursuant to 34 C.F.R. § 602.25(f) to provide the opportunity for
7 appeal after CCE notifies the program in writing that it is being placed on probation.

8 The Appeals Panel failed to decide NUHS's third ground of appeal: whether the
9 Council's decision that NUHS is out of compliance with CCE Policy 56 is arbitrary and
10 capricious because Policy 56 violates 34 C.F.R. § 602.16(a)(1)(i) and conflicts with
11 Illinois Public Policy, is unreasonable for requiring NUHS to report misleading NBCE
12 success rates, and is discriminatory. In the "Background Information" section of the
13 Appeals Panel Report, the panel stated, "NUHS states that they believe that Policy 56 is
14 biased against them and that the appeal panel should recommend the policy be changed.
15 Review of NUHS for reaffirmation of accreditation is based on current accreditation
16 standards and policies and review of standards and policies is outside the scope of the
17 appeal panel action." **Ex. 12** at 5.

18 NUHS did not ask the Appeals Panel to change Policy 56. NUHS asked the
19 Appeals Panel to reverse the decision that NUHS was not in compliance with Policy 56
20 because the Council's application of Policy 56 to NUHS violated 34 C.F.R. §
21 602.16(a)(1)(i), causes NUHS to be in violation of Policy 22, and is not applied evenly.
22 The Appeals Panel must determine whether the procedures used to reach the adverse
23 action were contrary to established CCE procedures. NUHS's third ground of appeal was
24 squarely within the Appeals Panel's scope of review.

25 The Appeals Panel failed to decide NUHS's fourth ground of appeal: whether the
26 Council's action to place NUHS on probation violates NUHS's due process rights
27 because the decision arises from the Council's arbitrary and capricious decision that
28 NUHS is out of compliance with CCE Policy 56.

1 The Appeals Panel failed to decide NUHS's fifth ground of appeal: whether the
 2 Council's Action to place NUHS on probation should be reversed because the sanction
 3 has the effect of substantially and materially hindering NUHS's ability to correct the
 4 areas of concern within the permissible timeframe set forth in Standards 1(V).

5 **2. The Council's Decision was Arbitrary and Capricious and**
 6 **Denied NUHS Its Due Process Rights.**

7 *i. Council Failed to Follow Its Standards in Reaching*
 8 *Contradictory Conclusions on Compliance with*
 9 *Accreditation Standards*

10 When an accrediting agency accredits a program, it makes the determination that
 11 the program is "of sufficient quality to achieve, **for the duration of the accreditation**
 12 **period**, the stated objective for which the courses or the programs are offered." 20
 13 U.S.C. § 1099b(a)(4)(A) (emphasis added). CCE grants initial accreditation or reaffirms
 14 accreditation status to "DCPs deemed by the Council to comply with the eligibility
 15 requirements and requirements for accreditation." **Ex. 1** at §1(I). CCE's Standards do
 16 not qualify the level of compliance. Instead, CCE's standards require the Council to
 17 determine complete compliance with CCE's requirements for accreditation. On the other
 18 hand, a determination of probation, according to CCE Standards § 1(V)(B), "is an action
 19 reflecting the conclusion of the Council that a program is in significant noncompliance
 20 with accreditation standards or policy requirements." *Id.* at § 1(V)(B).

21 By reaffirming NUHS's accredited status, the Council determined that NUHS's
 22 DCP "compl[ies] with the eligibility requirements and requirements for accreditation."
 23 *See Ex. 7.* Additionally, CCE reaffirmed NUHS's accreditation for the full 8-year cycle.
 24 *Id.* In blatant contradiction to the Council's reaffirmation of accredited status, in the
 25 same February 2, 2018 letter notifying NUHS that its accreditation was reaffirmed
 26 because it complied with CCE's accreditation requirements, CCE informed NUHS that
 27 the Council had imposed a sanction of Probation because it concluded that NUHS was in
 28 significant noncompliance with CCE's standards and policies. *Id.*

1 *ii. Council Failed to Afford NUHS the Due Process Set Forth*
 2 *in 34 C.F.R. § 602.25*

3 CCE is required to afford NUHS due process by providing NUHS with “written
 4 specifications of any deficiencies” and “sufficient opportunity for a written response by
 5 an institution or program regarding any deficiencies identified by the agency” before
 6 notifying NUHS “in writing of any adverse accrediting action or action to place the
 7 institution or program on probation or show cause. The notice describes the basis for the
 8 action.” 34 C.F.R. § 602.25(c)-(e); *accord.* 20 U.S.C. § 1099b(a)(6).

9 On February 2, 2018, CCE informed NUHS in writing for the first time that the
 10 Council determined NUHS to be in significant noncompliance with CCE standards and
 11 policies and, as a result, imposed a sanction of Probation. **Ex. 7.** “Probation is an action
 12 reflecting the conclusion of the Council that a program is in significant noncompliance
 13 with accreditation standards or policy requirements.” **Ex. 1** at § 1(V)(B). The Council’s
 14 imposition of a sanction of Probation establishes that the deficiency the Council identifies
 15 is noncompliance.

16 NUHS received no written notice of the deficiency of noncompliance prior to
 17 CCE’s February 2, 2018 letter notifying NUHS that CCE was placing NUHS on
 18 Probation. On November 8, 2017, CCE transmitted the Final Site Team Report to
 19 NUHS, which identified “Concerns with Recommendations” in reference to 2013 CCE
 20 Accreditation Standards, § 2.A, 2013 CCE Accreditation Standards, § 2.H, and CCE
 21 Policy 56: Student Performance Disclosure, Thresholds, and Outcomes. **Ex. 5.** Pursuant
 22 to the Accreditation Manual and Site Team Manual, the Site Team does not have
 23 authority to and shall not make conclusions as to whether NUHS was in compliance with
 24 CCE Standards or Policies. *See* **Exs. 3** at § VII(A) and **4** at § VI(Nature of Report).

25 If the Site Team were to state conclusions of noncompliance, the Site Team would
 26 be acting in substantial disregard of the CCE Standards and/or procedures of the Council
 27 as only the Council has authority to make noncompliance determinations. Assuming that
 28 CCE complied with its requirement to follow its own standards, policies, and procedures,

1 the Site Team did not provide notice to NUHS of noncompliance because the Site Team
 2 does not have the authority to make such conclusions. The CCE's February 2, 2018 letter
 3 notifying NUHS for the first time of the deficiency of noncompliance and simultaneously
 4 imposing Probation eliminated the procedure and notice requirements of § 602.25 and
 5 stripped away any chance for NUHS to be heard—or have access to substantive and
 6 procedural due process.

7 *iii. Council Failed to Apply Its Policies with an Even Hand and*
 8 *Failed to Provide a Fair Procedure*

9 CCE standards for accreditation should take into consideration State licensing
 10 examinations in order to meet its requirement that it establish standards that “ensure that
 11 the agency is a reliable authority regarding the quality of the education or training
 12 provided by the [DCPs] it accredits.” 34 C.F.R. § 602.16(a). CCE must apply its
 13 standards with an even hand. 20 U.S.C. § 1099b(a)(4); 34 C.F.R. § 602.18; *Marjorie*
 14 *Webster Jr. Coll.*, 432 F.2d at 655.

15 CCE's application of Policy 56 to NUHS's NBCE exam success rates pre-July 1,
 16 2016 does not meet the requirements of 34 C.F.R. § 602.16(a)(1)(i), unreasonably
 17 requires reporting of irrelevant data, and conflicts with Illinois' public policy as set forth
 18 in 68 Ill. Admin. Code § 1285.60(b)(1). CCE requires DPCs to “post annually the overall
 19 weighted average of the four (4) most recent years' NBCE Parts I, II, III, and IV Exam
 20 success rates. The DCP's [sic] may use the Canadian Chiropractic Examining Board
 21 (CCEB) Part C exam data in lieu of NBCE Part IV data.” **Ex. 2** at Policy 56. Prior to
 22 July 1, 2016, successfully passing the NBCE exam for purposes of Illinois licensure
 23 meant attempting and passing only Parts I, II, and III of the NBCE exam. *See* 68 Ill.
 24 Admin. Code § 1285.60(b)(1). NUHS's Lombard campus is located in Illinois, thus most
 25 of its graduates seek Illinois licensure.

26 In its July 2017 CCE Manual of Policies, CCE added a modification to Policy 56
 27 that permitted DCPs to substitute “Canadian Chiropractic Examining Board (CCEB) Part
 28 C data in lieu of NBCE IV data.” **Ex. 2** at Policy 56. Though CCE was aware that prior

1 to July 1, 2016, Illinois did not require, and therefore NUHS graduates seeking Illinois
 2 licensure did not take, Part IV of the NBCE exam, CCE made no similar modification to
 3 it public disclosure requirements for Illinois NBCE exam takers. CCE allows DCPs with
 4 graduates seeking Canadian licensure to satisfy the NBCE outcomes threshold with an
 5 exception, while unreasonably punishing NUHS and reducing its outcomes because many
 6 of its graduates seek Illinois licensure.

7 CCE requires DCPs to correct any “incorrect, misleading or misrepresentation of
 8 public statements about its...success of graduates.” **Ex. 2** at Policy 22. It requires DCPs
 9 to “disclose information honestly and completely” and not to omit relevant information or
 10 distort information. *Id.* CCE’s application of Policy 56 to NUHS requires that NUHS
 11 report Illinois NBCE exam takers who are not required to and therefore do not take Part
 12 IV but still obtain Illinois licensure as failing NBCE exam Part IV. CCE’s requirement
 13 that Illinois NBCE exam takers who did not take Part IV be reported as failing even
 14 though they were not required to take Part IV to obtain Illinois licensure, requires NUHS
 15 to make “incorrect, misleading or misrepresentation of public statements about
 16 its...success of graduates,” to omit relevant information (that Illinois does not require and
 17 therefore Illinois licensure seekers do not take Part IV of the NBCE exam), and report
 18 distorted information (falsely low success rates because Illinois does not require and
 19 therefore Illinois licensure seekers do not take Part IV of the NBCE exam).

20 **B. Likelihood of Irreparable Harm**

21 As a result of CCE’s wrongful imposition of Probation, public disclosure of
 22 CCE’s decision to place NUHS on Probation and enforce the sanction of Probation will
 23 cause NUHS immediate, substantial, and irreparable harm and prejudice. Irreparable
 24 harm is present when a movant seeks relief “to preserve its existence and its business.”
 25 *Fed. Leasing Inc. v. Underwriters of Lloyd’s*, 650 F.2d 495, 500 (4th Cir. 1981).
 26 Imposing a sanction of Probation “appears to involve a prime example of potential
 27 irreparable harm to a plaintiff.” *Hampton Univ. v. Accreditation Council for Pharm.*
 28 *Educ.*, 611 F. Supp. 2d 557, 566 (E.D. Va. 2009).

1 CCE accredits only 15 DCPs in the United States. **Ex. A** at ¶ 6. Therefore there is
2 strong competition between the DCPs to recruit, enroll, and graduate committed students
3 and recruit, hire, and retain good faculty. *Id.* Accreditation by a Secretary-recognized
4 accrediting agency allows DCPs to participate in the Department of Education's Title IV
5 programs, which include federal student loans and grants. *Id.* ¶ 7. The vast majority of
6 DCP students funds their education entirely with Title IV program funds and would not
7 be able to enroll in a DCP without access to Title IV program funds. *Id.* Therefore a
8 DCP's loss of accreditation or threatened loss of accreditation, e.g., Probation, is a death
9 blow to a DCP. *Id.*

10 Public disclosure and enforcement of the sanction of Probation will cause
11 immediate and irreparable harm to NUHS in the following ways.

12 First, public disclosure and enforcement of the sanction of Probation will cause
13 NUHS to lose current and prospective students because they may believe that NUHS will
14 soon be losing its accreditation and therefore access to Title IV program funds. *Id.* ¶ 33.
15 A DCP's access to Title IV funds, by virtue of accreditation by a Secretary-recognized
16 accrediting agency, is instrumental to recruiting and retaining students for the duration of
17 the student's studies. *Id.* Despite NUHS's pursuit of its legal rights in this Court and
18 assertions that it will maintain its accreditation, current and prospective students may
19 misinterpret the sanction of Probation as an imminent loss of accreditation and therefore
20 transfer from or decline to enroll in NUHS's DCP. *Id.*

21 Second, public disclosure and enforcement of the sanction of Probation will cause
22 NUHS to lose current students because they may encounter more difficulty in obtaining
23 employment due to the public's false impression that NUHS does not provide a quality
24 education or prepare DCP graduates for licensure and practice. *Id.* ¶ 34.

25 Third, public disclosure and enforcement of the sanction of Probation will cause
26 NUHS to lose prospective students because the distorted data CCE requires NUHS to
27 report will lead the prospective student to believe that NUHS does not adequately prepare
28 its graduates to obtain licensure because its weighted NBCE exam passage rates are

below 80%. *Id.* ¶ 35. The public would have to wade through numerous court documents and exhibits to learn the truth: NUHS graduates have an 87% board passage rate and 87.5% of NUHS takers of Part IV pass Part IV. *Id.* NUHS's competitors focus on NBCE exam passage rates to recruit students and will use the distorted data CCE requires NUHS to report and Probation to recruit NUHS's current and prospective students. *Id.*

Fourth, public disclosure and enforcement of the sanction of Probation will cause NUHS to lose prospective students because, rather than attracting students, NUHS's rigorous admission standards will deter enrollment when juxtaposed with the distorted NBCE exam passage rates and the sanction of Probation. *Id.* ¶ 36.

Fifth, public disclosure and enforcement of the sanction of Probation will cause NUHS to lose significant amounts of revenue and, therefore, be less likely to continue to develop and utilize the academic and programmatic improvements CCE recognized as a positive. *Id.* ¶ 37. NUHS reasonably expects to lose millions of dollars in tuition revenue as a result of CCE's wrongful probation tarnishing NUHS's standing and reputation and incentivizing students to attend other DCPs. *Id.*

Sixth, public disclosure and enforcement of the sanction of Probation will cause NUHS to lose current faculty because CCE's Probation determination will convey to the public that NUHS is not a quality DCP. *Id.* ¶ 38. Faculty will not want to continue teaching at a school with a negative reputation and will therefore look for opportunities at other DCPs or be the target of other DCPs' faculty recruiting efforts. *Id.*

Seventh, public disclosure and enforcement of the sanction of Probation will cause NUHS's insurance premiums to increase and reduce its insurability. *Id.* ¶ 39.

NUHS further incorporates by reference as though set forth fully herein **Exhibit A**, Dr. Stiefel's Declaration.

C. Balance of Hardships

CCE will not suffer any harm by not enforcing Probation whereas NUHS will suffer significant irreparable harm just by the public disclosure of Probation and during

1 the pendency of litigation to resolve its claims that CCE violated NUHS's common law
 2 due process rights. Indeed, CCE's reaffirmation of accreditation and public notice
 3 thereof indicated that the Council had determined that NUHS was in compliance with
 4 CCE accreditation requirements. The balance of harm often weighs in favor of the
 5 education institution. *See St. Andrews Presbyterian Coll.*, 2007 WL 4219402, at *3
 6 (Balance of harms favored education institution); *Fla. Coll. of Bus.*, 9454 F. Supp. at 259-
 7 60 (same).

8 **D. Public Interest**

9 The public interest will not be injured by the grant of preliminary relief. "The
 10 public interest analysis for issuance of a preliminary injunction requires us to consider
 11 whether there exists some critical public interest that would be injured by the grant of
 12 preliminary relief.'" *Alliance for The Wild Rockies v. Cottrell*, 632 F.3d 1127, 1138 (9th
 13 Cir. 2011) (quoting *Cal. Pharmacists Ass'n v. Maxwell-Jolly*, 596 F.3d 1098, 1114-15
 14 (9th Cir. 2010)). On February 2, 2018, CCE publicly announced that it had reaffirmed
 15 NUHS's DCP's accreditation status. It thereby stated publicly that NUHS met all of
 16 CCE's accreditation requirements. In light of CCE's failure to follow its standards,
 17 follow the due process requirements of 34 C.F.R. § 602.25, apply its policies with an
 18 even hand and not in conflict with public policy, the public interest is not injured by the
 19 Court granting the preliminary relief sought by NUHS.

20 **V. CONCLUSION**

21 For the foregoing reasons, Plaintiff's emergency ex parte motion for a temporary
 22 restraining order should be granted and this Court should enter an order (1) enjoining
 23 Defendant from publicly disclosing that it has placed NUHS on Probation and (2)
 24 enjoining Defendant from enforcing the sanction of Probation for a period of time
 25 sufficient for the parties to brief a preliminary injunction action and the Court to hear oral
 26 argument and decide whether a preliminary injunction is appropriate.

1 Date: May 23, 2018

Respectfully submitted,

/s/ Brian R. Booker

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2018, I caused a true copy of the foregoing to be served by US Mail, postage pre-paid and electronic mail on the following:

Craig Little, D.C., M.Ed.
President
The Council on Chiropractic Education
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Scottsdale, Arizona 85258
clittle@cce-usa.org

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(motion for admission *pro hac vice* to be filed)
Attorneys for the Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Phoenix Division

National University of Health Sciences,	)	Case No.: _____
)	
Plaintiff,	)	DECLARATION OF JOSEPH
	)	STIEFEL IN SUPPORT OF
v.	)	PLAINTIFF'S EMERGENCY
	)	EX PARTE MOTION FOR
The Council on Chiropractic Education, Inc.,)		TEMPORARY
	)	RESTRAINING ORDER
Defendant.)	
_____)	

DECLARATION OF JOSEPH STIEFEL

1. I am over the age of 18, of sound mind and body, and under no distress.
2. I am the President of the National University of Health Sciences ("NUHS") and have served NUHS in this role since June 2013.
3. As President of NUHS, I have firsthand information and knowledge of the

1 University's accreditation with accrediting agencies, including CCE; student admissions
2 criteria and requisites; NUHS's DCP course offerings and requirements; NUHS's
3 recruitment and retention of students within the University's DCP; other colleges' and
4 universities recruitment of students for admission to their DCPs; NUHS graduates' rates
5 of passage of the National Board of Chiropractic Examiners' board examinations; NUHS
6 graduates' rates of licensure as Chiropractors; and University finances, including tuition-
7 based revenue, procurement and maintenance of insurance policies.

8 4. I have personal knowledge of the facts stated in this Declaration and if
9 called to testify I would testify truthfully to them.

10 5. NUHS's Doctor of Chiropractic Degree Program ("DCP") has been
11 accredited by The Council on Chiropractic Education, Inc. ("CCE") since 1971 and by
12 CCE's predecessor since 1966.

13 6. CCE accredits only 15 DCPs in the United States. Therefore there is strong
14 competition between the DCPs to recruit, enroll, and graduate committed students and
15 recruit, hire, and retain good faculty.

16 7. Accreditation by a Secretary-recognized accrediting agency allows DCPs to
17 participate in the U.S. Department of Education's Title IV programs, which include
18 federal student loans and grants. Loss of accreditation means that DCP students are
19 ineligible to receive student aid funds under Title IV programs. The vast majority of
20 DCP students funds their education entirely with Title IV program funds and would not
21 be able to enroll in a DCP without access to Title IV program funds. Therefore a DCP's
22 loss of accreditation or threatened loss of accreditation, e.g., Probation, is a death blow to
23 a DCP.

24 8. NUHS's DCP is the only DCP accredited by CCE that requires its
25 matriculating students to have earned a baccalaureate degree prior to admission.

26 9. NUHS has a campus in Lombard, Illinois and a campus in Pinellas Park,
27 Florida, which jointly educate approximately 679 students per year.

28

1 10. Most graduates of NUHS's Lombard, Illinois campus seek Illinois
2 licensure.

3 11. On March 3, 2016, NUHS gave written notice to CCE that it intended to
4 pursue reaffirmation of accreditation with CCE.

5 12. On May 1, 2017, NUHS submitted its Self Study Report to CCE.

6 13. CCE's Site Team visited NUHS's Lombard, Illinois campus from
7 September 25-28, 2017. The Site Team visited NUHS's Pinellas Park, Florida campus
8 from October 10-12, 2017.

9 14. The Site Team used as references the January 2013 version of the CCE
10 Accreditation Standards, Principles, Processes & Requirements for Accreditation ("CCE
11 Standards"), the 2017 version of the CCE Manual of Policies ("CCE Policies"), the 2016
12 version of the Accreditation Manual ("CCE Accreditation Manual"), and the 2016
13 Academy of Site Team Visitors Manual ("CCE Site Team Manual"). A true copy of the
14 sections of CCE Standards relevant to NUHS's Emergency Ex Parte Motion for
15 Temporary Restraining Order is attached hereto as **Exhibit 1**. A true copy of the sections
16 of CCE Policies relevant to NUHS's Emergency Ex Parte Motion for Temporary
17 Restraining Order is attached hereto as **Exhibit 2**. A true copy of the sections of CCE
18 Accreditation Manual relevant to NUHS's Emergency Ex Parte Motion for Temporary
19 Restraining Order is attached hereto as **Exhibit 3**. A true copy of the sections of CCE
20 Site Team Manual relevant to NUHS's Emergency Ex Parte Motion for Temporary
21 Restraining Order is attached hereto as **Exhibit 4**.

22 15. On November 8, 2017, CCE transmitted to NUHS the Final Site Team
23 Report. A true copy of the sections of the Final Site Team Report relevant to NUHS's
24 Emergency Ex Parte Motion for Temporary Restraining Order is attached hereto as
25 **Exhibit 5**. Therein, the Site Team identified certain areas of *concern*. The Site Team
26 did not identify any areas of noncompliance.

27 16. On December 6, 2017, NUHS transmitted to CCE its Response to Final Site
28 Team Report. A true copy of the sections of NUHS's Response relevant to NUHS's

1 Emergency Ex Parte Motion for Temporary Restraining Order is attached hereto as
2 **Exhibit 6**. Therein, NUHS responded to the areas of concern identified in the Final Site
3 Team Report. Because the Site Team did not identify any noncompliance, NUHS's
4 December 6, 2017 response did not respond to any written notice of noncompliance.

5 17. On January 13, 2018, the Council held its NUHS Status Review Meeting.
6 Representatives from NUHS, including myself, attended. During the Status Review
7 Meeting, the Council and NUHS representatives discussed the areas of concern that the
8 Site Team had identified in its Final Site Team Report.

9 18. At no time during the Status Review Meeting did the Council state that it
10 had determined that NUHS was not in compliance with any Standards or Policies.

11 19. On February 2, 2018, CCE emailed all of the DCPs it accredits to inform
12 them that it reaffirmed the accreditation of NUHS. CCE published the same notice on its
13 website.

14 20. Subsequently, NUHS received a letter via USPS from CCE dated February
15 2, 2018, notifying NUHS first, that it had decided to reaffirm the accreditation of NUHS
16 and second, that it was also imposing a sanction of Probation. A true copy of CCE's
17 February 2, 2018 letter is attached hereto as **Exhibit 7**.

18 21. NUHS was never provided the opportunity to respond to CCE's
19 determination that NUHS was not in compliance with CCE Standards or Policies as
20 CCE's February 2, 2018 letter was the first notice NUHS received that CCE had
21 determined NUHS's DCP had a deficiency of "noncompliance," as opposed to a
22 deficiency of "concern."

23 22. My understanding (and that of NUHS) is that the Site Team's identification
24 of areas of concern is different than the Council's determination of noncompliance
25 because, based on the Site Team Manual and Accreditation Manual, the Site Team cannot
26 make determinations of noncompliance as such determinations are within the exclusive
27 authority of the Council.

28

1 23. On February 23, 2018, NUHS provided CCE with its timely notice of
2 appeal of the Council's February 2, 2018 decision to impose a sanction of Probation.

3 24. On April 30, 2018, NUHS provided the CCE with its Grounds for Appeal.
4 A true copy of NUHS's Grounds for Appeal is attached hereto as **Exhibit 8**.

5 25. On May 11, 2018, NUHS presented its Grounds for Appeal to the CCE
6 Appeals Panel. To aid the Appeals Panel in understanding the legal arguments raised in
7 its Grounds for Appeal, NUHS provided a power point presentation. A true copy of
8 NUHS's presentation is attached hereto as **Exhibit 9**.

9 26. The Appeals Panel hearing was transcribed. A true copy of excerpts from
10 the hearing transcript relevant to the Emergency Ex Parte Motion for Temporary
11 Restraining Order is attached hereto as **Exhibit 10**.

12 27. On May 21, 2018, CCE transmitted to NUHS (a) a transmittal letter, (b) the
13 Appeals Panel Report, affirming the CCE's February 2, 2018 sanction of Probation, and
14 (c) CCE's proposed Public Disclosure Notice. A true copy of the May 21, 2018 letter is
15 attached hereto as **Exhibit 11**. A true copy of the Appeals Panel Report is attached
16 hereto as **Exhibit 12**. A true copy of the proposed Notice is attached as **Exhibit 13**.

17 28. In its transmittal letter, CCE informed NUHS that the Appeals Panel's
18 decision to affirm the Council's decision makes final the imposition of Probation,
19 effective the date of the Appeals Panel decision. Therefore, effective May 21, 2018,
20 NUHS is on Probation.

21 29. In its transmittal letter, CCE informed NUHS that it had until May 23, 2018
22 to provide its comments to be included in the Public Disclosure Notice. Therefore CCE
23 indicated that it would not publish the Public Disclosure Notice until after receiving
24 NUHS's comments on May 23, 2018.

25 30. The proposed Public Disclosure Notice indicates that the notice will be
26 distributed to CCE Councilors, State/Jurisdictional Licensing Boards, Higher Learning
27 Commission, National, Regional & Specialized Accrediting Agencies, U.S. Department
28 of Education, and Council for Higher Education Accreditation. **Ex. 13** p.2.

1 31. NUHS strongly believes that CCE failed to follow its own policies,
2 procedures, and manuals, denied NUHS its common law due process rights, and applied
3 its policies in a discriminatory, arbitrary and unreasonable manner.

4 32. As a result of CCE's wrongful imposition of Probation and soon to be
5 published Public Disclosure Notice of the same, NUHS will suffer immediate,
6 substantial, and irreparable harm and prejudice.

7 33. First, public disclosure and enforcement of the sanction of Probation will
8 cause NUHS to lose current and prospective students because they may believe that
9 NUHS will soon be losing its accreditation and therefore access to Title IV program
10 funds. Students rely on Title IV program funds to pay for their education. A DCP's
11 access to Title IV funds, by virtue of accreditation by a Secretary-recognized accrediting
12 agency, is instrumental to recruiting and retaining students for the duration of the
13 student's studies. Despite NUHS's pursuit of its legal rights in this Court and assertions
14 that it will maintain its accreditation, current and prospective students may misinterpret
15 the sanction of Probation as an imminent loss of accreditation and therefore transfer from
16 or decline to enroll in NUHS's DCP.

17 34. Second, public disclosure and enforcement of the sanction of Probation will
18 cause NUHS to lose current students because they may encounter more difficulty in
19 obtaining employment. Probation will create a false impression among the public that
20 NUHS does not provide a quality education or prepare DCP graduates for licensure and
21 practice. Individual graduates will therefore be placed at a disadvantage to obtain
22 employment as a chiropractor. Current students will therefore decide that the financial
23 hardship of transferring to another DCP may be worth the risk of having a more difficult
24 time entering the practice of chiropractic medicine.

25 35. Third, public disclosure and enforcement of the sanction of Probation will
26 cause NUHS to lose prospective students because they will receive a distorted message
27 that NUHS is not in compliance with Policy 56 regarding NBCE exam passage rates.
28 Fewer prospective students will seek information or enrollment in NUHS because the

1 distorted data CCE requires NUHS to report will lead the prospective student to believe
2 that NUHS does not adequately prepare its graduates to obtain licensure because its
3 weighted NBCE exam passage rates are below 80%. The public would have to wade
4 through numerous court documents and exhibits to learn the truth: NUHS graduates have
5 an 87% board passage rate and 87.5% of NUHS takers of Part IV pass Part IV. Palmer
6 College of Chiropractic is one of NUHS's main competitors. Palmer College's
7 recruitment efforts and marketing to the public are focused on NBCE exam passage rates
8 and it will use CCE's public disclosure and enforcement of the sanction of Probation as a
9 means to recruit both NUHS's current students as well as prospective students.

10 36. Fourth, public disclosure and enforcement of the sanction of Probation will
11 cause NUHS to lose prospective students because, rather than attracting students,
12 NUHS's rigorous admission standards will deter enrollment when juxtaposed with the
13 distorted NBCE exam passage rates and the sanction of Probation.

14 37. Fifth, public disclosure and enforcement of the sanction of Probation will
15 cause NUHS to lose significant amounts of revenue and, therefore, be less likely to
16 continue to develop and utilize the academic and programmatic improvements CCE
17 recognized as a positive. NUHS must reasonably expect to lose millions of dollars in
18 tuition revenue as a result of CCE's wrongful probation tarnishing NUHS's standing and
19 reputation and incentivizing students to attend other DCPs. My administration calculates
20 that for each group of five prospective or current students who choose not to attend
21 NUHS, the University will lose approximately \$500,000 in revenue. NUHS reasonably
22 forecasts—in order to manage budgets—that the losses will be much larger than
23 \$500,000. While the losses of revenue as a result of current and prospective students'
24 decisions not to enroll or to transfer to another DCP are not yet realized, NUHS knows
25 and forecasts that they will be sizable and larger than that figure.

26 38. Sixth, public disclosure and enforcement of the sanction of Probation will
27 cause NUHS to lose current faculty because CCE's Probation determination will convey
28 to the public that NUHS is not a quality DCP. Faculty will not want to continue teaching

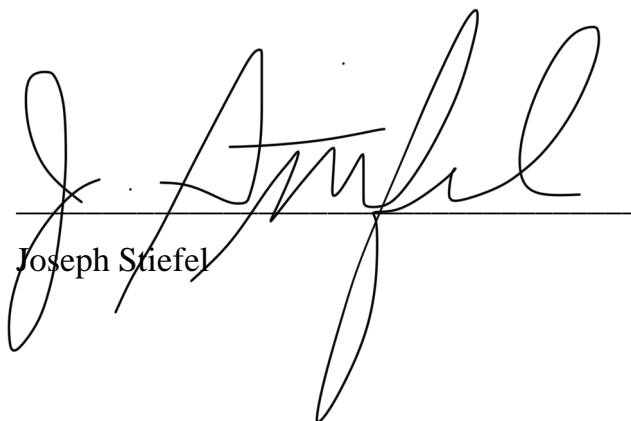
1 at a school with a negative reputation and will therefore look for opportunities at other
2 DCPs or be the target of other DCPs' faculty recruiting efforts.

3 39. Seventh, public disclosure and enforcement of the sanction of Probation
4 will cause NUHS's insurance premiums to increase and reduce its insurability.
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1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
2 is true and correct.

3 Executed on May 23, 2018

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Joseph Stiefel

EXHIBIT 1



THE COUNCIL ON CHIROPRACTIC EDUCATION

CCE Accreditation Standards

Principles, Processes & Requirements
for Accreditation

January 2013

Section 1 – CCE Principles and Processes of Accreditation

I. Accreditation by CCE

CCE accreditation of DCPs is designed to promote the highest standards of educational program quality in preparing candidates for licensure, advocating excellence in patient care, and advancing and improving the profession and its practitioners. The Council takes steps to ensure that accreditation requirements are consistent with the realities of sound practices in DCPs and currently accepted standards of good practice for chiropractic care. This reflects a recognition that DCPs exist in different environments. These environments are distinguished by such differing factors as jurisdictional regulations, demands placed on the profession in the areas served by the DCPs, and the diversity of student populations. CCE accreditation is granted to DCPs deemed by the Council to comply with the eligibility requirements and requirements for accreditation.

1. The Council specifically reviews compliance with all accreditation requirements.
 - It is dedicated to consistency while recognizing program differences.
 - It bases its decisions on a careful and objective analysis of all available evidence.
 - It follows a process that is as transparent as possible, honoring the need for confidentiality when appropriate.
 - It discloses its final decisions to the public, as well as to other appropriate authorities, in accordance with CCE Policy 111.
2. The Council provides information and assistance to any DCP seeking accreditation, in accordance with CCE policies and procedures.

II. Process of Accreditation for a DCP

Any DCP seeking to achieve or maintain CCE accredited status must apply for such status, and provide evidence that the DCP meets the eligibility requirements and complies with the requirements for accreditation.

A. Application for Initial Accreditation

1. Letter of Intent

A DCP seeking initial accreditation must send a letter of intent from the institution's governing body to the CCE Administrative Office stating its intention to pursue accredited status, and provide written evidence that it meets the eligibility requirements.

2. Requirements for Eligibility

- a. Formal authorization to award the D.C. degree from the appropriate governmental agency of the jurisdiction in which the DCP legally resides.
- b. Legal incorporation in its jurisdictional residence.

CCE Accreditation Standards – Principles, Processes & Requirements for Accreditation
January 2013

- c. A governing body that includes representation adequately reflecting the public interest.
 - d. A full-time chief administrative officer of the DCP qualified by education and/or experience.
 - e. Formal governing body action that commits the DCP to comply with the CCE requirements for accreditation.
 - f. DCP mission, goals, and objectives which are consistent with the CCE *Standards*.
 - g. A written multi-year plan and a description of a functioning process of planning and evaluation that identifies and integrates future educational, physical and financial development and incorporates procedures for review and improvement.
 - h. A plan and process for the assessment of student outcomes.
 - i. Disclosure of accreditation status with any agency other than CCE that directly impacts the DCP.
3. CCE Response

Upon application by the DCP for accreditation:

- a. The Council Chair, with assistance from the CCE Administrative Office staff, reviews the evidence of eligibility documents submitted by the DCP. If further documentation is necessary, the Council Chair notifies the DCP that such documentation must be submitted with the DCP self-study report.
- b. The Council establishes timelines regarding the self-study, site visit and Status Review Meeting in coordination with the CCE Administrative Office and the DCP, according to CCE policies and procedures.

B. Application for Reaffirmation of Accreditation

1. Letter of Intent

A DCP seeking reaffirmation of accreditation must send a letter of intent from the program/institution's CEO/President to the CCE Administrative Office stating its intention to pursue reaffirmation of its accredited status.

2. Requirements for Eligibility

The DCP need not submit evidence of eligibility documents required for initial accreditation unless eligibility requirements have changed from the last reaffirmation visit. However, the DCP must maintain documentation that it complies with the eligibility requirements. This information must be available for review by appropriate representatives of CCE and/or the Council.

3. CCE Response

The Council establishes timelines regarding the DCP self-study, site visit and Status Review Meeting in coordination with the CCE Administrative Office and the DCP, according to CCE policies and procedures.

C. Process of Accreditation (Initial/Reaffirmation)

1. DCP Self-Study

The DCP must develop and implement a comprehensive self-study process that involves all constituencies of the DCP and relates to effectiveness regarding its mission, goals and objectives. The self-study report must:

- a. Provide clear evidence that the DCP complies with the CCE requirements for accreditation.
- b. Focus attention on the ongoing assessment of outcomes for the continuing improvement of academic quality.
- c. Demonstrate that the DCP has processes in place to ensure that it will continue to comply with the CCE requirements for accreditation.
- d. Be submitted to the CCE Administrative Office no later than nine months prior to the CCE meeting wherein a decision regarding accreditation will be considered.

2. Site Team Visit and Report to CCE

Following receipt of the self-study report, the Council appoints a site team to review evidence contained within the eligibility documentation and self-study report relative to compliance with the CCE *Standards*. The site visit and report to the CCE are an integral part of the peer review process that uses the DCP's self study as the basis for an analysis of the strengths, challenges, and distinctive features of the DCP. This process is designed to ensure that, in the best judgment of a group of qualified professionals, the DCP complies with the requirements for eligibility and accreditation and that the DCP is fulfilling its mission and goals. An enduring purpose of CCE accreditation is to encourage ongoing improvement.

- a. The DCP must provide the site team with full opportunity to inspect its facilities, to interview all persons within the campus community, and to examine all records maintained by or for the DCP and/or institution of which it is a part (including but not limited to financial, corporate and personnel records, and records relating to student credentials, grading, advancement in the program, and graduation).
- b. A draft report is prepared by the site team and sent by the CCE Administrative Office to the DCP/institution CEO/President for correction of factual errors only.
- c. Following the response of the DCP to correction of factual errors, a final report is sent by the CCE Administrative Office to the DCP/institutional CEO/President, governing body

chair and site team members.

- d. The DCP may submit a written response to the site team report, and it must submit a written response if the report identifies areas of concern. The DCP sends the response to the CCE Administrative Office which distributes it to the CCE President, Councilors and Site Team Chair. Any DCP response to the site team report must be submitted to the CCE no less than 30 days prior to the Status Review Meeting.

3. CCE Status Review Meeting

- a. The objective of the status review meeting is to provide an opportunity for the Council to meet with DCP representatives to discuss the findings of the site team in accordance with CCE policies and procedures. The Site Team Chair or other members of the site team may also be present at the request of the Council Chair.
- b. Following the status review meeting, the Council reviews the self-study and supporting documentation furnished by the DCP, the report of the on-site review, the program's response to the report, and any other appropriate information, consistent with CCE policies and procedures, to determine whether the program complies with the CCE *Standards*.
- c. The Council's action concludes with a written decision regarding accreditation status that is sent to the DCP/institutional CEO/President, the chairperson of the institutional governing body, and CCE Councilors.
- d. The next comprehensive evaluation site visit normally is four years following the award of initial accreditation, or eight years following the award of reaffirmation of accreditation.

D. Additional Reports and Visits

In accordance with CCE policies and procedures, the Council may require additional reports from, and/or visits to, a DCP to confirm its continued compliance with the accreditation requirements. The DCP must critically evaluate its efforts in the area(s) of concern, initiate measures that address those concerns, and provide evidence of the degree of its success in rectifying the area(s) of concern. Failure on the part of a DCP to furnish a requested report or host a site visit on the date specified by the Council constitute cause for sanction or adverse action. These actions are at the discretion of the Council, following appropriate notification.

1. Program Characteristics Report (PCR)

Biennial PCRs must be submitted to the Council in accordance with the CCE policies and procedures. PCRs are required as one of the reporting requirements the Council utilizes to continue its monitoring and reevaluation of its accredited programs, at regularly established intervals, to ensure the programs remain in compliance with the CCE Accreditation Standards.

2. Program Enrollment and Admissions Report (PEAR)

CCE Accreditation Standards – Principles, Processes & Requirements for Accreditation
January 2013

Annual PEARs must be submitted to the Council in accordance with the CCE policies and procedures. PEARs are required as one of the reporting requirements the Council utilizes to continue its monitoring and reevaluation of its accredited programs, at regularly established intervals, to ensure the programs remain in compliance with the CCE Accreditation Standards.

3. Progress Reports

Progress Reports must be submitted to the Council, on a date established by the Council. Progress reports address previously identified areas of non-compliance with accreditation requirements or areas that require monitoring.

4. Substantive Change Reports

Accreditation is granted or reaffirmed according to curricula, services and conditions existing at the time of that action. Substantive Change applications must be submitted to the Council to provide evidence that any substantive change to the educational mission, curriculum or program/institutional location, control or legal status, does not adversely affect the capacity of the program/institution to continually comply with the CCE Accreditation Standards. The program/institution must obtain Council approval of the substantive change request prior to implementing the change in accordance with CCE Policy 1.

5. Interim Site Visits

Interim Site Visits focus on institutional progress since the last self-study, and provide an opportunity for institutional dialogue with the Council. At the discretion of the Council, visits are normally conducted at the midway point of the eight-year accreditation cycle in accordance with CCE policies and procedures.

6. Focused Site Visits

At the discretion of the Council, Focused Site Visits are conducted in order to review progress of identified areas that require monitoring; compliance with accreditation standards or policies; or, circumstances that may prompt action to protect the interests of the public.

A Progress Review Meeting is conducted by the Council to review any additional reports submitted as outlined in sections 1-6 above. The Council determines the adequacy of ongoing progress, the sufficiency of evidence provided regarding progress on areas of concern, whether any other significant concerns have emerged, and what, if any, subsequent interim reporting activities are required. If a site visit was made, the site team report is discussed.

The Council determines if an appearance, or if participation via conference call, is necessary by DCP representatives at the next Council meeting. The Council then sends a follow-up letter to the DCP identifying the status of previous concerns (if any), and/or a substantive change application, and the requirements for any additional interim activities. The DCP must continue to submit PCRs in accordance with CCE policies and procedures.

E. Withdrawal from Accreditation

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January 2013

1. Voluntary Withdrawal of Initial Application

A DCP/Institution may withdraw its application for accreditation at any time prior to the Council decision regarding initial accreditation by notifying the CCE Council of its desire to do so.

2. Voluntary Withdrawal from Accredited Status

An accredited DCP/Institution desiring to withdraw from CCE accreditation forfeits its accredited status when the Council receives a certified copy of the sponsoring institution's governing board's resolution clearly stating its desire to withdraw.

3. Default Withdrawal from Accredited Status

When a DCP/Institution fails to submit a timely application for reaffirmation of accredited status, the Council acts at its next meeting to remove the DCP's/Institution's accredited status. This meeting of the Council normally occurs within six months of the date when the DCP/Institution application for reaffirmation was due. Involuntary withdrawal of accreditation is an adverse action that is subject to appeal (see CCE Policy 8).

4. Notification

In cases of voluntary withdrawal and default withdrawal CCE makes appropriate notification in accordance with CCE Policy 111.

F. Reapplication for Accreditation

A DCP/Institution seeking CCE accreditation that has previously withdrawn its accreditation or application for accreditation, or had its accreditation revoked or terminated, or had its application for accreditation denied, follows the process for initial accreditation.

III. Accreditation Actions

A. Decisions and Actions

Based on evidence, when considering the accreditation status of a program, the Council may take any of the following actions at any time:

1. Award or reaffirm accreditation
2. Defer the decision
3. Continue accreditation
4. Impose Warning
5. Impose Probation
6. Deny or revoke accreditation
7. Withdraw accreditation

In addition to regular reporting requirements and scheduled evaluation visits, the Council may also require one or more follow-up activities (site visits, reports, and/or appearance); if, a) the Council has identified areas that require monitoring where the final outcome could result in noncompliance

with accreditation standards or policies; or, b) the Council determines that the program is not in compliance with accreditation standards or policies.

B. CCE Notifications

The CCE makes notifications of Council accreditation decisions and actions in accordance with CCE Policy 111.

C. Enforcement and Time Frames for Noncompliance Actions

1. The U.S. Department of Education requires the enforcement of standards for all recognized accrediting agencies. If the Council's review of a program or institution regarding any accreditation standard and/or policy indicates that the program or institution is not in compliance with that accreditation standard and/or policy, the Council must:
 - a. Immediately initiate adverse action against the program or institution; or,
 - b. Require the program or institution to take appropriate action to bring itself into compliance with the accreditation standard and/or policy within a time period that must not exceed two years. NOTE: If the program, or the longest program offered by the institution, is at least two years in length.
2. If the program/institution does not bring itself into compliance within the initial two-year time limit, the Council must take immediate adverse action unless the Council extends the period for achieving compliance for "good cause". Such extensions are only granted in unusual circumstances and for limited periods of time not to exceed two years in length. The program/institution must address the three (3) conditions for "good cause" listed below.
 - a. the program/institution has demonstrated significant recent accomplishments in addressing non-compliance (e.g., the program's/institution's cumulative operating deficit has been reduced significantly and its enrollment has increased significantly), *and*
 - b. the program/institution provides evidence that makes it reasonable for the Council to assume it will remedy all non-compliance items within the extended time defined by the Council, *and*
 - c. the program/institution provides assurance to the Council that it is not aware of any other reasons, other than those identified by the Council, why the program/institution should not be continued for "good cause."
3. The Council may extend accreditation for "good cause" for a maximum of one year at a time (not to exceed two years in total). If accreditation is extended for "good cause," the program/institution must be placed or continued on sanction and may be required to host a site visit. At the conclusion of the extension period, the program/institution must appear before the Council at a meeting to provide further evidence if its period for remedying non-compliance items should be extended again for "good cause."

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4. Adverse accrediting action or adverse action means the denial, withdrawal, revocation, or termination of accreditation, or any comparable accrediting action the Council may take against the program or institution.

In all cases, the program/institution bears the burden of proof to provide evidence why the Council should not remove its accreditation. The Council reserves the right to either grant or deny an extension when addressing good cause.

IV. Deferral

In cases where additional information is needed in order to make a decision, for programs seeking initial accreditation or reaffirmation of accreditation, the Council may choose to defer a final decision regarding accreditation status. The additional information must be linked to insufficient evidence submitted by the site team in the final site team report; failure of the site team to follow established CCE policies or procedures; or, consideration of additional information submitted by the program following the on-site evaluation.

The Council may require the DCP/Institution to submit a report, host a site visit and/or make an appearance before the Council to provide such information. When a decision is deferred, the program retains its current accreditation status until a final decision is made. Deferral shall not exceed twelve (12) months. Deferral is not a final action and is not subject to appeal.

V. Noncompliance Actions

When the Council determines that a DCP/Institution is not in compliance with CCE Accreditation Standards, including eligibility and accreditation requirements, and policies and related procedures, the Council may apply any of the following actions. In all instances, each action is included in the 24-month time limit as specified in Section 1.III.C, *Enforcement and Time Frames for Noncompliance Actions*.

A. Warning

The intent of issuing a Warning is to alert the DCP/Institution of the requirement to address specific Council concerns regarding its accreditation. The Council may decide to issue a Warning if the Council concludes that a DCP/Institution:

1. Is in noncompliance with the accreditation standards or policies and the Council determines that the deficiency(ies) do not compromise the overall program integrity and can be corrected by the DCP/Institution within the permissible timeframe; or
2. Has failed to comply and/or provide requested information.

Following a notice of Warning, the Council may require the DCP/Institution to submit a report, host a site visit and/or make an appearance before the Council to provide additional information and/or evidence of compliance. Warning is a sanction, that is not subject to appeal, and shall not exceed twelve (12) months.

The Council will make notification of a final decision to impose Warning by notifying the DCP/Institution CEO/President and chairperson of the institution's governing body that a program has been placed on Warning in accordance with CCE policy and procedures.

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B. Probation

Probation is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements. Such a determination may be based on the Council's conclusion that:

1. The noncompliance compromises program integrity; for example, the number of areas of noncompliance, institutional finances, or other circumstances cause reasonable doubt on whether compliance can be achieved in the permissible timeframe; or
2. The noncompliance reflects recurrent noncompliance with one or more particular standard(s) and/or policy(ies); or
3. The noncompliance reflects an area for which notice to the public is required in order to serve the best interests of students and prospective students.

The Council may require the DCP/Institution to submit a report, host a site visit and/or make an appearance before the Council to provide evidence of compliance. Probation is a sanction, subject to appeal (see CCE Policy 8), and shall not exceed twenty-four (24) months. The Council will make public notice of a final decision to impose Probation by notifying the U.S. Department of Education, regional (institutional) accrediting agency, jurisdictional licensing boards, and the public that a program has been placed on Probation in accordance with CCE policy and procedures.

C. Show Cause Order

A Show Cause Order constitutes a demand that the DCP/Institution provide evidence to inform the Council and demonstrate why the program's accreditation should not be revoked. The Council may require the DCP/Institution to submit a report, host a site visit and/or make an appearance before the Council to provide such evidence. If the DCP/Institution does not provide evidence sufficient to demonstrate resolution of the Council's concerns within the time frame established by the Council, the DCP's/Institution's accreditation is revoked. A Show Cause Order is a sanction, subject to appeal (see CCE Policy 8), and shall not exceed twelve (12) months. The Council makes public notice of a final decision to impose a Show Cause Order by notifying the U.S. Department of Education, regional (institutional) accrediting agency, jurisdictional licensing boards, and the public that a program has been placed on Show Cause Order in accordance with CCE policy and procedures.

D. Denial or Revocation

An application for initial accreditation or reaffirmation of accreditation may be denied if the Council concludes that the DCP/institution has significantly failed to comply and is not expected to achieve compliance within a reasonable time period. Denial of an application for Initial Accreditation or a Reaffirmation of Accreditation constitutes Initial Accreditation not being awarded or Revocation of Accreditation, respectively.

Denial or Revocation of accreditation is an Adverse Action and subject to appeal (see CCE Policy 8). A DCP/Institution seeking CCE accreditation that has previously withdrawn its accreditation or its application for accreditation, or had its accreditation revoked or terminated, or had its application for accreditation denied, follows the process for initial accreditation. The Council makes public notice of a final decision to deny or revoke accreditation by notifying the U.S. Department of Education, regional (institutional) accrediting agency, jurisdictional licensing boards, and the public in accordance with CCE policy and procedures.

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E. Accreditation is a privilege, not a right. Any of the above actions may be applied in any order, at any time, if the Council determines that DCP/Institutional conditions warrant them. If the Council imposes any of the following actions: Deferral; Warning; Probation; a Show Cause Order; or Revocation of Accreditation, the Council provides a letter to the DCP/Institution stating the reason(s) for the action taken.

VI. Status Description

A DCP or an institution accredited by the Council must describe its accreditation status in accordance with CCE Policy 22.

The Council updates the accredited status of the programs/institutions it currently accredits on its official website following each Council Meeting, to include:

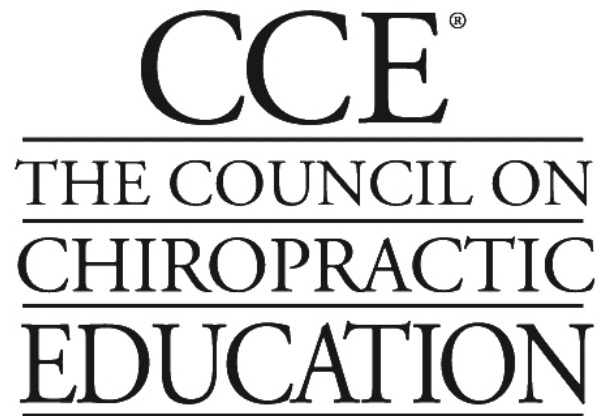
- a. Month/Year of initial accreditation status awarded by CCE.
- b. The year the Council is scheduled to conduct its next comprehensive site visit review for reaffirmation of accreditation and the next scheduled Council Status Review Meeting regarding that comprehensive site visit review; and,
- c. Designation of any solitary-purpose institutions awarded institutional accreditation.

VII. Complaint and Contact Information

Complaint procedures are established to protect the integrity of the CCE and to ensure the avoidance of improper behavior on the part of those individuals acting on behalf of the CCE, the Council and the CCE-accredited DCPs. By establishing formal complaint procedures, the CCE provides responsible complainants the opportunity to submit specific grievances and deal with them through a clearly defined process. CCE Policy 64 outlines the complaint procedures and may be obtained via the CCE website and/or through the CCE Administrative Office.

Information describing the organization and operation of the CCE and its Council may be obtained from the CCE Administrative Office, 8049 North 85th Way, Scottsdale, AZ 85258-4321, Telephone: 480-443-8877, Toll-Free: 888-443-3506, Fax: 480-483-7333, E-Mail: cce@cce-usa.org, or Website: www.cce-usa.org.

EXHIBIT 2



Manual of Policies

of

The Council on Chiropractic Education, Inc.[®]

July 2017

CCE Policy 8**Appeals of Decisions by the Council**

Doctor of Chiropractic Degree Programs, Residency Programs or institutions hereafter referred to as Programs, have the right to appeal an adverse accrediting decision of the CCE Council. These procedures provide for fair, expeditious processing of appeals, but do not constitute quasi-judicial procedures. Both the Council and the Program have the right to representation by counsel in the appeal process.

Note: If the Council Chair has a conflict of interest with the appellant Program, the Council Development Committee (CDC) Chair will preside over the hearings. If a conflict exists with the CDC Chair, a Councilor chosen by the Council will preside over the hearings.

Criteria for Appeal

CCE provides clearly delineated fair procedures and opportunities for Programs to appeal adverse actions of:

- Denial of initial accreditation
- Public Sanctions (Probation, Show Cause Order)
- Denial of reaffirmation of accreditation
- Revocation of accreditation
- Denial of a proposed substantive change

The Program may appeal the Council's adverse action on grounds that such decision is arbitrary, capricious, or otherwise in substantial disregard of the CCE Standards and/or procedures of the Council, or that the decision is not supported by substantial evidence in the record upon which Council took action. The burden of proof remains upon the Program at all times.

Notice of Council Adverse Decision

Official notification of a Council adverse decision will be sent registered or certified mail return receipt requested to the CEO and/or CAO of the Program and the governing board chair. The notice shall advise the Program that it has the right to appeal an adverse decision and will provide a copy of CCE Policy 8, *Appeals of Decisions by the Council*, and copies of the relevant CCE *Accreditation Standards, Principles, Processes & Requirements for Accreditation*.

The status of an accredited Program remains unchanged until the period for filing an appeal has ended or until the appeal process has been concluded. An appeal filed in accordance with CCE appeal procedures automatically delays the adverse decision until its final disposition. In the case of a denial of reaffirmation of accreditation or revocation of accreditation, the Program remains accredited pending disposition of the appeal.

Public notice of an adverse action shall be in accordance with CCE Policies and Standards. Final appeal decisions may not be appealed.

CCE Policy 8**Appeals of Decisions by the Council (cont.)**Initiation of Appeal

Within twenty (20) days following receipt of an adverse decision, a Program electing to appeal that decision must send a written notice of appeal to the Council Chair. The notice of appeal shall be sent registered or certified mail return receipt requested. The notice of appeal shall be sent to the Council Chair, 8049 N. 85th Way, Scottsdale, Arizona, 85258.

The submission of a notice of appeal must be authorized by an official action taken by the governing body of the institution of which the Program is a part. This notice of appeal shall include a concise statement of the grounds for appeal that the program intends to present to the appeals panel. The notice of appeal shall identify the program representatives, which may include legal counsel, who will be present at the appeal. If a notice of appeal is not filed within the 20 days following receipt of the adverse decision, the Program will have lost its right to appeal and the action of the Council will become final.

The CCE President will forward a copy of the notice of appeal to the Council Chair. Immediately upon receiving a timely notice of appeal, the Council Chair shall acknowledge receipt of the notice in writing to the CEO and/or CAO of the Program.

Criteria for selecting an Appeals Panel

The CCE Administrative Office staff shall maintain a standing list of persons who are qualified to serve on an Appeals Panel in the categories of academic personnel, administrative personnel, educators, and practitioners, as defined by the U.S. Department of Education, to include public members. All members shall meet the eligibility criteria for the category of membership they represent. Additionally, members should demonstrate, 1) longitudinal experience with CCE, its *Standards* and processes, or accreditation in general, and/or, 2) academic or professional experience demonstrating familiarity with higher education and/or accreditation processes. No individual is eligible to serve on an appeals hearing panel that is or has been previously involved with the appellant Program (consistent with CCE conflict of interest policies), was part of the review activity that led to the specific Council adverse action, or who is a current Councilor.

The names of the eligible Appeals Panel members shall be forwarded by the CCE President to the CEO and/or CAO in charge of the Program within seven (7) business days following receipt of the notice of appeal. If the Program believes that any of the eligible Appeals Panel members have a conflict of interest it may object to that individual being placed on the panel within ten (10) business days of receipt of the list of the Appeals Panel members.

The Council Executive Committee shall appoint the three-member Appeals Panel, chosen from the standing list of Appeals Panel members within ten (10) business days of receipt of any conflicts of interest declarations submitted by the Program. Once the Appeals Panel has been selected, the Program requesting the appeal and the Council Chair are so notified by the CCE President.

CCE Policy 8**Appeals of Decisions by the Council (cont.)**

Within ten (10) business days of appointment of the Appeals Panel, the appellant Program and Council Chair shall be notified by the CCE President of the date, time, and place of the hearing. If a designated Appeals Panel member withdraws or is removed by the Council Executive Committee, the Council Executive Committee shall appoint a replacement from the list of acceptable Appeals Panel members.

In the event the Council Executive Committee cannot be convened in a timely manner the CCE Council Chair shall appoint a replacement from the list of acceptable Appeals Panel members.

The Council Executive Committee shall appoint a Chair from among the Appeals Panel members selected to hear the appeal.

The hearing shall be held within 45 days (but not earlier than 30 days) after the Appeals Panel has been appointed:

- A hearing schedule may be changed only due to conditions beyond the control of the Appeals Panel or the Program, such as inclement weather or the illness of an Appeals Panel member.
- Such a change must be approved by the Council Chair.

Within thirty (30) days from the postmarked date the Program receives notice of the appeal hearing, the Program will submit one (1) electronic version and five (5) hard (paper) copies of its written grounds for appeal setting forth its arguments and evidence in support of its appeal. Three (3) copies for the Appeals Panel, one (1) copy for the Council Chair and one (1) hard copy and the electronic version to be kept on file in the CCE Administrative Office. Immediately upon receiving the grounds for appeal, the CCE President will acknowledge receipt in writing to the CEO and/or CAO of the Program and forward a copy to the Council Chair.

Appeals Panel Procedures

- The Appeals Panel Chair shall promptly receive from the CCE President the complete record of the accreditation proceedings involving the appellant Program.
- This Appeals Panel must act by majority vote.
- The record shall include the following as applicable to the appeal (from the accreditation cycle in question):
 1. Correspondence between Council and the Program
 2. Submission of applicable Self-Study Report or Revised Application for Accreditation or Substantive Change Request
 3. Site Visit Team Report or applicable report
 4. Program Response to Site Visit Team Report and Correction of Errors in Fact
 5. Progress reports submitted by the Program
 6. Program Characteristics Reports (PCR) submitted by the Program
 7. The Program grounds for appeal documentation
- A list of all materials that comprise the complete record shall be identified and made available to the Program.

CCE Policy 8**Appeals of Decisions by the Council (cont.)**

- The record shall be provided to all members of the Appeals Panel in advance of the appeal hearing.
- One (1) copy of the entire record for appeal shall be maintained by the CCE Administrative Office in accordance with the File and Records Management Plans.

Hearing Format

- The appeal hearing shall commence with an opening statement by the Chair of the Appeals Panel identifying each person present and describing the applicable standard(s) of review and the procedures to be followed at the hearing.
- The appellant Program is then permitted to make a statement of no more than 45 minutes in length in support of the appeal. The appellant Program may be represented by legal counsel. The presentation shall be limited to the material issues related to the adverse decision of the Council and/or, new financial information, if applicable, in accordance with the conditions listed in the Ground Rules section of this policy.
- CCE (Council Chair) shall have an opportunity to reply to the appellant Program's presentation. CCE may be represented by legal counsel.
- The Chair of the Appeals Panel shall allow for questions and answers from any participant and panel members during the hearing.
- The Chair of the Appeals Panel may recess the hearing at any time.
- At the conclusion of the hearing, the Chair of the Appeals Panel may call for a final statement from each party.

Ground Rules

With the exception of new information pertaining to failure to meet a standard related to finances, information to an appeals hearing will consist of that evidence presented to the Council prior to the adverse action. Information not reviewed by the Council prior to the Council decision cannot be considered by the Appeals Panel; however, the Program may seek review of new financial information by the Appeals Panel if all of the following conditions are met:

1. The financial information was unavailable to the institution or program until after the decision subject to appeal was made.
2. The financial information is significant and bears materially on the financial deficiencies identified by CCE. The criteria of significance and materiality are determined by CCE.
3. The only remaining deficiency cited by CCE in support of a final adverse action decision is the institutions or program's failure to meet the CCE standard pertaining to finances.

Furthermore, the Program may seek the review of new financial information described above only once and any determination by CCE made with respect to that review does not provide a basis for an additional appeal.

CCE Policy 8 Appeals of Decisions by the Council (cont.)

The Appeals Panel will determine the relevance of the information presented. The panel will determine what information is pertinent and will ignore that which is not.

With the exception of the information noted above with regards to finances, the appellant Program may not present the appeals panel with revised data or program descriptions that were not reviewed initially by the Council. Such information offered by the appellant Program at the time of the appeals hearing shall be ignored by the panel.

Decisions

The Appeals Panel serves in an advisory or procedural role, and also has and uses the authority to make the following decisions:

- To affirm,
- Amend,
- Reverse, or
- Remand the adverse actions of the Council.

A decision to affirm, amend, or reverse the adverse action is implemented by the Council. In a decision to remand the adverse action to the Council for further consideration, the appeals panel must identify specific issues that the Council must address. In a decision that is implemented by or remanded to the Council, the Council must act in a manner consistent with the appeals panel's decisions or instructions.

The Appeals Panel will make its decision in executive session at the end of the hearing or, if time does not permit the Appeals Panel to conclude its deliberations on the day of the appeal hearing, it may reconvene in executive session in person or by telephone conference call after the hearing.

Post-Hearing Procedures

The panel members shall decide on the issues presented in the appeal. The panel shall issue its findings and decision as follows:

- a. Each area of concern or cited area of noncompliance will be considered separately and the panel will determine whether each concern or area of noncompliance is supported by substantial evidence. Substantial evidence is such relevant evidence which might reasonably be accepted as supporting the concern or area of noncompliance cited.
- b. The panel will determine whether those concerns or areas of noncompliance that are supported by substantial evidence are sufficient to support the adverse action of the Council.
- c. The panel will also consider whether the procedures used to reach the adverse action were contrary to established CCE procedures, policies or practices and whether the procedural error prejudiced the Council's consideration.
- d. The panel will then draft a report detailing its findings as described in paragraphs a through c above and will issue a decision to affirm, amend, reverse or remand the adverse action of the Council.

CCE Policy 8**Appeals of Decisions by the Council (cont.)**

- e. The findings and decision of the Appeals Panel shall be submitted by its Chair to the CCE Administrative Office within ten (10) business days of the appeal hearing. The CCE President will then send a copy of the final report to the Council Chair and the CEO or CAO of the appellant Program.

Under extraordinary circumstances, the specified time limits may be extended with the mutual consent of the Council Chair, the Chair of the Appeals Panel and the appellant Program.

Final Action and Notification

If the Appeals Panel affirms the action of the Council, the decision of the Council becomes final and effective on the date of the Appeals Panel decision and is not subject to further appeal.

If the Appeals Panel amends, reverses, or remands the adverse action of the Council, the Council will meet in person or by telephone conference call to review the decision of the appeals panel and implement the specific issues detailed in the appeals panel report. These decisions are final and not subject to further appeal.

At the same time the Program is notified, the CCE President will notify the United States Department of Education, the appropriate state regulatory authority, and the appropriate institutional accrediting agency of final Council decisions to: deny initial or reaffirmation of accreditation; deny a proposed substantive change; revoke accreditation; or, impose a sanction of probation or show cause order. The public and other interested parties will be notified of final adverse actions in accordance with CCE *Policies and Standards*.

Financial Responsibility for an Appeals Hearing

The Program making the appeal shall assume the expense involved in the development and presentation of its appeal. All expenses associated with the hearing, such as those for the meeting room, administrative support, travel, meals and lodging for members of the panel, shall be the sole responsibility of the appellant Program. The CCE Administrative Office will arrange for and bear the costs of the appeal during the appeal process and forward an itemized invoice to the appellant Program at the conclusion of the appeal process. The appellant Program will be given ten (10) business days from receipt of the invoice to provide payment of the appeal to the CCE Administrative Office. The expenses of legal counsel and/or witnesses providing testimony or evidence for the hearing shall be assumed by the party requesting their presence.

Approved: 1/13/02

Revised: 1/12/03, 1/8/05, 3/8/09, 1/14/11, 1/13/12, 4/8/13, 1/10/14, 7/11/14

CCE Policy 22**Program Integrity & Representation of Accreditation Status****Integrity**

In all relationships with CCE, the Program/Institution shall demonstrate honesty and integrity. In submitting materials for initial accreditation or reaffirmation of accreditation, or other reporting procedures, the program agrees to comply with The Council on Chiropractic Education (CCE) requirements, policies, guidelines, decisions and requests. During the processes of accreditation the program must evidence full and candid disclosure, and shall make readily available all relevant information. The program shall provide the Council with unrestricted access to all parts and facets of its operations, with full and accurate information about program affairs, including reports of other accrediting, licensing, or auditing agencies, as requested.

Breaches of Integrity

A program's failure to disclose information honestly and completely by presenting false information, by the intentional omission of relevant information, or by distortion of information for the purpose of deliberate misrepresentation, will be considered to be a breach of integrity, in and of itself. If it so appears to the Council that the program has compromised the parameters of integrity in either the materials or information submitted, or in any other manner that requires immediate attention, an investigation may be instituted. After the investigation, the program will be afforded an opportunity to respond to any alleged infractions.

Actions

The Council may require additional reports and/or schedule a special visit to determine if a breach of integrity has occurred. Verification of any instances of breaches of integrity may affect the program's standing with the Council. If, after notice and opportunity to respond, the Council concludes that the program is willfully practicing misrepresentation, or has presented false information to the Council or to any other concerned parties, action may be taken to withdraw accreditation. The Council may withdraw accreditation in the event the program fails to provide and disclose completely all relevant information and materials requested by the Council. The Council may or may not place the program on probation before withdrawing accreditation, but fully reserves the discretionary power to act in the manner that is deemed most suitable to address any occasion of breaches of integrity and disclosure.

Public Statements

The Council reserves the right to verify the accuracy of the program's public statements. In all instances, the program should contact CCE for review and approval of any statements not specific to CCE policies and procedures prior to publishing such statements.

A doctor of chiropractic degree program (DCP) accredited by the Council must use the following statement when describing its status publicly (to include the DCP's official website):

"The Doctor of Chiropractic degree program at (name of institution) is awarded programmatic accreditation by The Council on Chiropractic Education, 8049 North 85th Way, Scottsdale, AZ, 85258-4321, Phone: (480)443-8877, Website: www.cce-usa.org."

A residency program accredited by the Council must use the following statement when describing its status publicly (to include the program's official website):

CCE Policy 22**Program Integrity & Representation of Accreditation Status (cont.)**

“The residency program at (name of institution) is awarded programmatic accreditation by The Council on Chiropractic Education, 8049 North 85th Way, Scottsdale, AZ, 85258-4321, Phone: (480)443-8877, Website: www.cce-usa.org.”

A DCP accredited by the Council that also includes a residency program accredited by the Council must use the following statement when describing its status publicly (to include the DCP’s official website):

“The Doctor of Chiropractic degree program and Residency program at (name of institution) are awarded programmatic accreditation by The Council on Chiropractic Education, 8049 North 85th Way, Scottsdale, AZ, 85258-4321, Phone: (480)443-8877, Website: www.cce-usa.org.”

A solitary purpose institution accredited by the Council must use the following statement when describing its status publicly (to include its official website):

“(Name of solitary purpose chiropractic institution) is awarded programmatic and institutional accreditation by The Council on Chiropractic Education, 8049 North 85th Way, Scottsdale, AZ, 85258-4321, Phone: (480)443-8877, Website: www.cce-usa.org.”

Any program (DCP or Residency) that has, a) submitted an application for initial accreditation, b) received approval of the application by the Council, and c) been provided with Self-Study, Site Visit and Status Review Meeting dates by the Council, may only use the following statement when describing its status publicly (to include the program’s/institution’s official website):

“The (Doctor of Chiropractic degree program or Residency program) at (name of institution) is currently engaged in the process of seeking programmatic accreditation by the Council on Chiropractic Education, 8049 North 85th Way, Scottsdale, AZ, 85258-4321, Phone: (480)443-8877, Website: www.cce-usa.org. During this application process, the program does not hold accredited status with the agency, nor does the agency ensure eventual accreditation.”

Programs may provide additional information regarding its accreditation status with CCE, for example, the historical account of its accreditation, but it must do so separately and independent of the required statements listed above.

If the Council determines that a CCE-accredited program/institution is making incorrect, misleading or misrepresentation of public statements about its accreditation status, the contents of site visit reports, program effectiveness, success of graduates and/or Council accrediting actions, the Council will act to have the program/institution publicly correct the statements within a specified time frame. If the program/institution does not take corrective action within the time period established by the Council, the Council may, at its discretion, release a public statement in such form and content as it deems necessary to provide the public with the correct information and consider further action regarding the program/institution.

Approved: 2/2/91

Revised: 1/12/03, 3/8/09, 1/17/10, 1/14/11, 7/11/14, 7/11/15, 7/14/17

CCE Policy 56**Student Performance Disclosure, Thresholds and Outcomes**

In keeping with the CCE Accreditation Standards requiring public disclosure of student performance, DCPs must disclose up-to-date results of student performance on national board examinations and completion rates on the program website. Reporting will be posted on one of the following website pages: Home page, Admissions, Academics, Prospective Students, or equivalent page using direct links. All performance data must be posted by August 1 each year using the formats described below.

NBCE LICENSING EXAMS

Each program shall post annually the overall weighted average of the four (4) most recent years' NBCE Parts I, II, III, and IV Exam success rates. The DCP's may use the Canadian Chiropractic Examining Board (CCEB) Part C exam data in lieu of NBCE Part IV data. Students transferring from another accredited DCP will be included in this calculation.

The DCP shall annually post:

1. The total unduplicated number of graduates of the program who **attempted any or all** parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation;
2. The total unduplicated number of graduates of the program who successfully passed all parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation; and
3. The percentage of these graduates who successfully **passed all** parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation.

* or CCEB Part C data in lieu of NBCE IV data

The format required for publication as determined by the Council is provided in the following example:

NBCE Licensing Exam Success Rates

Calendar Year (Last 4 years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation	Number of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation	Percentage of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation
2011	321	268	83%
2012	344	306	89%
2013	299	259	87%
2014	315	287	91%
Totals	1279	1120	88%

*or CCEB Part C data in lieu of NBCE Part IV data

Weighted Average

DC DEGREE COMPLETION RATES

Each program shall post annually the overall average of the two (2) most recent year's completion rate, calculated at 150% of the normal completion time, for the doctor of chiropractic program. Students transferring from another accredited DCP will be included in this calculation.

CCE Policy 56**Student Performance Disclosure, Thresholds and Outcomes (cont.)**

The DCP shall annually post:

1. In the heading, provide the name of the DCP and the normal length of the program, e.g., 10 trimesters or 14 quarters
 2. Column A - Adjust to reflect the program's calendar, i.e., trimesters or quarters
 3. Column B - Provide the number of students that matriculated for each entrance term
 4. Column C - Adjust the column header to reflect 150% of the normal completion time, e.g., 21 quarters for a 14 quarter program
 5. Column D - Provide the number of students in Column A that graduated by term in Column C
 6. Column E – Calculate Column D divided by Column B
 7. Totals - Provide the sum of Column B, sum of Column D, and the overall 2-year completion rate
- NOTE: The two most recently completed academic years of data must be submitted based on the DCPs calendar. Eight data points should be entered for quarterly systems and six data points should be entered for trimester systems.

The format required for publication as determined by the Council is provided in the following example:

DC Degree Completion Rates

Name of the Doctor of Chiropractic Program (DCP) Normal Length of Program: 14 Quarters				
Column A	Column B	Column C	Column D	Column E
Entrance Term	# of Students Matriculated in Entrance Term	Term 21 Quarters After Entrance Term	# Students in Column A that Graduated by Term in Column C	Completion Rate at the 150th Percentile
Summer 2010	79	Summer 2015	71	89.9%
Fall 2010	78	Fall 2015	69	88.5%
Winter 2010	74	Winter 2015	63	85.1%
Spring 2011	80	Spring 2016	74	92.5%
Summer 2011	79	Summer 2016	69	87.3%
Fall 2011	74	Fall 2016	63	85.1%
Winter 2011	76	Winter 2016	71	93.4%
Spring 2012	80	Spring 2017	73	91.3%
TOTALS	620		553	89.2%

THRESHOLDS

In keeping with the CCE Accreditation Standards requirements concerning student outcomes, the following are established as thresholds. Performance below these thresholds, as derived from data obtained by the Council, will indicate the need for further review and action as determined by the Council.

Performance on the NBCE Part I, II, III, & IV Examinations*

The overall weighted average of the four (4) most recent years' NBCE Parts I, II, III, and IV* Exam success rates must not be less than 80%.

CCE Manual of Policies
July 2017

CCE Policy 56

Student Performance Disclosure, Thresholds and Outcomes (cont.)

Completion of the D.C. Degree Program

The two-year average completion rate, calculated at 150% of the time normally designated for completion of the DC degree, must be at least 70%.

Approved: 1/14/01

Revised: 1/12/03, 1/11/04, 1/20/07, 3/8/09, 1/17/10, 7/11/14, 1/9/15, 7/15/16, 7/14/17

CCE Policy 109 USDE and CHEA Recognition

The Council on Chiropractic Education (CCE) shall take all necessary steps to maintain recognition as an accrediting agency by the Secretary of the U.S. Department of Education (USDE) and by the Council for Higher Education Accreditation (CHEA).

Approved: 2/2/91
Revised: N/A

CCE Policy 111 Notification of CCE Accrediting Decisions

1. No later than thirty (30) days after a decision is made, the Council on Chiropractic Education (CCE) will provide written notice to the U.S. Department of Education, all state licensing boards, appropriate accrediting agencies and the public regarding the following accreditation decisions:

Award of initial accreditation or reaffirmation of accreditation of an institution or program.

2. No later than thirty (30) days after a decision is made, the Council on Chiropractic Education (CCE) will provide written notice to the U.S. Department of Education, all state licensing boards and the appropriate accrediting agencies at the same time it notifies the institution or program regarding the following accreditation decisions:

Final denial, withdrawal, suspension, revocation or termination of accreditation or reaffirmation of accreditation.

Final decision to place an institution or program on probation (or an equivalent status).

3. The Council/CCE will provide written notice to the public of the decisions listed in paragraph 2 of this policy within 24 hours of its notice to the institution or program.
4. No later than sixty (60) days after a final decision, the Council/CCE will make available to the U.S. Department of Education, all state licensing boards, and the public upon request, a brief summary of the reasons for the Council/CCE decisions listed in paragraph 2 of this policy, and the comments, if any, that the affected DCP may wish to make with regard to that decision or evidence that the affected institution has been offered the opportunity to provide official comment.
5. The Council/CCE will also provide written notice to the U.S. Department of Education, all state licensing boards, the appropriate accrediting agencies and the public, upon request, when an institution or program decide to voluntarily withdrawal its accreditation status (within 30 day of receiving notification from the institution/program) or voluntarily let's its accreditation lapse (within 30 days of the date of which accreditation lapses).
6. If at a later date a state agency or another recognized accrediting agency requests information about the action taken against a program/institution, the Council will provide the information to the agency.

CCE Policy 111 Notification of CCE Accrediting Decisions (cont.)

7. If the Council finds systemic noncompliance with the CCE Standards regarding credit hour assignments or significant noncompliance regarding one or more programs at an institution the Council/CCE will provide written notice to the U.S. Department of Education within 24 hours of its final decision to the institution.

Approved: 1/24/98**Revised: 5/7/01, 1/12/03, 5/16/06, 1/20/07, 3/8/09, 1/13/12, 7/11/14**

CCE Policy 142 Council Meeting Seating

Only The Council on Chiropractic Education (CCE) Councilors, legal counsel, Ex-Officio members and CCE Administrative Office staff shall be seated at the meeting table.

Temporary seat(s) shall be made available for invited guest speakers to make presentations as needed.

Approved: 6/24/91**Revised: 1/12/03, 3/8/09, 1/17/10**

CCE Policy 145 Non-Discrimination and Equal Opportunity

The Council on Chiropractic Education (CCE) and its Council shall conduct all relevant affairs regarding membership, service, hiring, appointment, promotion, assignment or other conditions in accordance with nondiscriminatory and equal opportunity practices.

Approved: 2/2/91**Revised: 1/12/03, 3/8/09, 1/17/10**

EXHIBIT 3



Accreditation Manual

Designed for
Programs/Institutions

July 2016

1. Will adhere to the same confidentiality requirements as site visit team members;
2. Will not participate in the critique, decision-making or consensus process of the team;
3. Will not offer critiques or analytical reviews of the program, documents or team functions,
4. May not actively solicit input or data from program personnel or students;
5. May observe the process and procedures of team activities and functions, accompany team members to on-campus visits and attend team meetings;
6. May view any materials made available to team members;
7. May discuss with team members facts and information about which they may become aware, and will convey any relevant information to the team; and
8. If identified as intrusive or interfering with the site team process by either the program or the Site Team Chair, the individual may be required to leave or be limited in their scope.

F. CCE Administrative Office Staff

A CCE Administrative Office staff member is assigned to comprehensive (initial and reaffirmation) site visits to assist and provide support to the site team and the program. Staff members provide guidance to the Site Team Chair and team members regarding their assigned responsibilities on the visit, assist in clarification and language in the requirements for accreditation as listed in the *CCE Standards*, monitor and guide consistency of processes, provide draft report compilation, and explain Council procedures to team members and program personnel, as needed. CCE staff attend meetings between the team and program personnel, assist the team in obtaining and reviewing information, and participate in team discussions, but do not evaluate the program. CCE Administrative Office staff may also be present at interim or focused site visits, at the discretion of the CCE President or STAC Chair.

Section V Type of Site Visits

Various types of site visits are part of the peer-review evaluation process and are a very important component of the accreditation processes. Additional information regarding site visits and evaluators may be found in the CCE Manual of Policies, within CCE Policy 10, *Academy of Site Team Visitors* and CCE Policy 11, *CCE Site Visit Teams*.

A. Comprehensive Site Visit (Initial or Reaffirmation of Accreditation)

A comprehensive site visit is a full review of a program applying for initial accreditation or reaffirmation of accredited status, and is scheduled for the spring or fall following submission of the self-study report. The length of the visit is normally four days for a DCP. For residency programs the length of the visit varies depending on the size and structure of the program. The team verifies and validates the information presented in the self-study document. The team report identifies the program's strengths and any concerns regarding compliance with the *CCE Standards*.

B. Interim Site Visit

The interim site visit is normally scheduled midway through the routine accreditation cycle. The Council may address issues identified in the most recent status review, in the DCP's Program Characteristic Report (PCR), in other reports required by the Council, or information from other sources. If no issues or possible concerns are identified, the Council may choose to forgo the interim site visit, but in most cases a visit will occur to ensure continuity and communication with the DCP. The length of this visit varies based on the review needed by the Council, but generally, two to three days is appropriate with the exit briefing on the last day of the visit. (Note, interim site visits do not apply to chiropractic residency programs.)

C. Focused Site Visit

A focused site visit is normally conducted in follow-up to address areas of concerns or any other issues needing attention regarding the CCE Standards or policy requirements, e.g., following a progress report, approval of a substantive change, etc. . The length of this visit varies based on the review needed by the Council, but generally, two to three days is appropriate with the exit briefing on the last day of the visit. A focused site team normally consists of a team member(s) from the previous visit along with a team member(s) not involved in the previous visit, the first to provide continuity and the latter to provide a new perspective. .

Section VI On-Site Evaluation (Site Visit)**A. Self-Study Review by Team Members**

Prior to beginning the visit, team members thoroughly review and become familiar with all related documents, specifically the program's Self-Study report, with updates (if applicable). The self-study report is the guiding document for the site visit. The analysis of this report and related documents, especially those sections relevant to areas assigned, enables team members to develop an important overview of the program mission and supporting evidence regarding the requirements of each Standard. During the visit, the team will verify and validate the content and accuracy of the self-study report, noting any significant omissions or inaccuracies.

The self-study report is intended to demonstrate that the program is complying with Section 2, CCE Requirements for Accreditation in the DCP Standards or Residency Standards, as applicable. Section 3 of the CCE Requirements for Accreditation, as provided in the DCP Standards, is applicable to programs holding both programmatic and institutional accreditation.

B. On Campus/On Site

The Site Team Chair and CCE staff coordinates and facilitates the team visit, including leadership of team discussions by the Site Team Chair. Site visit teams usually remain on campus/site from 8:00 a.m. to 4:30 p.m. daily. At the discretion of the Site Team Chair, these times may be adjusted to accommodate the program, or to meet special team needs for extended hours.

C. Initial Team Chair Meeting & Precautions

An initial team chair meeting is conducted the day prior to the scheduled first day of the site visit and is mandatory for all team members to attend. The team chair and staff brief the team regarding the logistics, responsibilities, documentation, etc. and provide updates or additional information to the team as necessary.

One of the important topics discussed during this meeting is the review of precautions. These items are of particular importance to the Council as they give general guidance for some of the "what to do" and "what not to do" issues during the site visit process. Many of these items are outlined in relevant CCE policies and procedures, and also identified in the Site Team Agreement form signed by all team members prior to the site visit. They are listed below for reference and information.

Precautions

1. All matters associated with a site team visit are confidential as individual team members participate in the service of the Council. All communication between the program and team must occur through the Site Team Chair. Team members and individuals from the program will not correspond or

communicate on matters other than the status of the program and self-study materials. Should a team member receive unsolicited correspondence or documents from the program being evaluated, the communication will be referred to the Site Team Chair.

2. Team members do not discuss their evaluations outside of team meetings.
3. Team members will respect the confidentiality of self-study reports and any other internal program documents, including the team report.
4. Team members will abide by all relevant CCE policies, specifically CCE Policy 18, *Conflicts of Interest*; CCE Policy 19, *Official Documents & CCE Spokespersons* and HIPAA requirements.
5. Team members will not recruit faculty or staff for service elsewhere or suggest their own availability as a consultant or employee.
6. Team members will not accept gifts, favors or services from the program. Souvenir gifts, restricted to inexpensive items representative of the program or its geographic location, are permissible.
7. Team members will not side with interest groups or individuals in the program, or allow them to be drawn into debate on program issues.
8. Refrain from libel or slander statements (written or spoken, respectively); accordingly, site team members must be sure that all statements about a program, its resources, programs and personnel are accurate, fair, and reasonable professional judgments based on factual information and careful observation.
9. Team members will not be swayed by stated “good intentions” if unsupported by official commitment and responsible planning driven by assessment outcomes.
10. Team members must not let personal biases influence fact-finding and evaluation.
11. Team findings will be supported by reference to documents and to interviews with as many administrators, faculty, staff and students as possible.
12. Team members should cross check, validate data and verify with others.
13. Team members are responsible to identify areas of concern where evidenced.
14. Teams will focus their attention on identification of significant issues, and not waste time on minor matters.
15. Team members are required to identify concerns and the Council will determine the nature, degree, and disposition of these concerns. As Council representatives, team members must be clear with program personnel so that the site team does not prescribe specific actions.
16. Notations of strengths or concerns must be factually representative of the program; there must be no attempt to balance the number of strengths with any number of concerns.

D. Introduction Meeting with Program

The Site Team Chair provides an orientation briefing regarding the specifics, purpose and function of the site visit to the program President/CEO, his/her designated representatives, site team members, and any observers and staff present to begin the on-site evaluation process. The briefing includes, but is not limited to the following:

1. Site Team Chair introduces the team and explains role of each member (observer, staff, etc.)
2. Site Team Chair describes purpose of visit in accordance with letter from Council
3. Site Team Chair describes function of team
 - a. Eyes and ears of Council
 - b. Verify/validate:
 - i. Is the program as described in the Self-study
 - ii. Is the program fulfilling its mission, goals, and objectives
 - iii. Are all elements of the “Requirements for Accreditation” being addressed
4. Site Team Chair describes the process

Section VII Site Team Report and Program Response

A. Site Team Report

The Site Team Chair is responsible for ensuring that individual team member contributions appear in proper sequence in the team report according to the CCE *Standards*, Section 2 (and Section 3, for institutional accreditation). In preparing the team report, the Site Team Chair may seek advice from the CCE staff about report organization, formatting and content.

The Site Team Chair writes the introduction, compiles the composite report, and insures the accuracy of the summary listing of any strengths and concerns with/recommendations. The report is a qualitative assessment of the entire program, but it need not be lengthy. The historical development of the program, its operation, curriculum and requirements for degrees is to be addressed in a brief summary fashion. The report addresses the mission/purpose statement of the program, noting any unique characteristics and/or strengths. Validated and verified problems are addressed as concerns and program strengths as commendations. The report is to be clear and constructive in order to help the program. The evidence used to arrive at such conclusions must support any evaluative statements. The report also focuses on the program's goals and objectives, assessment methods, and outcomes data

The report clearly describes any concerns and recommends a plan and potential for overcoming such challenges. The report must not contain critical material not supported by findings or outside of the scope of the *Standards*.

The site team does not stipulate whether or not the program is meeting the requirements of the *Standards* as this is the prerogative of the Council. However, the team must describe in narrative the activities and supporting data to determine how well the program is addressing and fulfilling each requirement

B. Site Team Report Review & Distribution Process

1. Draft Report & Corrections of Errors in Fact

The draft report is distributed to each team member either by the Site Team Chair or the CCE Administrative Office within 5 days of the last day of the visit.

- a. Within six days of receipt of the draft report, team members review the report and provide narrative clarifications and/or edits to the Site Team Chair.
- b. Within four days of the team members' response, the Site Team Chair, with the assistance from the staff assembles the final version of the draft report and the CCE Administrative Office sends it to the program president/CEO with a Corrections of Errors in Fact letter.
- c. Within seven days of receipt of the letter, the program president/CEO responds to the CCE Administrative Office and Site Team Chair with correction of errors in fact. Other than factual errors, i.e., title/name designation, number corrections, etc. the context of the draft site team report is not open to editing by the program president/CEO at this time. (Note: As the program will be granted an opportunity at a later date to provide feedback on the entire process, this is not the time for the program to respond with its own concerns or recommendations. See Section VIII.A, Site Visit Team Process Evaluation.)
- d. If such substantiation is extensive, the Site Team Chair may need to communicate with team members before completing the final report.

2. Final Report

Once any indicated errors of fact have been verified and corrected by the Site Team Chair, an electronic version of the final report is sent to the CCE Administrative Office.

- a. Within five days of receipt of the corrections of errors in fact, the CCE Administrative Office sends a cover letter and an electronic version (email) of the final report to the program President/CEO and Accreditation Liaison. An electronic version of the report is also sent to the site team members (to include the chair). This normally occurs within four weeks of the conclusion of the site visit.
- b. The CCE Administrative Office also sends a copy of the cover letter to the DCP Governing Board Chair or residency Governing/Administrative official, as an FYI notice of the scheduled status review meeting with the Council.

3. Program Response

Upon receipt of the final report, the program must submit a formal written response to the content, if the report contains any **concerns**. This response is normally submitted 55 days following the conclusion of the site visit, and must be received in the CCE Administrative Office no later than 30 days prior to the Council Status/Progress Review Meeting.

- a. The program response must include the entire site team report text with response text in larger, bold type at the appropriate places within the report narrative. The program *must* respond to any team concerns accompanied by *recommendations*.
- b. Proper documentation must support and clarify the program response. Team *suggestions* may also be addressed, but the program is not required to do so.
- c. The narrative of any response to the Site Team Report must also describe any major program changes made since the site team visit. If the program has identified current or potential major issues or concerns since the team visit, explanation of these must be provided in the narrative of the program response to the team report.
- d. The program must send one (1) electronic version (flash drive/email) of its response to the CCE Administrative Office in accordance with the cover letter and Team Report Timetable.
- e. The Council is provided a copy of the program's *Response to the Final Site Team Report*, 30 days prior to the scheduled Council meeting
- f. The team report then becomes the property of the program.
- g. In the event that the site team report is released to any third party, *the team report must be published only in its entirety, never in an excerpt format*; as such unsupported excerpts might distort the intent of the report and compromise the process of accreditation.

4. Review of Program Response to Final Report

The Site Team Chair, CCE Administrative Office, and Council review the program response in preparation for the status/progress review meeting.

Section VIII Post Visit Activities and Review

A. Site Visit Team Evaluations

To improve the site visit team process and refine team member training, program representatives, team members and the Site Team Chair are asked to evaluate the process. The CCE Administrative Office will distribute site visit evaluation forms requesting completion and return following the conclusion of the site

requirements, Title IV violations or other matters requiring emergent action as determined by the Council.

NOTE: Progress and special report formatting is located in Appendix III, *Response Report Format*. Formatting for PCRs, PEARs, and Interim Site Visit Reports are specific to those reports and provided to DCPs in advance of scheduled submission dates.

Section X Program Appearance before the Council

A. Review of Application Documentation

In preparation for the status review meeting, Councilors review and evaluate the documents comprising the application for initial accreditation or reaffirmation. Reviews include the self-study report, the site team report, the program's response to the site team report and any other documents relevant to the accreditation process. Councilors focus on specific areas as assigned by the Council Chair in preparation for the entire Council to discuss and ask questions of the site team chair, program representatives, and other councilors in their assigned areas.

B. Meetings With Program Representatives

1. The Pre-Status and/or Pre-Progress Review

- a. The Council Chair (or designee) introduces the Site Team Chair and any invited team members; the chair provides a brief summary and answers any questions from the Council.
- b. The CCE Administrative Office provides information regarding the following and offers a brief review, if applicable:
 - 1) A list of outstanding concern(s) from any Council action letter in the current accreditation cycle, including any issues not resolved since the previous accreditation cycle, with historical perspective and a source for each concern.
 - 2) Activities undertaken by the program and the extent to which the program may have addressed and/or resolved the concern(s); and
 - 3) CCE Administrative Office recommendations.
- c. Primary and secondary reviewers (assigned Councilors by the Council Chair) offer a brief analysis of their findings and state any questions that are raised as a result of overall and specific review of the application or report documents. All documentation received by the Council during the initial or reaffirmation of accreditation or progress review processes are open to review and discussion with program representatives. The Council Chair assigns individual councilors to ask questions of the program representatives in the status or progress review meeting.

2. Welcome

- a. The Council Chair introduces/recognizes the Councilors, Site Team Chair, and CCE Administrative Office (*optional*).
- b. The Council Chair requests the program President/CEO to introduce his or her delegation.

3. Purpose of Meeting

- a. Status review
- b. Progress review
- c. Initial accreditation

4. Time Constraints

The Council Chair reiterates meeting time limits, and discloses policies and procedures regarding meeting proceedings, i.e., documents for handout must be approved by Council Chair; documents not related to the accreditation process are not permitted. In most instances, a one hour time limit is recognized for the appearance. The Council Chair reserves the right to adjust the time accordingly, but one hour is typically the standard.

5. Meeting Protocol – Interaction and Communication

- a. The Council Chair invites the program President/CEO to make an opening statement;
- b. Questions are posed to any of the program representatives by the Councilors. The program representatives may refer questions to other members of their delegation, if appropriate;
- c. Questions by Councilors may also be directed to the Site Team Chair, or other members of the site team present at the meeting;
- d. During the appearance session with the program, the meeting is under the direction and guidance of the Council Chair (or designee); and
- e. The Council Chair invites concluding remarks by the program President/CEO.

6. Close of Meeting

The Council Chair thanks the program representatives and indicates that the Council will deliberate and report to the program via:

- a. Council letter for status decisions regarding initial or reaffirmation of accreditation; or
- b. Council letter, in response to a progress, site visit or special report.

NOTE: Numerous letters are sent to programs/institutions following decisions made at Council Annual and Semi-Annual meetings. In all cases, those programs under status review and/or making an appearance before the Council are typically the first priority for letters sent.

7. Post-Meeting Session

Following the status or progress review meeting with program representatives, and after all questions from the Council directed to the Site Team Chair are exhausted, the Site Team Chair is excused. The Council Chair then facilitates discussion among the Council until a consensus decision is made on each item. Finally, the Council considers all documentation and oral presentations and comes to a consensus on the application for initial accreditation, reaffirmation of accreditation or the progress of the program.

8. Outcomes

The various options for Council decisions and actions are described in the CCE DCP *Standards*, *Residency Standards*, and *Manual of Policies* regarding initial accreditation, reaffirmation of accreditation, interim activities and Progress Reports. Any questions regarding decisions and actions should be directed to the Council Chair or the CCE Administrative Office.

EXHIBIT 4



Academy of Site Team Visitors Manual

Guide for Site Team Chairs, Team Members & Observers

The Council on Chiropractic Education
July 2016

Team members should reference the CCE Accreditation Manual, Section VI.E, Schedule of Events, and Meetings/Interviews with Program Personnel, which provides guidance for the interview and meeting processes by identifying each Standards, and certain individuals and groups the team members may meet with, and some topics for discussion at these particular meetings.

Off-Campus Visits (if applicable)

Some programs operate clinics at remote (off-campus) sites. The Team Chair and team member responsible for the clinical operations on the visit should decide which of these clinic sites should be visited prior to the arrival of the team, and work closely with the CCE staff in arranging and assisting with the logistics of these visits. The CCE staff contacts the program accreditation liaison to coordinate these activities. This requires coordination of transportation, availability of the clinic director. Time should be allowed for visiting with students at the clinic, observation of care, meeting with the director, and review of patient records. Because of time limitations, it may be necessary to omit visiting small clinics and concentrate on visiting only the larger clinical operations or those, which have a unique contribution to clinical education. In particular, if a program relies upon a specific clinic location to accomplish clinical training and clinical competency assessments, then that site should be visited.

VI. Writing the Site Team Report and the Response

The Report

The Team Chair is responsible for ensuring that individual team member contributions appear in proper sequence in the team report according to the template provided prior to the visit. In preparing the team report, the Team Chair may seek advice from the CCE staff about report organization, formatting, and content.

The Team Chair writes the introduction, compiles the composite report (with assistance from the CCE staff), and ensures the accuracy of the summary listing of any *commendations* and *concerns w/recommendations*. The report is a qualitative

assessment of the entire program, but it need not be lengthy. The historical development of the program, its operation, curriculum, and requirements for the program degree or certification should be addressed in summary fashion. The team report focuses on how the program effectively addresses the CCE *Standards*. Validated and verified problems are addressed as concerns, and program strengths as commendations. The report is to be clear and constructive in order to help the program. The evidence used to arrive at such conclusions must support any evaluative statements. The report also focuses on the program's goals and objectives, assessment methods, and outcomes data of the program. The report also addresses the mission/purpose statement of the program, noting any unique characteristics and strengths.

The report clearly describes any concerns, and recommends a plan for overcoming such challenges. The report must not contain material not supported by findings, or outside of the scope of the Standards.

The site team does not stipulate whether or not the program is in compliance with the Standards; this is the prerogative of the Council. However, the team must describe, in narrative, the activities and supporting data to determine how well the program is addressing and fulfilling each requirement. The CCE *Standards* and the examples questions and topics are provided in the CCE Accreditation Manual to assist the team.

Reports must provide accurate, fair, constructive evaluations, and critiques, not just descriptions of current program activity.

The Team Chair must ensure that the report addresses only significant strengths and concerns that have impact on fulfillment of the program mission. Stated concerns must be accompanied by a *Standard* reference, specific documentation, and explanation. Attempts to assist with resolution of concerns must be stated in the form of a *recommendation*. Team members should note that there might be several acceptable solutions to a *concern*. The *recommendation* should guide the program toward resolution, but not prescribe.

The *commendations* and statements of *concern* with *recommendations* in the report are parallel to the summary statements given by the Team Chair at the

Exit Interview. All concerns, recommendations and commendations are underlined in the report.

The Team Chair must ensure that reported *recommendations* are firmly grounded in relation to the requirements for accreditation in the CCE *Standards*, are adequately supported in the narrative and based on team consensus.

Confidentiality

The site team report is kept confidential at all times. Team members, except for the Team Chair, are to destroy their copies of the draft report after review. The Team Chair and the CCE Administrative Office retain all documentation for the report until completion of the status review hearing and a Council decision. The report then becomes the property of the program. Copies of the report, and the program response, are secured in the CCE Administrative Office in accordance with CCE File and Maintenance Disposition Plans. Team members should maintain all documentation, including the final report, from the visit until notified by the CCE Administrative Office for disposition instructions.

Drafting of Sections

Team members are responsible for drafting language for one or more sections or subsections of the draft report. Writing is to be brief and specific, emphasizing:

- a. Qualitative assessment of the program's activities and outcomes in relation to the CCE Standards.
- b. Strengths, including Standards references.
- c. *Concerns*, including Standards references, supporting evidence, with associated *recommendations*.

Final Draft Language

Prior to the conclusion of the visit, the Team Chair must receive from all team members the final draft language fully addressing all components of the site team report. The Team Chair reviews and edits the language with the team on site to the extent permitted by time. It is essential that all areas within the CCE Standards have been drafted by the team (in accordance with the Site Visit Assignment Matrix)

and an electronic version given to the Team Chair/CCE staff before the team leaves the site.

Nature of the Report

a. The site visit team report must:

- 1) Reflect the consensus of the team.
- 2) Be fair, accurate, and thorough.
- 3) Discuss significant items in sufficient detail, while remaining succinct.
- 4) Address significant issues or problems, avoiding the temporary and trivial.
- 5) Provide a balanced analysis, recognizing accomplishments as well as problems.
- 6) Weigh the quality of the achievements of the program.
- 7) Be written in the third person.
- 8) Use the words "team", "team members", "evaluators", "visitors" and/or "visit."

b. The site visit team report must not:

- 1) Include unverified information, assumptions or unsupported generalizations.
- 2) Include first-person statements or personal references to team members or program personnel (within narrative of report).
- 3) Indicate compliance or non-compliance with the requirements for accreditation of the CCE *Standards*.
- 4) Contain any team judgments about, possible Council actions.
- 5) Contain the words "inspector" or "inspection."

Concerns with Recommendations and Suggestions

The program is obligated to comply with requirements for accreditation of the CCE *Standards*. Any comment regarding failure to meet these requirements must be stated in terms of the type and amount of evidence examined and identify the **concern**. Stated **concerns** must be bold/underlined, clarified with documentation and explanations, and accompanied by a Standard reference, and a notation of the evidence, or lack of evidence, leading to the **concern**.

The report must include a *recommendation* for action that would appropriately address the **concern**. Recommendations are intended to guide

the program toward compliance with the requirements for accreditation of the CCE *Standards*.

- a. A **recommendation** must accompany every **concern** identified in the report. *Although a team must never state in its report that a program is not in compliance*, a concern does identify potential non-compliance issues. The team must give specific evidence in the narrative portion of the report to support the **recommendation**.
- b. A **suggestion** is a statement regarding advice and/or improvement that *may* be taken, for the best interest of the program. *Suggestions* are provided only in the body of the report.
 - 1) *Suggestions* are written within an appropriate Standard reference. Proper language to support/explain the *suggestion* should be clear and included in the narrative writing. *Suggestions* cannot be provided as a stand-alone statement in the team report.
 - 2) The team may give advice to the program throughout the narrative of the report, but putting advice in the form of a *suggestion* can give it added weight and visibility.
 - 3) *Suggestions* do not appear in the summary list of *commendations* and *concerns* at the end of the report.
 - 4) Because *suggestions* do not indicate potential noncompliance, the program is not required, but encouraged, to respond to them.

Commendations/Strengths of Program

Commendations are laudatory statements regarding areas of exemplary performance indicating strengths in the program, not simply good intentions. The report must provide evidence for any *commendation* and should be linked to a corresponding reference in the CCE *Standards*.

To assist in formatting, examples of *concerns* with *recommendations*, *suggestions* and *commendations* can be found in Appendix IX.

Site Team Report Review & Distribution Process

Draft Report – Corrections of Errors in Fact

The draft report is distributed to each team member either by the Team Chair or the CCE Administrative Office within 5 days of the last day of the visit.

- a. Within six days of receipt of the draft report, team members review the report and provide narrative clarifications and/or edits to the Team Chair.
- b. Within four days of the team members' response, the Team Chair (with the assistance of the CCE staff) assembles the final version of the draft report and the CCE Administrative Office sends it to the program with the Corrections of Errors in Fact Letter.
- c. Within seven days of receipt of the letter, the program responds to the CCE Administrative Office and Team Chair with correction of errors in fact. Other than factual errors, i.e., title/name designation, number corrections, etc. the context of the draft site team report is not open to editing by the program at this time.
- d. If such substantiation is extensive, the Team Chair may need to communicate with team members before completing the final report.

Final Report

Once any indicated errors of fact have been considered and acted upon by the Team Chair, an electronic version of the final report is sent to the CCE Administrative Office staff.

- a. Within five days of receipt of the corrections of errors in fact, the CCE Administrative Office sends a cover letter and an electronic version (via email) of the final report to the program President/CEO and Accreditation Liaison. An electronic version of the report is also sent to the site team members (to include the Team Chair) and the Council Chair (or designee). This normally occurs within four weeks of the conclusion of the site visit.
- b. The CCE Administrative Office also sends a copy of the cover letter to the program Governing Board Chair or governing official as an FYI for notification purposes of the scheduled status review meeting with the Council.

Program Response

Upon receipt of the final report, the program must submit a formal written response to the content, if the report contains any **concerns**. This response is normally submitted 55 days following the conclusion of the site visit and must be received in the CCE Administrative Office no later than 30 days prior to the Council Status/Progress Review Meeting.

- a. The program must review the entire site team report text and insert the program response text in larger, bold type at the appropriate places within the report narrative. The program *must* respond to any team *concerns* accompanied by *recommendations*.
- b. Proper documentation must support and clarify the program response. Team *suggestions* may also be addressed, but the program is not required, although encouraged, to do so.
- c. However, the Council may decide at the status review meeting with the program that the evidence supporting a suggestion coupled with the program response indicates a *concern* exists in this area. In which case, the suggestion may become a *concern* with an identified *recommendation*, and subsequently require further reporting by the program.
- d. Updated ancillary documents and/or new evidence must also be appended to the response if applicable.
- e. The narrative of any response to the Site Team Report must also describe any major program changes, as related to the *concern*, and provide updated outcome data since the site team visit.
- f. The program must send one (1) electronic version (via email) of its response to the CCE Administrative Office in accordance with the cover letter and Team Report Timetable (Appendix V).
- g. The team report then becomes the property of the program.
- h. In the event that the site team report is released to any third party, *the team report must be published only in its entirety, never in an excerpt format*; unsupported excerpts might distort the intent of the report and compromise the process of accreditation.

Review of Program Response to Final Report

The Team Chair, CCE Administrative Office and Council review the program response in preparation for the status/progress review meeting.

VII. Responsibilities after the Visit

Immediately following the visit, all team members must submit their expenses to the CCE Administrative Office in accordance with CCE Policy 94, Expenses, Stipends and Honoraria. Any questions regarding expenses should be directed to the CCE Administrative Office.

Team members must make themselves available for possible phone conversations with the Team Chair as he/she prepares for the status/progress review meeting with the Council and the program at the Annual (January) or Semi-Annual (July) Council Meeting. In some instances, the Team Chair may contact a team member for clarification based on the response to the team report by the program.

The Team Chair and team members must secure (and keep confidential) all documentation pertaining to the site visit until the Council has made a final accreditation decision. Once the Council has formally announced the granting of initial or reaffirmation of accreditation of the program visited, all documentation may be destroyed or forwarded to the CCE Administrative Office. In cases where the Council does not grant such accreditation, the CCE staff contacts the Team Chair and team members and instruct them to keep the site visit documentation until further notice or forward to the CCE Administrative Office.

In some instances, the Council may require follow-up (focused) site visit(s) to the program over the next year(s). In these cases, some team members from the original site team may be requested to perform this visit along with other team members who had not previously conducted the visit. This helps to ensure continuity while also allowing for a "fresh set of eyes".

EXHIBIT 5

CCE[®]
THE COUNCIL ON
CHIROPRACTIC
EDUCATION

A Site Team Visit

to

National University of Health Science's (NUHS)
Doctor of Chiropractic Program

Lombard, IL: September 25-28, 2017
Pinellas Park, FL: October 10-12, 2017

THE COUNCIL ON CHIROPRACTIC EDUCATION

Final REPORT OF A VISIT

TO

**National University of Health Science's
Doctor of Chiropractic Program**

SITE VISIT TEAM:

Lombard, IL: Sept. 25-28, 2017

Sheri H. Barrett, Ed. D (Team Chair)
Director, Office of Assessment, Evaluation
and Institutional Outcomes
Johnson County Community College

Jana W. Holwick, Ph.D.
Dean, College of Graduate &
Undergraduate Studies
Life University

Georgina M. Pearson, MBBS
Professor/Chair, Department of Basic
Sciences
Parker University

Kathleen L. Linaker, D.C., Ph.D.
Dean, Center for Life & Health Sciences
Mohawk Valley Community College

Muriel M. Perillat, D.C.
Dean of Clinics
Logan University

Karen A. Bobak, D.C., Ed.D.
Dean of Chiropractic
New York Chiropractic College

Scott Kilmer, D.C.
Private Practitioner
Auburn, NY

Eric Russell, D.C. (Observer)
Dept. Chair Chiropractic Sciences
Parker University

Pinellas Park, FL: Oct 10-12, 2017

Sheri H. Barrett, Ed. D (Team Chair)
Director, Office of Assessment, Evaluation
and Institutional Outcomes
Johnson County Community College

Muriel M. Perillat, D.C.
Dean of Clinics
Logan University

Scott Kilmer, D.C.
Private Practitioner
Auburn, NY

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I. Introduction

A. Brief History of the Institution and Program

The National University of Health Science's (NUHS) doctor of chiropractic program received its initial accreditation status with the Commission on Accreditation (COA) of The Council on Chiropractic Education (CCE) in January 1971. The COA granted reaffirmation (and/or renewal) of accreditation to NUHS in 1975, 1981, 1986, 1990, 1995, 2002 and again in its most recent decision in January 2010. The additional educational site at National University of Health Sciences - Florida received its initial accreditation status with the Council in July 2011.

National University of Health Sciences sent a letter of intent to seek reaffirmation of accreditation with the Council on March 3, 2017. Upon receipt of the letter of intent, the Council requested a Self-Study from the DCP by May 1, 2017 in preparation for a scheduled site visit in the fall of 2017.

National University of Health Sciences maintains regional accreditation through the Higher Learning Commission (HLC) since 1981. The HLC "Board continued the accreditation of the University and placed the University on Notice" following its most recent accreditation visit. The HLC Board of Trustees took this action because of concerns related to quality of educational programs, assessment of student learning, and institutional planning.

B. NUHS Self-Study Plan

As part of the process for reaffirmation of accreditation, NUHS prepared and submitted a *Self-Study* to the CCE in May 2017. NUHS's self-study was reviewed by the Council Chair and the CCE Administrative Office and subsequently was forwarded to the site team in July 2017.

The NUHS Self-Study Report provided narrative and attachments to each Standard in Section 2 of the CCE Accreditation Standards in accordance with the CCE Accreditation Manual. However, the team found the organization, content, and format of the self-study report problematic to follow since the attachments were set as bookmarks that did not open as separate windows from the narrative of the report. Additionally, there was room for improvement in the alignment of the self-study narrative and the selected evidence/attachments. Generally, this made the team preparation of the accreditation process difficult.

The CCE Administrative Office reviewed the document in its entirety and found no areas referenced in the *Standards* that would require revision prior to forwarding to the Council or the site team for their review. The Executive Summary, completed by CCE staff, was provided to the DCP, Council Chair, and the site team.

C. Structure of the Report

For clarity, throughout this report the DCP at National University of Health Sciences is referred to as the NUHS or the DCP.

This report follows the suggested format from CCE with some departures. In keeping with the nomenclature of the *Standards*, certain key words have special meanings.

The word **concern** identifies a conclusion of the CCE Site Team that there is a deficiency, major to minor, in meeting the *Standards* to which the comment is connected. The site team has provided a

recommendation to address the deficiency. To assist in identifying concerns and recommendations the full text is underlined and in bold face type. The DCP *must* respond to any team concerns accompanied by recommendations.

The words strength or commends identifies an aspect of program or institution activity that the site team found worthy of special praise or being highly noteworthy. To assist in identifying strengths or commendations the full text is underlined.

The term ***suggests*** is just that and identifies a collegial comment by the team. The site team hopes that such suggestions will be helpful to the university and/or DCP in the future. Team suggestions may also be addressed, but the DCP is not required to do so. To assist in identifying suggestions the word ***suggests*** is in italics and bold face typed.

D. CCE Site Team Modus Operandi

In response to NUHS' request for reaffirmation of accreditation with the Council, a seven-member site team visited the Lombard, Illinois campus from September 25-28. A three-member site team member also visited NUHS's additional site in Pinellas Park, Florida site from October 10-12, 2017. Ms. Jeannette Danner, Director of Accreditation Services, from the CCE Administrative Office, accompanied the team providing process and technical support services. The site team was most appreciative of the CCE Administrative Office assistance and the many positive contributions to the site visit process.

The Site Team Chair conducted a phone conference with the site team on August 24, 2017. Additionally, an initial team meeting, which included all team members and the CCE staff member, was held on Sunday, September 24, 2017 and October 9th before the initiation of the site visits to the Illinois campus and Florida site to review procedures and to complete final preparations. The site visits to each campus/site began with a morning introduction briefing, and the site visit concluded with an exit interview conducted by the Site Team Chair on Thursday, October 12, 2017 on the Florida site. The President of the University and representatives of NUHS administration attended both the introduction briefing and the exit interview.

During the site visit, site team members conducted formal meetings with representatives from the Board of Trustees and with program administrators, committees, faculty, staff, students, and organization officers. Site team members also met individually with administrators, faculty, staff, and students, and were available to speak individually with interested parties in the site team room on the Lombard Illinois and Pinellas Park campuses.

The site team used as reference the January 2013 version of the *CCE Accreditation Standards, Principles, Processes & Requirements for Accreditation*; *CCE Manual of Policies 2017*; *Accreditation Manual 2016*; *Academy of Site Team Visitors Manual 2016*; NUHS's 2017 *Self-Study*, and a wide variety of documentation provided on-site by the DCP.

In the clinical experience students also submit a request to participate in Service activities. The Service options includes a variety of Health Fairs, Athletic events, and Health Clinics. Due to new restrictions by the insurance company, students must request participation in activities 60 days in advance and depending on the level of activity there may be fees due for participation. Approval for student participation includes Clinician, Chief Clinician and Dean of Clinics. Students also participate in Research activities and legislative trips in support of the chiropractic profession.

Faculty are also active in supporting student service activities as well as overall service to the Chiropractic profession. Activities include public and health literacy, outreach activities, fairs, events, volunteering at assisted living centers, sporting activities such as the Senior Games, and work with Alumni and students.

K. Distance or Correspondence Education

The DCP has processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit.

NUHS currently offers one fully online course in sports medicine. This course is being transitioned to an in person course as a result of student feedback. The current online course does not have exams as part of the student grading rubric. The DCP utilizes a system where students are assigned a unique username and password to access the course to ensure that the student who registers in this course is the same student who participates in and completes the course or program and receives the academic credit.

The College utilizes synchronous electronic course offerings for DCP students on the Florida and Illinois. Classrooms in each location are fitted with cameras and televisions that allow for interactive participation by students on the alternate campus. Testing is completed through the use of a proctor on the off-site location.

CCE Policy 56: NBCE Performance and Completion Rates:

The DCP posts their NBCE licensing exam success rates on their website as required by policy 56. In the Student Performance tables, the DCP reported its most recent 4-year (2013-2016) overall average NBCE performance as 76%, which is below the 80% CCE Policy 56 threshold. NUHS has had an ongoing issue with meeting the 80% bench mark because Illinois did not require NBCE part IV for licensure until July 1, 2016. The 2016 data shows a 17% increase in passing rate with the addition of this requirement for licensure. The 2016 cohort has an 87% pass rate. The historical data for parts I, II, III has an overall 94% pass rate, so it is anticipated that the DCP will achieve an overall pass rate above the 80% benchmark within 1-2 years.

Calendar Year (Last 4 years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation	Number of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation	Percentage of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post- graduation
2013	137	98	72%
2014	108	80	74%
2015	100	71	71%
2016	119	104	87%
Totals	464	353	76%

The team is concerned that the DCP does not meet the 80% benchmark for NBCE performance. The site team recommends that the DCP continues to monitor the benchmark as more students in the DCP take part IV over the next 1-2 years for compliance with the standard.

In the Student Performance Data tables, the DCP also reported its most recent two-year average Completion Rate, calculated at 150% of normal time, as 76.6%, which is above the 70% CCE Policy 56 threshold. In meeting with the Dean of Institutional Effectiveness, the site team reviewed the data and processes used to calculate the DCP Completion Rate and the NBCE Performance Rate and found the calculations are correct.

TRIMESTERS (10)				
Column A	Column B	Column C	Column D	Column E
Entrance Term	# of Students Matriculated in Entrance Term	Term 15 Trimesters After Entrance Term	# Students in Column A That Graduated by Term in Column C	Completion Rate at the 150th Percentile
Fall/Winter 2010	86	Summer 2015	66	76.7%
Spring 2011	39	Fall/Winter 2015	24	61.5%
Summer 2011	26	Spring 2016	16	61.5%
Fall/Winter 2011	70	Summer 2016	55	78.6%
Spring 2012	43	Fall/Winter 2016	39	90.7%
Summer 2012	35	Spring 2017	29	82.9%
2-YR TOTAL	299		229	76.6%

III. Summary List of Strengths and Concerns with Recommendations

A. Strengths

1. Reference: 2013 *CCE Accreditation Standards*, Section 2.I

The site team commends the DCP on the amount of support and faculty output in the area of research and scholarly activity.

B. Concerns with Recommendations

1. Reference: 2013 *CCE Accreditation Standards*, Section 2.A

The site team is concerned that the DCP does not have a formal programmatic plan that ties to the University's LRP, indicating DCP program priorities and program effectiveness. The site team recommends that the DCP continue its maturation process in capturing assessment data that can formulate program priorities which feed into the budgeting and long-range planning of the University.

2. Reference: 2013 *CCE Accreditation Standards*, Section 2.H

The site team is concerned that since 2012 the DCP has not been able to demonstrate that all students are able to meet all the outcomes of the meta-competencies, as outlined in the 2013 Standards, and that this inability will be ongoing for another two trimesters. The site team recommends that the DCP continues to implement the new clinic assessment process to ensure that all its graduate demonstrate all the meta-competency outcomes.

3. Reference: CCE Policy 56: Student Performance Disclosure, Thresholds, and Outcomes

The site team is concerned that the DCP does not meet the 80% benchmark for NBCE performance. The site team recommends that the DCP continues to monitor the benchmark as more students in the DCP take part IV over the next 1-2 years for compliance with the standard.

EXHIBIT 6



December 6, 2017

Jeannette Danner
Director of Accreditation Services
Council on Chiropractic Education
8049 North 85th Way
Scottsdale, AZ 85258

Dear Ms. Danner:

Please find attached the *Response Report of the Comprehensive Site Visit* for the Doctor of Chiropractic Program of the National University of Health Sciences. This report is due to the Council on Chiropractic Education by December 6, 2017 consistent with the letter and instructions dated November 8, 2017.

Please feel free to contact me at carick@nuhs.edu or 630-889-6846 if you have any questions or concerns.

Best Regards,

A handwritten signature in black ink, appearing to read 'Chris Arick', written over the 'Best Regards,' text.

Christopher T. Arick, MS, DC
Assistant Dean & Chief Academic Officer, Chiropractic Medicine
National University of Health Sciences

cc: Dr. Joseph Stiefel, President
Dr. Randy Swenson, Vice President for Academic Services



Response Report of September 25 - 28, 2017 and October 10 - 12, 2017 Comprehensive Site Visit

Submitted to CCE: December 6, 2017

Prepared By: Christopher T. Arick, DC, MS

Assistant Dean for

Chiropractic Medicine Program

(630) 889-6846

carick@nuhs.edu

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Council Form 15
Jan 2017**Accreditation Status**

Prepared for the Council on Chiropractic Education (CCE),
8049 North 85th Way, Scottsdale, AZ, 85258-4321 - Phone: 480-443-8877 - Fax: 480-483-7333

Program Name: National University of Health Sciences (NUHS) – Doctor of Chiropractic ProgramAddress 200 East Roosevelt Rd.City Lombard State IL ZIP 60148Telephone Number (630) 889-6846

Prepared for the January 2018 (Month/Year) Meeting of the Council based
on the January 2013 *CCE Accreditation Standards; Principles, Processes and Requirements for
Accreditation.*

DCP Summary VerificationType of accreditation status currently held (Programmatic or Institutional) ProgrammaticDate accreditation with CCE began (Mo/Yr): January 1971Date of last reaffirmation of accreditation with Council (Mo/Yr): January 2010Date of next self-study report due to Council (May/Oct Yr): May 2025Date of next comprehensive site visit review (Spring/Fall Yr): Fall 2025Date of next status review meeting with the Council (Jan/Jul Yr): January 2018Date of next PCR due to Council: Spring 2019Date of next Progress Report due to Council (if applicable): n/aJoseph Stiefel, MS, Ed.D., D.C., President

Name of Chief Executive Officer

(630) 889-6604

Telephone Number

Dr. Kenneth J. Dougherty

Name of Governing Board Chair

kenddc@bellsouth.net

Board Chair Email Address

200 East Roosevelt Rd


Board Chair Address

Lombard, IL, 60148

City

State

ZIP



Chief Executive Officer Signature
11/29/2017

Date



CCE[®]
THE COUNCIL ON
CHIROPRACTIC
EDUCATION

A Site Team Visit

to

National University of Health Science's (NUHS)
Doctor of Chiropractic Program

Lombard, IL: September 25-28, 2017
Pinellas Park, FL: October 10-12, 2017

Pre-clinical activities are often organized through the University student clubs and organizations on both the Illinois and Florida campuses. These activities include helping with community based events such as Special Olympics, Shriner's Hospital, St. Pete Free Clinics, Veterans Organizations, Toys for Tots, Salvation Army Bell Ringing, and internal drives such as clothing and food drives. Students must submit a form for participation in service opportunities that count toward graduation requirements and identify what learning outcome the activity supports. Student must submit a reflective journal on the service activity that is evaluated on a rubric by their advisor and captured in the student record. In the future a co-curricular transcript would be possible.

In the clinical experience students also submit a request to participate in Service activities. The Service options includes a variety of Health Fairs, Athletic events, and Health Clinics. Due to new restrictions by the insurance company, students must request participation in activities 60 days in advance and depending on the level of activity there may be fees due for participation. Approval for student participation includes Clinician, Chief Clinician and Dean of Clinics. Students also participate in Research activities and legislative trips in support of the chiropractic profession.

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DCP Response:

On pages 2084-2085 of the Self-Study Report (SSR), NUHS provided a PDF of the information posted on this website for public disclosure (<https://www.nuhs.edu/about-us/our-profile/performance/dc-board-scores/>). As noted on the website, “effective July 1, 2016, the Illinois Medical Licensing Board now requires all Illinois chiropractic physicians to take NBCE Parts I, II, III, and IV exams for licensure.” The lack of NBCE Part IV being required for Illinois licensure previously resulted, for many years, in students not taking the Part IV examination, putting NUHS at a distinct disadvantage for meeting the Policy 56 benchmark. The DCP attempted to communicate this point on its website by noting the passing rate of all four NBCE exams or being licensed, and by noting the passing rate of Parts I – III. The reason NUHS referenced that it maintained quality NBCE passing rates (Attachment 13, P. 52 SSR) was due to the schools continued monitoring of its NBCE performance. NUHS is confident that its monitoring of NBCE performance, and the student support it provides, is working well and is not only reflected by the Policy 56 data for 2016. Review of the university’s historical performance of Part IV performance (below) shows a Part IV passing rate of 87% of those students who took the exam since 2013. The historic 87% reflects only students who actually took the Part IV examination, and does not reflect students who chose to stay in Illinois and not take Part IV as required by the statistical rules of Policy 56.

The DCP has monitored its NBCE performance, and will continue to do so. The current Policy 56 was approved in January 2015, prior to Illinois requiring NBCE Part IV for licensure. NUHS’s 2016 Policy 56 data as well as its historical 87% passing rate on NBCE Part IV (Attachment 14) are strong indicators that NUHS will meet the Policy 56 benchmark when students considering licensure in Illinois participate in the NBCE Part IV. Therefore, the DCP requests that the council remove the concern.

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NUHS	408	353	87%
<u>Date</u>	<u>N</u>	<u>N-Passed</u>	<u>Passing %</u>
2016	113	100	88%
11/1/2016	70	63	90%
5/1/2016	43	37	86%
2015	86	71	83%
11/1/2015	45	39	87%
5/1/2015	41	32	78%
2014	102	91	89%
11/1/2014	69	61	88%
5/1/2014	33	30	91%
2013	107	91	85%
11/1/2013	63	56	89%
5/1/2013	44	35	80%

*The above N's reflect examinees who took the exam in the stated year. It does not take into account the year in which the examinee graduated.

In the Student Performance Data tables, the DCP also reported its most recent two-year average Completion Rate, calculated at 150% of normal time, as 76.6%, which is above the 70% CCE Policy 56 threshold. In meeting with the Dean of Institutional Effectiveness, the site team reviewed the data and processes used to calculate the DCP Completion Rate and the NBCE Performance Rate and found the calculations are correct.

33

TRIMESTERS (10)				
Column A	Column B	Column C	Column D	Column E
Entrance Term	# of Students Matriculated in Entrance Term	Term 15 Trimesters After Entrance Term	# Students in Column A That Graduated by Term in Column C	Completion Rate at the 150th Percentile
Fall/Winter 2010	86	Summer 2015	66	76.7%
Spring 2011	39	Fall/Winter 2015	24	61.5%
Summer 2011	26	Spring 2016	16	61.5%
Fall/Winter 2011	70	Summer 2016	55	78.6%
Spring 2012	43	Fall/Winter 2016	39	90.7%
Summer 2012	35	Spring 2017	29	82.9%
2-YR TOTAL	299		229	76.6%

III. Summary List of Strengths and Concerns with Recommendations

A. Strengths

1. Reference: 2013 *CCE Accreditation Standards*, Section 2.I

The site team commends the DCP on the amount of support and faculty output in the area of research and scholarly activity.

B. Concerns with Recommendations

1. Reference: 2013 *CCE Accreditation Standards*, Section 2.A

The site team is concerned that the DCP does not have a formal programmatic plan that ties to the University's LRP, indicating DCP program priorities and program effectiveness. The site team recommends that the DCP continue its maturation process in capturing assessment data that can formulate program priorities which feed into the budgeting and long-range planning of the University.

2. Reference: 2013 *CCE Accreditation Standards*, Section 2.H

The site team is concerned that since 2012 the DCP has not been able to demonstrate that all students are able to meet all the outcomes of the meta-competencies, as outlined in the 2013 Standards, and that this inability will be ongoing for another two trimesters. The site team recommends that the DCP continues to implement the new clinic assessment process to ensure that all its graduate demonstrate all the meta-competency outcomes.

3. Reference: CCE Policy 56: Student Performance Disclosure, Thresholds, and Outcomes

The site team is concerned that the DCP does not meet the 80% benchmark for NBCE performance. The site team recommends that the DCP continues to monitor the benchmark as more students in the DCP take part IV over the next 1-2 years for compliance with the standard.



About

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Board Score Performance - Doctor of Chiropractic

National University of Health Sciences (NUHS) is proud of the success of its Doctor of Chiropractic students' performance on the National Board of Chiropractic Examiners (NBCE) exams.

Table 1

NBCE Exam Parts I-III ONLY			
Calendar Year (Last 4 years)	Number of Graduates Attempting Any or All Parts (I, II, III) of NBCE Exams within six (6) months post-graduation	Number of Graduates Passing All Parts (I, II, III) of NBCE Exams within six (6) months post-graduation	Percentage of Graduates Passing All Parts (I, II, III) of NBCE Exams within six (6) months post-graduation
2012	116	111	96%
2013	137	134	98%
2014	108	108	100%
2015	100	82	82%
Total	461	435	
		Weighted Average	94%

This NBCE exam score data only partially reflects the success of NUHS graduates. The Illinois Medical Licensing Board did not require chiropractic physicians to take Part IV of the NBCE exam at the time of this exam score data, so the full number of NUHS licensed graduates is not reflected in these NBCE totals. Table 3 demonstrates the percentage of graduates who have either passed all parts of the NBCE exam or obtained licensure within six (6) months post-graduation. This more accurately reflects the success of the NUHS program in preparing students for entering clinical practice following graduation. However, effective July 1, 2016, all Illinois chiropractic physicians must take NBCE Part I, II, III and IV exams for licensure.

Table 2

NBCE Licensing Exam Completion Rates Successful Completion of NBCE Licensing Exams by Graduation			
Calendar Year (Last 4 years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation	Number of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation	Percentage of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation
2012	116	76	66%
2013	137	98	72%
2014	108	80	74%
2015	100	71	71%

Table 3

Actual Success Rates of NUHS Graduates	
Number of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation, or licensed	Percentage of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation, or licensed
100	86%
123	90%
101	94%
79	79%

About

Why National?

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Total	461	325		403	
		Weighted Average	70%	Weighted Average	87%

The Council on Chiropractic Education (CCE) requires Doctor of Chiropractic Medicine programs to disclose up-to-date results of student performance on national board examinations. Per the CCE, each program shall post annual and overall weighted averages of the four (4) most recent years' NBCE Parts I, II, III and IV exam success rates. Data found in Table 2 satisfies this reporting requirement.

In the past, the Illinois Medical Licensing Board did not require chiropractic physicians to take Part IV of the NBCE exam in order to obtain licensure in Illinois. As such, many NUHS students who chose to practice in Illinois after graduation only took Parts I, II, and III of the NBCE exams. Effective July 1, 2016, the Illinois Medical Licensing Board now requires all Illinois chiropractic physicians to take NBCE Parts I, II, III, and IV exams for licensure.

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What's Your Passion?*

- Please Select -

First Name*

Last Name*

Email*

Phone Number

☐ Please send me an NUHS viewbook or brochure by mail.

Let's Go!



History



Locations



Profile



ILLINOIS
200 E. Roosevelt
Lombard, IL 60148
1-800-826-6285

FLORIDA
9200 113th St. N.
Seminole, FL 33772
1-800-826-6285



05/13 Part IV College Scores

College	Your College				All Colleges		
	Mean	Standard Deviation	Number of Examinees	Percent of Failure	Mean	Standard Deviation	Number of Examinees
Norming Group*							
National	451	93	44	20.5	480	89	1026
Non-Norming Group**							
	393	52	10	30.0	418	83	146
							28.8

* The Norming Group includes all individuals from your college who sat for Part IV for the first time this exam administration and who graduated or will graduate on or after May 1, 2010.

** The Non-Norming Group includes all individuals from your college who repeated Part IV this exam administration and who graduated or will graduate on or after May 1, 2010.

SPECIAL NOTICE:

A college may report the means of its students (either as board scores or pass/fail percentages) and the corresponding national means to state licensing boards, students, and prospective students.

If a college chooses to report its National Board data, the following conditions must be met:

- Score Information for Parts I, II, III, and IV for 'candidates' (first-time examinees) must be presented.
- Data may be presented as one score per Part of as six exam scores for Parts I and/or II. If the separate exams within Parts I or II are presented, all six exams within each Part must be presented.
- Two administrations for the same calendar year may be combined if the two administrations are weighted by the number of candidates. For example, if 100 candidates have a mean score of 450 on Part I in the Spring of 1999, and 200 candidates have a mean of 430 on Part I in the Fall of 1999, then the weighted mean would be reported as $437 [(100 \times 450 + 200 \times 430) \text{ divided by } 300 = 436.7]$.
- Data must be presented for at least 2 consecutive years (or four consecutive administrations) and include the most recent administration.
- If percentages of pass, or fail, are presented in a chart, the scale must range from 0 to 100%.
- If Board score means are presented in a chart, the scale must range from 0 to 800.

Wednesday, June 26, 2013

11/13 Part IV College Scores

College	Your College				All Colleges			
	Mean	Standard Deviation	Number of Examinees	Percent of Failure	Mean	Standard Deviation	Number of Examinees	Percent of Failure
Norming Group*								
National	479	101	63	11.1	479	90	1260	11.5
Non-Norming Group**								
	496	104	11	9.1	420	96	142	28.9

* The Norming Group includes all individuals from your college who sat for Part IV for the first time this exam administration and who graduated or will graduate on or after Nov 1, 2010.

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- If Board score means are presented in a chart, the scale must range from 0 to 800.

Monday, January 20, 2014

05/14 Part IV College Scores

College	Your College				All Colleges			
	Mean	Standard Deviation	Number of Examinees	Percent of Failure	Mean	Standard Deviation	Number of Examinees	Percent of Failure
Norming Group*								
National	469	84	33	9.1	498	89	1118	8.8
Non-Norming Group**								
	476	102	7	14.3	453	93	212	19.4

* The Norming Group includes all individuals from your college who sat for Part IV for the first time this exam administration and who graduated or will graduate on or after May 1, 2011.

** The Non-Norming Group includes all individuals from your college who repeated Part IV this exam administration and who graduated or will graduate on or after May 1, 2011.

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- Data must be presented for at least 2 consecutive years (or four consecutive administrations) and include the most recent administration.
- If percentages of pass, or fail, are presented in a chart, the scale must range from 0 to 100%.
- If Board score means are presented in a chart, the scale must range from 0 to 800.

Monday, July 21, 2014

11/14 Part IV College Scores

College	Your College				All Colleges			
	Mean	Standard Deviation	Number of Examinees	Percent of Failure	Mean	Standard Deviation	Number of Examinees	Percent of Failure
Norming Group*								
National	472	86	69	11.6	487	90	1323	9.4
Non-Norming Group**								
	501	40	4	0.0	396	97	162	30.9

* The Norming Group includes all individuals from your college who sat for Part IV for the first time this exam administration and who graduated or will graduate on or after Nov 1, 2011.

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- Data must be presented for at least 2 consecutive years (or four consecutive administrations) and include the most recent administration.
- If percentages of pass, or fail, are presented in a chart, the scale must range from 0 to 100%.
- If Board score means are presented in a chart, the scale must range from 0 to 800.

Wednesday, January 21, 2015

NBCE Practical Examination (May 2015)
National University of Health Sciences
Pass/Fail Report

All Colleges

Exam/Subject	Candidates							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	934	114	12.21	476	89	125	690	149	37	24.83	426	82	195	595

National University of Health Sciences

Exam/Subject	Candidates							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	41	9	21.95	453	92	260	680	6	0	0.00	524	13	505	535

Note: Score information is based on Board Scores of examinee with graduation within 3 years.

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- * Two administrations for the same calendar year may be combined if the two administrations are weighted by the number of candidates. For example, if 100 candidates have a mean score of 450 on General Anatomy in the Spring of 2015, and 200 candidates have a mean of 430 on General Anatomy in the Fall of 2015, then the weighted mean would be reported as 437 $[(100 \times 450 + 200 \times 430) / 300 = 436.71]$.
- * Data must be presented for at least 2 consecutive years (or four consecutive administrations) and include the most recent administration.
- * If percentages of pass, or fail, are presented in a chart, the scale must range from 0 to 100%.
- * If Board score means are presented, in a chart, the scale must range from 125 to 800.

NBCE Practical Examination (November 2015)
National University of Health Sciences
Pass/Fail Report

All Colleges

Exam/Subject	First-time examinees							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	1319	154	11.68	479	90	125	725	147	44	29.93	419	94	175	655

National University of Health Sciences

Exam/Subject	First-time examinees							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	45	6	13.33	483	90	285	660	9	3	33.33	408	81	315	545

Note: Score information is based on Board Scores of examinee with graduation within 3 years.

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NBCE Practical Examination (May 2016)
National University of Health Sciences
Pass/Fail Report

All Colleges

Exam/Subject	First-time examinees							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	979	98	10.01	466	72	165	640	169	24	14.20	436	66	180	560

National University of Health Sciences

Exam/Subject	First-time examinees							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	43	6	13.95	440	82	225	590	9	0	0.00	500	29	460	540

Note: Score information is based on Board Scores of examinee with graduation within 3 years.

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NBCE Practical Examination (November 2016)
National University of Health Sciences
Pass/Fail Report

All Colleges

Exam/Subject	First-time examinees							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	1412	129	9.14	496	90	125	720	150	37	24.67	426	96	125	650

National University of Health Sciences

Exam/Subject	First-time examinees							Retakers						
	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX	No. Total	No. Fail	Pct. Fail	Mean	STD	MIN	MAX
Part IV	70	7	10.00	499	102	125	680	6	0	0.00	501	67	390	580

Note: Score information is based on Board Scores of examinee with graduation within 3 years.

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- * Data must be presented for at least 2 consecutive years (or four consecutive administrations) and include the most recent administration.
- * If percentages of pass, or fail, are presented in a chart, the scale must range from 0 to 100%.
- * If Board score means are presented, in a chart, the scale must range from 125 to 800.

EXHIBIT 7

February 2, 2018

CONFIDENTIAL

Joseph Stiefel, Ed.D., D.C., President
National University of Health Sciences
200 East Roosevelt Rd.
Lombard, IL 60148

RE: Notice of Reaffirmation and Reporting Requirements

Dear Dr. Stiefel:

On January 13, 2018 the Council on Chiropractic Education (CCE) met with representatives of National University of Health Sciences (NUHS) in a status review meeting to consider the application for reaffirmation of the doctor of chiropractic degree program (DCP) and discuss outcomes and progress made since the comprehensive site visits to the Illinois campus and Florida site on September 25-28 and October 10-12, 2017, respectively.

In addition to its review of all materials related to the reaffirmation process, including the DCP Response to the November 2017 Final Site Team Report, the Council conducted the status review meeting to provide an opportunity for NUHS representatives to answer questions posed by the Council. During the meeting, the Council discussed a number of items, including the DCP's framework and processes for program effectiveness; assessment of the meta-competency outcomes; and NBCE performance rate.

Following the status review meeting, the Council conducted deliberations and reached a consensus decision to **reaffirm the accreditation** of the NUHS doctor of chiropractic degree program. Reaffirmation marks the beginning of the next eight (8) year accreditation cycle for NUHS.

The Council appreciates the information provided by you and your staff at the status review meeting and commends NUHS on the strength identified in the site team report. The Council noted the following areas from the 2013 CCE Accreditation Standards and CCE Manual of Policies, July 2017, where the DCP has not yet demonstrated compliance and represent areas of concern. It is important to note that these items will remain open until such time that evidence of compliance is sufficient for the Council to resolve the concerns. Details regarding the concern are provided below the *Standards* or *Policies* reference, as well as any required reporting timelines, site visits, and sanction information at the end of the letter.

Section 2 - CCE Requirements for Accreditation of Doctor of Chiropractic Degree Programs

A. Mission, Planning, and Assessment

The DCP has a mission or equivalent statement, approved by the governing board or other appropriate body, and made available to all stakeholders. The mission provides for an educational program leading to the Doctor of Chiropractic degree, and notes the instruction/learning, research/scholarship, and service aspects of the DCP. Measurable goals and objectives congruent with the mission must be developed. These goals and objectives both shape the DCP and guide creation of a plan that establishes programmatic priorities, and operational priorities, and program resource allocations. The plan is structured, implemented, and reviewed in a manner that enables the DCP to assess the effectiveness of its goals and objectives, and permits the DCP to implement those changes necessary to maintain and improve program quality.

Dr. Joseph Stiefel
February 2, 2018

The Council initiated an area of concern in Mission, Planning, and Assessment (Standards, Section 2.A) regarding the current lack of data to evaluate program effectiveness. The site team found that while the DCP has developed an assessment plan which consists of several assessment reports and processes, such as the Assessment Record Overview (ARO); the Course Review Process (CPR); the Classroom Assessment Review (CAR); and the STREAM process, the DCP does not currently collect and review program-level data to evaluate the DCP since several of these multi-year processes are still in pre-data collection phases. The Council acknowledges the DCP's response regarding its plan to further collect and analyze program data via the newly administered Tableau system. The Council requests the DCP demonstrate, 1) further evidence of implementation of its program effectiveness plan and associated measures, including the collection and analysis of program-level meta-competency assessment data; and, 2) evidence that the analysis is tied to budgeting and planning processes, and utilized to inform program improvements.

H. Educational Program for the Doctor of Chiropractic Degree

The DCP offers an educational program for the Doctor of Chiropractic degree that minimally requires the equivalent of 4,200 instructional hours which ensures that the program is commensurate with doctoral level professional training in a health science discipline, a portion of which incorporates this training into patient care settings. Students must have earned not less than 25% of the total credits of the program from the DCP that confers the degree. The didactic and clinical education components of the curriculum are structured and integrated in a manner that enables the graduate to demonstrate attainment of all required competencies necessary to function as a primary care chiropractic physician. The curriculum is consistent with the mission, goals, and objectives of the DCP.

The Council initiated an area of concern in Educational Program for the Doctor of Chiropractic Degree (Standards, Section 2.H, Appendix I) regarding the assessment of Meta-Competencies. The Council acknowledges the DCP's response, regarding the recent implementation and enhanced tracking of the Mini CEX assessments, including the weekly updates provided to student-interns. However, the site team found that the RIME assessments were not designed to assess all meta-competencies and some students were allowed to graduate without meeting the RIME performance benchmarks as established by the DCP. The Council concurred that the DCP was unable to evidence the achievement of all meta-competency outcomes for each student by graduation. The Council also acknowledges the DCP's current efforts to ensure the meta-competency components are taught in the curriculum via the STREAM, CPR, and faculty review of course syllabi processes. However, the curriculum map provided in the DCP's response mapped the meta-competency *outcomes* instead of the meta-competency *components* to the DCP courses.

The Council requests the DCP provide, 1) evidence that all students achieve each of the meta-competency outcomes prior to graduation; and, 2) evidence that the meta-competency *components* are covered in the DCP curriculum.

CCE Policy 56, NBCE Performance Disclosure, Thresholds and Outcomes

The Council appreciates the data provided by NUHS in its response report regarding the DCP's NBCE success rates and information regarding the 2016 Part IV requirement by the Illinois chiropractic licensing board. In accordance with CCE Policy 56, the NUHS NBCE success rate is 76%, which is below the established threshold of 80%. Therefore, the Council has initiated an area of concern for noncompliance with CCE Policy 56. The Council requests the DCP provide detailed plans and actions to achieve compliance with the CCE Policy 56 NBCE student performance threshold within a two-year interval.

The Council also reviewed the requested Program Enrollment & Admissions Report (PEAR) for NUHS regarding the enrollment data, in accordance with USDE CFR 602.19(c), and the admission data, in accordance with CCE Policy 7, and found no further action is required regarding this report.

Dr. Joseph Stiefel
February 2, 2018

In summary, the Council has initiated two (2) concerns regarding the *Standards* and one (1) concern regarding CCE *Policy 56*, and requests a Progress Report specifically addressing the areas of concern noted in this letter and providing evidence that the DCP is in compliance with the respective standards/policies. ***This Progress Report should be submitted no later than August 1, 2018, in preparation for a focused site visit in the fall of 2018 to the Illinois campus, and for review by the Council at its January 2019 meeting.*** Enclosed, please find the required Response Report Format.

In accordance with the CCE Accreditation Standards, Section 1.V, *Non-Compliance Actions*, when the Council determines that a DCP is not in compliance with CCE Accreditation *Standards*, including eligibility and accreditation requirements, and policies and related procedures, the Council may apply any of the following actions; Warning, Probation, Show Cause Order or Denial/Revocation. The Council has concluded that the DCP is in significant noncompliance with accreditation standards or policy requirements and determined the noncompliance compromises program integrity and hereby imposes a sanction of Probation upon NUHS. Probation is a sanction, subject to appeal and shall not exceed twenty-four (24) months. The Council will make public notice of a final decision to impose Probation in accordance with CCE policy and procedures. The DCP is referred to the CCE Accreditation Standards, Principles, Processes & Requirements for Accreditation, Section 1, for further information regarding sanctions.

As indicated above, and in accordance with CCE Policy 8, *Appeals of Decisions by the Council*, the Program may appeal the Council's adverse action on grounds that such decision is arbitrary, capricious, or otherwise in substantial disregard of the CCE Standards and/or procedures of the Council, or that the decision is not supported by substantial evidence in the record upon which Council took action. The burden of proof remains upon the Program at all times. A copy of CCE Policy 8 and the CCE Accreditation Standards are enclosed for your information.

As stated in CCE Policy 8, "The status of an accredited Program remains unchanged until the period for filing an appeal has ended or until the appeal process has been concluded. An appeal filed in accordance with CCE appeal procedures automatically delays the adverse decision until its final disposition."

In accordance with CCE Policy 111, *Notification of CCE Accrediting Decisions*; no later than thirty (30) days after a decision is made, the Council on Chiropractic Education (CCE) will provide written notice to the U.S. Department of Education, all state licensing boards and the appropriate accrediting agencies at the same time it notifies the institution or program regarding a final decision to place an institution or program on probation (or an equivalent status). The Council/CCE will also provide written notice to the public of the final decision within 24 hours of its notice to the institution or program.

Also in accordance with CCE Policy 111; no later than sixty (60) days after a final decision, the Council/CCE will make available to the U.S. Department of Education, all state licensing boards, and the public upon request, a brief summary of the reasons for the final decision, and the comments, if any, that the affected DCP may wish to make with regard to that decision or evidence that the affected institution has been offered the opportunity to provide official comment.

Given the concerns addressed above, it is important for all programs to be informed of the requirements for time limits regarding enforcement of standards. Please reference the CCE *Standards*, Section 1.III.C., *Enforcement and Time Frames for Noncompliant Actions* (pages 7-8), for the specific requirements in this regard.

Please contact CCE staff if you require additional information regarding noncompliance decisions and actions and/or appeals.

Dr. Joseph Stiefel
February 2, 2018

The next routine accreditation activities scheduled for NUHS are a Program Enrollment & Admissions Report (PEAR) in December 2018, a Program Characteristics Report (PCR) in spring 2019, and an Interim Site Visit in fall 2021.

In accordance with CCE policies on accreditation activities, the Council will notify USDE, state licensing boards and post a public announcement on the CCE website concerning the reaffirmation decision. In addition, CCE Policy 22, *Program Integrity & Representation of Accreditation Status, Public Statements*, (Page 36), is provided below for your information:

The Council reserves the right to verify the accuracy of the program's public statements. In all instances, the program should contact the Council for review and approval of any questionable statements not specific to CCE policies and procedures prior to publishing such statements.

A doctor of chiropractic degree program (DCP) accredited by the Council must use the following statement when describing its status publicly (to include the DCP's official website):

"The Doctor of Chiropractic degree program at National University of Health Sciences is awarded programmatic accreditation by The Council on Chiropractic Education, 8049 North 85th Way, Scottsdale, AZ, 85258-4321, Phone: (480)443-8877, Website: www.cce-usa.org."

Programs may provide additional information regarding its accreditation status with CCE, for example, the historical account of its accreditation, but it must do so separately and independent of the required statements listed above.

The Council also reminds NUHS that it is the responsibility of the Council to ensure accurate public disclosure by accredited programs, including adherence to CCE policies and to the confidentiality requirements critical in accreditation relationships. The Council appreciates the commitment of National University of Health Sciences to the CCE accreditation process.

If you have questions regarding the above, please feel free to contact Dr. Craig S. Little, President, through the CCE Administrative Office.


Sincerely,



Elizabeth A. Goulard, Ed.D.
Council Chair

Enclosure: Response Report Format
CCE Policy 8, *Appeals of Decisions by the Council*
CCE Accreditation Standards

cc: Kenneth Dougherty, D.C, NUHS Governing Board Chair
Christopher Arick, M.S., D.C., Assistant Dean for Chiropractic Medicine, (Accreditation Liaison)
CCE Councilors
CCE Administrative Office

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EXHIBIT 8

NATIONAL UNIVERSITY OF HEALTH SCIENCES

200 EAST ROOSEVELT ROAD
LOMBARD, ILLINOIS 60148

**GROUND FOR APPEAL
FROM THE COUNCIL ON CHIROPRACTIC EDUCATION'S
FEBRUARY 2, 2018 ADVERSE ACTION**

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National University of Health Sciences (“NUHS”), by and through counsel, submits its Grounds for Appeal from The Council on Chiropractic Education’s (“CCE”) February 2, 2018 Adverse Action imposing a sanction of Probation for noncompliance with CCE Standards Sections 2.A and 2.H, and Policy 56. As grounds for its appeal, NUHS states as follows:

I. PRELIMINARY STATEMENT

NUHS’s Doctor of Chiropractic (“DC”) degree program has been accredited by CCE since 1971 and by its predecessor since 1966. NUHS takes its DC students’ education and preparation to practice very seriously. NUHS’s DC program (“DCP”) employs a rigorous, comprehensive curriculum to train its DC candidates to think, diagnose, and treat like physicians. As the Site Visit Team and the Council recognized, NUHS has been in the process of implementing changes to its DCP to improve how it evaluates and evidences program effectiveness and student meta-competencies. In 2014-15 NUHS began a university-wide effort to modify elements of its administration and academic programs. These changes resulted in a culture shift toward expanded assessment of students and programs. NUHS is committed to continuing to implement the improvements it began through its university-wide led changes to further strengthen its DCP and demonstrate its continued compliance with CCE Standards and Policies.

NUHS respectfully believes that the Council erred in its February 2, 2018 determination that NUHS was noncompliant with CCE accreditation requirements and imposition of the sanction of Probation. NUHS requests that this Appeal Panel reverse the Council’s determination that NUHS was noncompliant with Standards Sections 2.A and 2.H and Policy 56. In support of its request, NUHS asserts the following. (1) The Council did not follow its standards, policies, and procedures when it reaffirmed accreditation and then subsequently

determined NUHS to be in significant noncompliance to a level that compromises program integrity. (2) The Council failed to meet the due process requirements of 34 C.F.R. § 602.25(c) and (d) in order to impose a sanction of Probation. (3) The Council arbitrarily, capriciously, unreasonably, and discriminatorily applied Policy 56 to NUHS, forcing NUHS to report unreliable, misleading, and skewed NBCE exam outcomes which the Council then used to conclude noncompliance. (4) The Council's imposition of the sanction of Probation is arbitrary and capricious and fails to follow fair procedures because it was based on its determination that NUHS was noncompliant with Policy 56. (5) The Council's imposition of the sanction of Probation is arbitrary and capricious because it substantially and materially hinders NUHS from implementing improvements that CCE accreditation allegedly embraces.

II. APPLICABLE LAW AND CCE STANDARDS, POLICIES, AND PROCEDURES

A. Standard of Review of Appeal from Adverse Action

An accrediting agency must “[p]rovide[] an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.” 34 C.F.R. § 602.25(f); *see also* 20 U.S.C. § 1099b(6)(C). An appeals panel that satisfies due process

(iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: to affirm, amend, or reverse adverse actions of the original decision-making body; and

(iv) Affirms, amends, reverses, or remands the adverse action. A decision to affirm, amend, or reverse the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. In a decision to remand the adverse action to the original decision-making body for further consideration, the appeals panel must identify specific issues that the original decision-making body must address. In a decision that is implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the appeals panel's decisions or instructions.

34 C.F.R. § 602.25(f)(iii) and (iv).

“Doctor of Chiropractic Degree Programs, Residency Programs or institutions hereafter referred to as Programs, have the right to appeal an adverse accrediting decision of the CCE Council,” which includes “Public Sanctions (Probation, Show Cause Order).” **Exhibit 1:** Manual of Policies of The Council on Chiropractic Education, Inc., July 2017 (“CCE Policies”)¹ Policy 8. “The Program may appeal the Council’s adverse action that such decision is arbitrary, capricious, or otherwise in substantial disregard of the CCE Standards and/or procedures of the Council, or that the decision is not supported by substantial evidence in the record upon which Council took action. The burden of proof remains upon the Program at all times.” *Id.*

B. CCE Must Demonstrate Standards for Accreditation that Ensure that It is a Reliable Authority.

The requirements for an accrediting agency to obtain and maintain recognition by the Secretary of the U.S. Department of Education are set forth in 20 U.S.C. § 1099b and 34 C.F.R. Part 602. In order to be recognized as an accrediting agency by the Secretary of the U.S. Department of Education, CCE must demonstrate that it “consistently applies and enforces standards that respect the stated mission of the institution of higher education...and that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education...are of sufficient quality to achieve, **for the duration of the accreditation period,** the stated objective for which the courses or the programs are offered.” 20 U.S.C. § 1099b(a)(4)(A) (emphasis added). Section 602.18 of the Code of Federal Regulations sets forth the requirements for ensuring consistency in decision-making:

¹ References to CCE Policies in this Grounds for Appeal shall be to the July 2017 Manual of Policies, which were the applicable Policies to the Site Team, as identified in **Exhibit 2: Final Site Team Report p.2**, and the Council’s adverse action, as identified in **Exhibit 3: CCE Letter, Feb. 2, 2018 p.1**.

- (a) Has written specification of the requirements for accreditation and preaccreditation that include clear standards for an institution or program to be accredited;
- (b) Has effective controls against inconsistent application of the agency's standards;
- (c) Bases decisions regarding accreditation and preaccreditation on the agency's published standards;
- (d) Has a reasonable basis for determining that the information the agency relies on for making accrediting decisions is accurate; and
- (e) Provides the institution or program with a detailed written report that clearly identifies any deficiencies in the institution's or program's compliance with the agency's standards.

34 C.F.R. § 602.18.

CCE must “demonstrate that it has standards for accreditation...that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits.” 34 C.F.R. § 602.16(a). Section 602.16 sets forth the minimum standards for CCE to meet this requirement. Relevant to this appeal are the following requirements:

The agency's accreditation standards effectively address the quality of the institution or program in the following areas:

- (i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, **consideration of State licensing examinations**, course completion, and job placement rates.

34 C.F.R. § 602.16(a)(1)(i) (emphasis added). Accreditation “standards set must be reasonable, applied with an even hand, and not in conflict with the public policy of the jurisdiction.” *Marjorie Webster Jr. Coll.*, 432 F.2d at 655.

C. Standard for Reaffirmation of Accredited Status

The Bylaws of the CCE grant authority to the Council “for all matters pertaining to the accreditation status of programs.” **Exhibit 4:** CCE Bylaws Art. VI § 6.01. “CCE accreditation is granted to DCPs deemed by the Council to comply with the eligibility requirements and

requirements for accreditation.” **Exhibit 5:** CCE Accreditation Standards: Principles, Processes & Requirements for Accreditation, Jan. 2013 (“CCE Standards”)² § 1(I). “Any DCP seeking to achieve or maintain CCE accredited status must apply for such status, and provide evidence that the DCP meets the eligibility requirements and complies with the requirements for accreditation.” *Id.* § 1(II). CCE requires DCPs to correct any “incorrect, misleading or misrepresentation of public statements about its...success of graduates.” **Ex. 1:** CCE Policies, Policy 22. It requires DCPs to “disclose information honestly and completely” and not to omit relevant information or distort information. *Id.*

As part of the reaffirmation of accreditation process, the Council appoints a site team to review the institution’s self-study, conduct a site team visit, issue a draft report to the DCP to correct factual errors, and issue a final report. **Ex. 5:** CCE Standards § 1(II)(C)(2). If the final report identifies areas of concern, the DCP must submit a written response to the final report to CCE. *Id.* “This process is designed to ensure that, in the best judgment of a group of qualified professionals, the DCP complies with the requirements for eligibility and accreditation and that the DCP is fulfilling its mission and goals. An enduring purpose of CCE accreditation is to encourage ongoing improvement.” *Id.*

“A comprehensive site visit is a full review of a program applying for initial accreditation or reaffirmation of accredited status...[during which t]he team verifies and validates the information presented in the self-study document. The team report identifies the program’s strengths and any concerns regarding compliance with the CCE *Standards*.” **Exhibit 6:**

² References to CCE Standards in this Grounds for Appeal shall be to the January 2013 Standards, which were the applicable Standards to the Site Team, as identified in **Ex. 2:** Final Site Team Report p.2, and the Council’s adverse action, as identified in **Ex. 3:** CCE Letter, Feb. 2, 2018 at p.1.

Accreditation Manual: Designed for Programs/Institutions, July 2016 (“Accreditation Manual”)³ § V(A). “Team members will abide by all relevant CCE policies.” *Id.* § VI(C)(4).

“Team members are required to identify concerns and the Council will determine the nature, degree, and disposition of these concerns. As Council representatives, team members must be clear with program personnel so that the site team does not prescribe specific actions.” *Id.* § VI(C)(15). The [Site Team] report describes any concerns and recommends a plan and potential for overcoming such challenges...The site team does not stipulate whether or not the program is meeting the requirements of the *Standards* as this is the prerogative of the Council.” *Id.* § VII(A); **Exhibit 7: Academy of Site Team Visitors Manual: Guide for Site Team Chairs, Team Members & Observers**, July 2016 (“Site Team Manual”)⁴ § VI(The Report). “The site visit team report *must not*: ...3) Indicate compliance or non-compliance with the requirements for accreditation of the CCE *Standards*. 4) Contain any team judgments about, [sic] possible Council actions.” *Id.* § VI(Nature of the Report)(b)(3), (4). “A *recommendation must* accompany every *concern* identified in the report. *Although a team must never state in its report that a program is not in compliance*, a concern does identify potential non-compliance issues.” *Id.* § VI(Concerns with Recommendations and Suggestions)(a) (emphasis in original).

“Upon receipt of the final report, the program must submit a formal written response to the content, if the report contains any *concerns*.” **Ex. 6: Accreditation Manual § VII(B)(3)** (emphasis in original); *see also* **Ex. 7: Site Team Manual § VI(Program Response)**.

³ References to Accreditation Manual in this Grounds for Appeal shall be to the July 2016 Accreditation Manual, which was the applicable Accreditation Manual for the Site Team, as identified in **Ex. 2: Final Site Team Report** p.2.

⁴ References to Site Team Manual in this Grounds for Appeal shall be to the July 2016 Site Team Manual, which was the applicable Site Team Manual for the Site Team, as identified in **Ex. 2: Final Site Team Report** p.2.

Following the site team visit and report to CCE, the Council holds a status review meeting “to provide an opportunity for the Council to meet with DCP representatives to discuss the findings of the site team in accordance with CCE policies and procedures.” **Ex. 5: CCE Standards § 1(II)(C)(3)(a).** Following the status review meeting, the Council reviews all information “consistent with CCE policies and procedures, to determine whether the program complies with the *CCE Standards*.” *Id.* § 1(II)(C)(3)(b). After review, the Council issues a “written decision regarding accreditation status.” *Id.* § 1(II)(C)(3)(c); *see also* **Ex. 6: Accreditation Manual § X(B)(6), (8).**

The Council may take any of the following actions: “1. Award or reaffirmation of accreditation; 2. Defer the decision; 3. Continue accreditation; 4. Impose Warning; 5. Impose Probation; 6. Deny or revoke accreditation; 7. Withdraw accreditation.” **Ex. 5: CCE Standards § 1(III)(A).**

D. CCE Actions for Noncompliance

Imposing a Warning or Probation is a noncompliance action resulting from the Council’s determination “that a DCP/Institution is not in compliance with CCE Accreditation Standards, including eligibility and accreditation requirements, and policies and related procedures.” *Id.* § 1(V). According to the Standards,

The intent of issuing a Warning is to alert the DCP/Institution of the requirement to address specific Council concerns regarding its accreditation. The Council may decide to issue a Warning if the Council concludes that a DCP/Institution:

1. Is in noncompliance with the accreditation standards or policies and the Council determines that the deficiency(ies) do not compromise the overall program integrity and can be corrected by the DCP/Institution within the permissible timeframe; or
2. Has failed to comply and/or provide requested information.

Id. § 1(V)(A). However,

Probation is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements. Such a determination may be based on the Council's conclusion that:

1. The noncompliance compromises program integrity; for example, the number of areas of noncompliance, institutional finances, or other circumstances cause reasonable doubt on whether compliance can be achieved in the permissible timeframe; or
2. The noncompliance reflects recurrent noncompliance with one or more particular standard(s) and/or policy(ies); or
3. The noncompliance reflects an area for which notice to the public is required in order to serve the best interests of students and prospective students.

Id. § 1(V)(B).

E. CCE Must Satisfy Due Process Throughout its Accreditation Process.

In order to obtain and maintain recognition by the Secretary of the U.S. Department of Education, CCE is required to

establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures that provide –

(A) for adequate written specification of –

- (i) requirements, including clear standards for an institution of higher education or program to be accredited; and
- (ii) identified deficiencies at the institution or program examined;

(B) for sufficient opportunity for a written response, by an institution or program, regarding any deficiencies identified by the agency or association to be considered by the agency or association –

- (i) within a timeframe determined by the agency or association; and
- (ii) prior to final action in the evaluation and withdrawal proceedings

(C) upon the written request of an institution or program, for an opportunity for the institution or program to appeal any adverse action under this section, including denial, withdrawal, suspension, or termination of accreditation, taken against the institution or program, prior to such action becoming final at a hearing before an appeals panel...

20 U.S.C. § 2099(6)(A)-(C). *See also* 34 C.F.R. § 602.25 (“The agency must demonstrate that the procedures it uses throughout the accreditation process satisfy due process.”). Section 602.25 of the Code of Federal Regulations sets forth the minimum standards for an accrediting agency to satisfy due process. The CCE’s adverse action of placing NUHS on probation must satisfy and not frustrate the following due process requirements:

- (a) Provides adequate written specification of its requirements, including clear standards, for an institution or program to be accredited or preaccredited.
- (b) Uses procedures that afford an institution or program a reasonable period of time to comply with the agency’s requests for information and documents.
- (c) Provides written specification of any deficiencies identified at the institution or program examined.
- (d) Provides sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency, to be considered by the agency within a timeframe determined by the agency, and before any adverse action is taken.
- (e) Notifies the institution or program in writing of any adverse accrediting action or an action to place the institution or program on probation or show cause. The notice describes the basis for the action.
- (f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

34 C.F.R. § 602.25(a)-(e). Further, there is a “common law duty on the part of ‘quasi-public’ private professional organizations or accreditation associations to employ fair procedures when making decisions affecting their members.” *McKeesport Hosp. v. Accreditation Council for Graduate Med. Educ.*, 24 F.3d 519, 534-35 (3d Cir. 1994); *see also Prof’l Massage Training Ctr. v. Accreditation Alliance of Career Sch. & Colls.*, 781 F.3d 161, 169 (4th Cir. 2015); *Thomas M. Cooley Law Sch. v. Am. Bar Ass’n*, 459 F.3d 705, 711-12 (6th Cir. 2006); *Med. Inst. of Minn. v. Nat’l Ass’n of Trade & Technical Schs.*, 817 F.2d 1310, 1314 (8th Cir. 1987); *Marjorie Webster*

Jr. Coll., Inc. v. Middle States Ass'n of Colls. & Secondary Schs., Inc., 432 F.2d 650, 655-58 (D.C. Cir. 1970).

The common law duty to “play it straight” is in part due to the effect of accreditation on student access to federal funding and the steep cost denial or withdrawal of accreditation has on both the institution and its current and past students. *See Prof'l Massage*, 781 F.3d at 170. On the one hand, accreditation provides assurances to students who take on federal student loans and grants to pay for their education. *Id.* On the other hand, an accrediting agency’s “life or death power” over institutions compels due process assurances because an adverse action may force an institution out of business and/or diminish the value of the degrees in progress and previously earned by students. *Id.*

III. ARGUMENT

A. **The Council’s Action to Place NUHS on Probation Subsequent to Reaffirming NUHS’s Accredited Status Fails to Comply with CCE Standards and is Arbitrary and Capricious.**

The Council’s determination to impose the sanction of Probation on NUHS based on the same information that the Council reaffirmed NUHS’s accredited status is arbitrary and capricious and fails to comply with CCE’s Standards or Policy requirements. CCE’s accreditation and reaffirmation of accredited status represents to the U.S. Department of Education and third-parties that the DCP is of “sufficient quality to achieve, **for the duration of the accreditation period**, the stated objective for which the courses or the programs are offered.” 20 U.S.C. § 1099b(a)(4)(A) (emphasis added). “CCE accreditation is granted to DCPs deemed by the Council to comply with the eligibility requirements and requirements for accreditation.” Ex. 5: CCE Standards § 1(I).

Where the Council is unable to make an immediate accreditation decision, CCE’s Standards set forth a process for further review. “In cases where additional information is

needed in order to make a decision, for programs seeking initial accreditation or reaffirmation of accreditation, the Council may choose to defer a final decision regarding accreditation status.” *Id.* § 1(IV). Where a DCP does not establish that it meets accreditation requirements, CCE’s Standards sets forth sanctions. “Probation is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements.” *Id.* § 1(V)(B).

On February 2, 2018, CCE issued a letter confirming “its review of all materials related to the reaffirmation process, including the DCP Response to the November 2017 Final Site Team Report” and that “the Council conducted the status review meeting,” which included discussion of “a number of items, including the DCP’s framework and process for program effectiveness; assessment of the meta-competency outcomes; and NBCE performance rate.” **Ex. 3:** CCE Letter, Feb. 2, 2018 p.1. CCE did not request additional information from NUHS. Instead, CCE informed NUHS that, “[f]ollowing the status review meeting, the Council conducted deliberations and reached a consensus decision to *reaffirm the accreditation* of the NUHS doctor of chiropractic degree program.” *Id.* (emphasis in original). CCE also informed the U.S. Department of Education, Council for Higher Education Accreditation, the other CCE members and DCP Presidents/CEOs, and the public at large that NUHS meets CCE’s Standards. *See* Council on Chiropractic Education, Accreditation Actions – Announcement (Feb. 2, 2018), http://www.cce-usa.org/uploads/1/0/6/5/106500339/2018-02-02_accreditation_actions_announcement.pdf.

The Council’s decision to reaffirm accreditation establishes that the Council deems NUHS “compl[iant] with the eligibility requirements and requirements for accreditation.” **Ex. 5:** CCE Standards § 1(I). Indeed, in order to comply with 20 U.S.C. § 1099b(a)(4)(A), CCE’s

reaffirmation of accreditation establishes that CCE has evaluated and concluded that NUHS' DCP complies with CCE Standards "for the duration of the accreditation period."

In contrast, a sanction of Probation requires that the Council conclude that NUHS is "in significant noncompliance with accreditation standards or policy requirements." **Ex. 5: CCE Standards § 1(V)(B).** The Council cannot come to such contradictory conclusions based on the same record. The Council's reaffirmation of accreditation, i.e., determination that NUHS is in compliance, makes its subsequent determination that NUHS is noncompliant arbitrary and capricious or otherwise in substantial disregard of the CCE Standards. Accordingly, the Appeal Panel should reverse the Council's imposition of the sanction of Probation.

B. The Council's Action to Place NUHS on Probation Violates NUHS's Due Process Rights as Set Forth in 34 C.F.R. § 602.25.

CCE failed to meet the due process requirements of 34 C.F.R. § 602.25(c) and (d) when it imposed the sanction of Probation (a sanction which requires the Council's conclusion that a DCP is in significant noncompliance), because the CCE failed to provide NUHS with (a) a written specification of the non-compliance and (b) meaningful opportunity to respond or be heard on the issue of non-compliance. Instead, the CCE's letter dated February 2, 2018 was the first written specification of noncompliance to satisfy 34 C.F.R. § 602.25(c), yet CCE did not then provide NUHS a sufficient opportunity to give written response to such notice of noncompliance as required by 34 C.F.R. § 602.25(d). CCE is required to provide NUHS with "sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency, to be considered by the agency within a timeframe determined by the agency, *and before any adverse action is taken.*" 34 C.F.R. § 602.25(d) (emphasis added); *see also* 20 U.S.C. § 1099b(a)(6)(B). More simply put, the due process requirements of § 602.25(c) and (d) were not met here because CCE issued a Probation sanction

to NUHS at the same time and in the same document as its first written specification of NUHS's alleged noncompliance. Section 602.25(c) and (d) require more: CCE was to first provide written notice of the noncompliance to NUHS and then an opportunity for NUHS to provide a response. It is, however, undisputed that CCE did not do that here, which had the direct effect of eliminating the procedure and notice requirements of § 602.25, stripping away any chance for NUHS to be heard—or have access to substantive and procedural due process.

The Site Team's Final Report and NUHS's written response to that document similarly does not satisfy Section 602.25(c) and (d) where CCE's action is to place NUHS on Probation because the Site Team does not have authority to make a determination of noncompliance, which is a prerequisite to Probation.

On November 8, 2017, CCE transmitted the Final Site Team Report to NUHS. *See Exhibit 8: CCE Letter, Nov. 8, 2017; Ex. 2: Final Site Team Report.* The Site Team identified "Concerns with Recommendations" in reference to 2013 CCE Accreditation Standards, § 2.A, 2013 CCE Accreditation Standards, § 2.H, and CCE Policy 56: Student Performance Disclosure, Thresholds, and Outcomes. *Ex. 2: Final Site Team Report p.23.* With regard to Standards § 2.A, the Site Team informed NUHS,

The site team is concerned that the DCP does not have a formal programmatic plan that ties to the University's LRP, indicating DCP program priorities and program effectiveness. The site team recommends that the DCP continue its maturation process in capturing assessment data that can formulate program priorities which feed into the budgeting and long-range planning of the University.

Id. With regard to Standards § 2.H, the Site Team informed NUHS,

The site team is concerned that since 2012 the DCP has not been able to demonstrate that all students are able to meet all the outcomes of the meta-competencies, as outlined in the 2013 Standards, and that this inability will be ongoing for another two trimesters. The site team recommends that the DCP continue to

implement the new clinic assessment process to ensure that all its graduate [sic] demonstrate all the meta-competency outcomes.

Id. With regard to Policy 56, the Site Team informed NUHS,

The site team is concerned that the DCP does not meet the 80% benchmark for NBCE performance. The site team recommends that the DCP continues to monitor the benchmark as more students in the DCP take part IV over the next 1-2 years for compliance with the standard.

Id. The Site Team does not conclude that NUHS is non-compliant with any accreditation requirements in its Final Site Team Report. To do so would be in substantial disregard of the CCE Standards and/or procedures of the Council as only the Council has authority to make non-compliance determinations.

Pursuant to the Accreditation Manual and Site Team Manual, the Site Team does not have authority to and shall not make conclusions as to whether NUHS was in compliance with CCE Standards or Policies. *See Ex. 6: Accreditation Manual § VII(A)* (“The site team does not stipulate whether or not the program is meeting the requirements of the *Standards* as this is the prerogative of the Council.”); *Ex. 7: Site Team Manual § VI(The Report)* (same); *Id.* at § VI(Nature of the Report(b)(3) (“The site visit team *must not*:...3) Indicate compliance or non-compliance with the requirements for accreditation of the CCE *Standards*.”); *Id.* at (b)(4) (“The site visit team *must not*:...4) Contain any team judgments about, [sic] possible Council actions.”). The Final Site Team Report stated, “The word concern identifies a conclusion of the CCE Site Team that there is a deficiency, major to minor, in meeting the *Standards* to which the comment is connected. The site team has provided a recommendation to address the deficiency.” *Ex. 2: Final Site Team Report pp.1-2.* However, the Site Team’s conclusion that there is a “deficiency” does not amount to a conclusion of noncompliance as the Site Team must abide by all relevant CCE policies, *Ex. 6: Accreditation Manual § VI(C)(4)*, which include that the site

team must not stipulate or indicate compliance or non-compliance with accreditation requirements.

Following NUHS's December 6, 2017 written response to the concerns identified in the Final Site Team Report, **Exhibit 9**, and the Council's status review meeting, the Council determined that NUHS was non-compliant with Standards § 2.A, Standards § 2.H, and Policy 56. By letter dated February 2, 2018, CCE notified NUHS of the Council's determination of non-compliance and imposition of the sanction of Probation. **Ex. 3: CCE Letter, Feb. 2, 2018.** In relevant part, CCE informed NUHS:

The Council noted the following areas from the 2013 CCE Accreditation Standards and CCE Manual of Policies, July 2017, where the DCP has not yet demonstrated compliance and represent areas of concern.

Id. p.1.

In summary, the Council has initiated two (2) concerns regarding the *Standards* and one (1) concern regarding CCE *Policy 56*, and requests a Progress Report specifically addressing the areas of concern noted in this letter and providing evidence that the DCP is in compliance with the respective standards/policies...

In accordance with the CCE Accreditation Standards, Section I.V, *Non-Compliance Actions*, when the Council determines that a DCP is not in compliance with CCE Accreditation *Standards*, including eligibility and accreditation requirements, and policies and related procedures, the Council may apply any of the following actions; [sic] Warning, Probation, Show Cause Order or Denial/Revocation. The Council has concluded that the DCP is in significant noncompliance with accreditation standards or policy requirements and determined the noncompliance compromises program integrity and hereby imposes a sanction of Probation upon NUHS...

Id. p.3.

Pursuant to 34 C.F.R. § 602.25(c) and (d), CCE is required to provide NUHS with written specification of any deficiencies identified at NUHS and to provide sufficient opportunity for

NUHS to submit a written response regarding the deficiencies identified for CCE's consideration prior to CCE imposing an adverse action. While CCE's sanction of Warning "is to alert the DCP/Institution of the requirement to address specific Council concerns regarding its accreditation," Ex. 5: CCE Standards § 1(V)(A), the sanction of Probation "is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements," *id.* § 1(V)(B) (emphasis added).

Arguably, had the CCE imposed a sanction of Warning the Final Site Team Report satisfied 34 C.F.R. § 602.25(c) and NUHS's written response submitted on December 6, 2017 satisfied 34 C.F.R. § 602.25(d) because the Final Site Team Report identified concerns, which is the basis for a sanction of Warning under CCE Standards § 1(V)(A). However, the Final Site Team Report did not identify non-compliance, which is the basis for a sanction of Probation under CCE Standards § 1(V)(B). CCE's letter dated February 2, 2018 is the first time CCE provided written specification that NUHS was noncompliant with CCE's accreditation requirements. NUHS's due process rights have therefore been violated and CCE has failed to meet the requirements of 34 C.F.R. § 602.25(c) and (d) prior to imposing the sanction of Probation. NUHS' appeal does not satisfy 34 C.F.R. § 602.25(d) because the "sufficient opportunity for a written response by the institution or program regarding any deficiencies identified by the agency" must be "before any adverse action is taken" and both 20 U.S.C. § 1099b(6)(C) and 34 C.F.R. § 602.25(f) require an appeal procedure after determination and notification of the adverse action but prior to the adverse action becoming final.

To summarize, CCE did not meet the requirements of 34 C.F.R. § 602.25(c) and (d) when it imposed the sanction of Probation pursuant to 34 C.F.R. § 602.25(e).

34 C.F.R. § 602.25	No Sanction or Warning	Probation
(a) Provides adequate written	For purposes of this argument	For purposes of this argument

specification of its requirements, including clear standards, for an institution or program to be accredited or preaccredited.	of NUHS's Grounds for Appeal, we assume that Ex. 5: CCE Standards satisfies Section 602.25(a).	of NUHS's Grounds for Appeal, we assume that Ex. 5: CCE Standards satisfies Section 602.25(a).
(b) Uses procedures that afford an institution or program a reasonable period of time to comply with the agency's requests for information and documents.	For purposes of this argument of NUHS's Grounds for Appeal, we assume that Ex. 5: CCE Standards, Ex. 6: Accreditation Manual, and Ex. 7: Site Team Manual satisfy Section 602.25(b).	For purposes of this argument of NUHS's Grounds for Appeal, we assume that Ex. 5: CCE Standards, Ex. 6: Accreditation Manual, and Ex. 7: Site Team Manual satisfy Section 602.25(b).
(c) Provides written specification of any deficiencies identified at the institution or program examined.	Ex. 2: Nov. 8, 2017 Final Site Team Report identifies <u>concerns</u> with regard to Standards Section 2.A, Standards Section 2.H, Policy 56. The Site Team does not conclude that NUHS is non-compliant with any accreditation requirements because such conclusions are beyond the Site Team's authority. <i>See</i> Ex. 6 § VII(A); Ex. 7 § VI(The Report) and (Nature of the Report(b)(3) and (4)	CCE did not meet the requirements of Section 602.25(c).
(d) Provides sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency, to be considered by the agency within a timeframe determined by the agency, and before any adverse action is taken.	Ex. 9: Dec. 6, 2017 NUHS Response responds to the <u>concerns</u> identified in the Final Site Team Report.	CCE did not meet the requirements of Section 602.25(d).
(e) Notifies the institution or program in writing of any adverse accrediting action or an action to place the institution or program on probation or show cause. The notice describes the basis for the action.	N/A	Ex. 3: Feb. 2, 2018 CCE Letter imposes a sanction of Probation because "[t]he Council has concluded that the DCP is in significant <u>noncompliance</u> with accreditation standards or policy requirements and determined the noncompliance

		compromises program integrity.”
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Accordingly, and in the alternative to relief requested if the Council does not accept the Ground for Appeal set forth in Section III(A), *supra*, the Appeal Panel should (1) reverse the Council’s imposition of Sanction and (2) remand the issue of noncompliance to the Council with instruction to afford NUHS sufficient time and opportunity to provide a written response to the Council’s letter dated February 2, 2018 prior to and for consideration by the Council in determining whether the imposition of an adverse action is warranted.

C. The Council’s Decision that NUHS is Out of Compliance with CCE Policy 56 is Arbitrary and Capricious because Policy 56 Violates 34 C.F.R. § 602.16(a)(1)(i) and Conflicts with Illinois Public Policy, is Unreasonable for Requiring NUHS to Report Misleading NBCE Success Rates, and is Discriminatory.

CCE’s application of Policy 56 to NUHS is arbitrary and capricious because (1) it fails to meet the requirements of 34 C.F.R. § 602.16(a)(1)(i) by not considering Illinois State licensing requirements and it clearly conflicts with Illinois’ pre-July 1, 2016 public policy, (2) it requires NUHS to report distorted, unreliable, misleading outcomes about the success of NUHS graduates on the National Board of Chiropractic Examiners (NBCE) exam, and (3) is discriminatory in treating graduates seeking Canadian licensure more favorably than those seeking Illinois licensure. The purpose of CCE’s standards for accreditation is to “ensure that the agency is a reliable authority regarding the quality of the education or training provided by the [DCPs] it accredits.” 34 C.F.R. § 602.16(a). However, CCE’s standards should take into consideration State licensing examinations in order to meet its requirement. *Id.* (a)(1)(i). CCE must establish standards that are reasonable and do not conflict with the public policy of the jurisdiction. *Marjorie Webster Jr. Coll.*, 432 F.2d at 655.

CCE requires DCPs to “disclose up-to-date results of student performance on national board examinations and completion rates on the program website.” **Ex. 1: CCE Policies, Policy 56.** The purpose, presumably, is to inform the public of the extent to which DCPs prepare graduates for success on the NBCE exam. Specifically, DCPs “shall post annually the overall weighted average of the four (4) most recent years’ NBCE Parts I, II, III, and IV Exam success rates. The DCP’s [sic] may use the Canadian Chiropractic Examining Board (CCEB) Part C exam data in lieu of NBCE Part IV data.” *Id.* For each of the 4 most recent years, the DCP must post:

1. The total unduplicated number of graduates of the program who **attempted any or all** parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation;
2. The total unduplicated number of graduates of the program who successfully passed all parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation; and
3. The percentage of these graduates who successfully **passed all** parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation.

* or CCEB Part C data in lieu of NBCE IV data

Id. (emphasis in original). “The overall weighted average of the four (4) most recent years’ NBCE Parts I, II, III, and IV* Exam success rates must not be less than 80%.” *Id.*

1. **CCE Policy 56 is unreasonable and conflicts with Illinois pre-July 1, 2016 public policy.**

Prior to July 1, 2016, licensure of a chiropractic physician under the Illinois Medical Practice Act of 1987 (as amended) required only Parts I, II, and III of the NBCE exam. CCE was aware of Illinois’ NBCE exam requirements before revising Policy 56 in 2013. *See Exhibit 10: Policy 56 Taskforce Jan. 2013 (“2013 Taskforce”) p.6.* Effective July 1, 2016, the Illinois Medical Practice Act of 1987 (as amended) added Part IV of the NBCE exam to the examination requirement for licensure. *See 68 Ill. Admin. Code § 1285.60(b)(1).* Stated another way, prior to

July 1, 2016, successfully passing the NBCE exam for purposes of Illinois licensure meant attempting and passing only Parts I, II, and III of the NBCE exam.

NUHS's Lombard campus is located in Illinois, thus most of its graduates seek Illinois licensure. As NUHS pointed out in its Response to the Final Site Team Report, "The lack of NBCE Part IV being required for Illinois licensure previously resulted, for many years, in students not taking the Part IV examination, putting NUHS at a distinct disadvantage for meeting the Policy 56 benchmark." Ex. 9: NUHS Response p.25.⁵ CCE's application of Policy 56 to NUHS's NBCE exam success rates pre-July 1, 2016 does not meet the requirements of 34 C.F.R. § 602.16(a)(1)(i), unreasonably requires reporting of irrelevant data, and conflicts with Illinois' public policy as set forth in 68 Ill. Admin. Code § 1285.60(b)(1).

2. CCE Policy 56 requires that NUHS report distorted, unreliable, misleading NBCE exam success rates.

CCE requires DCPs to correct any "incorrect, misleading or misrepresentation of public statements about its...success of graduates." Ex. 1: CCE Policies, Policy 22. It requires DCPs to "disclose information honestly and completely" and not to omit relevant information or distort

⁵ On many occasions in the past, NUHS has pointed out that Policy 56 is discriminatory and requires the reporting of misleading outcomes as it is applied to Illinois applicants. For example, in its September 16, 2015 letter to CCE, NUHS reminded CCE of Illinois' licensing requirements, that NUHS students who are not required to take Part IV of the NBCE exam do not take it, and that "including students who are not required to take and did not take all four parts of these examinations invalidates the available data to the CCE. This results in an inaccurate depiction of pass rate performance. This has the direct effect of invalidating the public disclosure statistics provided to the public – namely prospective students – giving the public wrong information on which to make decisions or assess an institution." **Exhibit 11:** NUHS Letter, Sep. 16, 2015 p.1. NUHS asked that the Council "adopt a policy that does not interfere with the University's ability to fairly compete in the current marketplace and that does not intentionally, without further explanation, report inaccurate data on the success of the DCP and the ability of its graduates to obtain licensure...Policy 56 as currently worded forces NUHS to compromise its integrity by requiring the University to provide inaccurate and unreliable information to the public." *Id.* p.2. Even without notice of the discriminatory and misleading result of Policy 56 prior to NUHS' response to the Final Site Team Report, the Council cannot apply Policy 56 to NUHS as written and conclude that NUHS is out of compliance without the Council failing to satisfy its due process and accreditation requirements.

information. *Id.* However, CCE's Policy 56 with regard to pre-July 1, 2016 NBCE exam success for graduates seeking Illinois licensure requires NUHS to violate CCE Policy 22. CCE's requirement that Illinois NBCE exam takers who did not take Part IV be reported as failing even though they were not required to take Part IV to obtain Illinois licensure, requires NUHS to make "incorrect, misleading or misrepresentation of public statements about its...success of graduates," to omit relevant information (that Illinois does not require and therefore Illinois licensure seekers do not take Part IV of the NBCE exam), and report distorted information (falsely low success rates because Illinois does not require and therefore Illinois licensure seekers do not take Part IV of the NBCE exam). *Id.*

The Site Team reviewed NUHS's records for NBCE exam success rates on all four Parts of the exam for the years 2013 through 2016. The Final Site Team Report indicated an area of concern that NUHS did not meet CCE's 80% threshold for NBCE performance and included this chart:

Calendar Year (Last 4 years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation	Number of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation	Percentage of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post-graduation
2013	137	98	71%
2014	108	80	74%
2015	100	71	71%
2016	119	104	87%
Total	464	353	76%

Ex. 2: Final Site Team Report p.21.

NUHS had previously pointed out that its graduates who seek Illinois licensure are not required to and do not take Part IV of the NBCE exam. **Exhibit 12: NUHS Self Study Report** pp. 52, 2084. Therefore, NUHS proposed reporting data compliant with the purpose of Policy 56, success rates on NBCE exams, that would be accurate based on what Illinois considered

success on the NBCE exam (i.e., Parts I, II, and III). Ex. 12: NUHS Self Study Report pp.2289-90. NUHS provided CCE with the below chart in its Self Study Report, submitted on May 1, 2017:

PROPOSED Policy 56 Data

Calendar Year (Last 4 years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV) of NBCE Exams within six (6) months post-graduation	Number of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams <u>or licensed</u> within six (6) months post-graduation	Percentage of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams <u>or licensed</u> within six (6) months post-graduation
2011	125	111	89%
2012	116	100	86%
2013	137	123	90%
2014	108	101	94%
Totals	486	435	90%

Weighted Average

Id.

In its response to the Final Site Team Report, NUHS again pointed out the misleading nature of the data Policy 56 requires NUHS to report. Ex. 9: NUHS Response p.31. NUHS pointed out that, “[r]eview of the university’s historical performance of Part IV performance (below) shows a Part IV passing rate of 87% of those students who took the exam since 2013.”

Id.

NUHS	408	353	87%
Date	N	N-Passed	Passing %
2016	113	100	88%
11/1/2016	70	63	90%
5/1/2016	43	37	86%
2015	86	71	83%
11/1/2015	45	39	87%
5/1/2015	41	32	78%
2014	102	91	89%
11/1/2014	69	61	88%
5/1/2014	33	30	91%
2013	107	91	85%
11/1/2013	63	56	89%
5/1/2013	44	35	80%

*The above N's reflect examinees who took the exam in the stated year. It does not take into account the year in which the examinee graduated.

NUHS also attached to its Response its public disclosures (a) explaining to the public what constituted "success" on the NBCE exam for Illinois (Parts I, II, and III), (b) providing data in the format required by CCE Policy 56, and (c) providing NUHS's actual success rates in light of those who did not take Part IV due to Illinois' licensing requirements and those who did take Part IV due to other states' licensing requirements. Ex. 9: NUHS Response, Attachment 13. The actual success rates of NUHS graduates for 2013 was 90%, for 2014 was 94%, and for 2015 was 79%. As identified in the Final Site Team Report, the percentage of NUHS graduates passing all parts of the NBCE in 2016 was 87%. Therefore, the accurate success rate as a weighted average of 2013-2016 is 87.5%, not 76% as set forth in the Final Site Team Report. CCE's application of Policy 56 is not reliable and is unreasonable for requiring NUHS to report inaccurate NBCE exam success rates in light of Illinois' pre-July 1, 2016 licensure requirements.

3. **CCE does not apply Policy 56 with an even hand because it provides an exception to reporting on NBCE exam Part IV to graduates seeking Canadian licensure, but not Illinois licensure.**

CCE must apply its standards with an even hand. 20 U.S.C. § 1099b(a)(4); 34 C.F.R. § 602.18; *Marjorie Webster Jr. Coll.*, 432 F.2d at 655. Prior to its July 2017 CCE Manual of Policies, CCE required all DCPs to report success rates for all Parts of the NBCE exam. In its July 2017 CCE Manual of Policies, CCE added a modification to Policy 56 that permitted DCPs to substitute “Canadian Chiropractic Examining Board (CCEB) Part C data in lieu of NBCE IV data.” Ex. 1: CCE Policies, Policy 56. Though CCE is aware that prior to July 1, 2016, Illinois did not require, and therefore NUHS graduates seeking Illinois licensure did not take, Part IV of the NBCE exam, *see* Exs. 10: 2013 Taskforce p.6, 11: NUHS Letter, Sep. 16, 2015, 12: NUHS Self Study Report, pp. 52, 2084, 2089-90, CCE made no similar modification to its public disclosure requirements for Illinois NBCE exam takers. CCE therefore applies Policy 56 in an uneven and discriminatory way, allowing DCPs with graduates seeking Canadian licensure to satisfy the NBCE outcomes threshold with an exception, while unreasonably punishing NUHS and reducing its outcomes because many of its graduates seek Illinois licensure. CCE therefore fails to ensure consistency in its decision-making because it inconsistently applies Policy 56. *See* 34 C.F.R. § 602.18(b).

Accordingly, and in the alternative to relief requested if the Council does not accept the Ground for Appeal set forth in Section III(A), *supra*, the Appeal Panel should (1) reverse the Council’s decision that NUHS NBCE success rate is below the threshold set forth in Policy 56, and (2) remand the issue of NUHS’s compliance with Policy 56 to the Council to apply Policy 56 in a manner that gives due consideration to Illinois’ pre-July 1, 2016 NBCE exam requirements for licensure and NUHS’s actual success rates given Illinois’ pre-July 1, 2016 NBCE exam requirements for licensure.

D. The Council's Action to Place NUHS on Probation Violates NUHS's Due Process Rights because the Decision Arises from the Council's Arbitrary and Capricious Decision that NUHS is Out of Compliance with CCE Policy 56.

Common law due process requires that CCE employ fair procedures when making accreditation decisions. *McKeesport Hosp.*, 24 F.3d at 534-35; *Prof'l Massage*, 781 F.3d at 169; *Thomas M. Cooley Law Sch.*, 459 F.3d at 711-12; *Med. Inst. of Minn.*, 817 F.2d at 1314; *Marjorie Webster Jr. Coll.*, 432 F.2d at 655-58. Basing a decision to impose sanctions on an unreasonable, unreliable, and discriminatory policy is not a fair procedure.

CCE informed NUHS that, "The Council has concluded that the DCP is in significant noncompliance with accreditation standards or policy requirements and determined the noncompliance compromises program integrity" based on "two (2) concerns regarding the *Standards* and one (1) concern regarding *CCE Policy 56*." Ex. 3: CCE Letter, Feb. 2, 2018 p.3. According to its Standards, the Council concludes that the noncompliance compromises program integrity due to factors such as "the number of areas of noncompliance, institutional finances, or other circumstances [which] cause reasonable doubt on whether compliance can be achieved in the permissible timeframe." Ex. 5: CCE Standards § 1(V)(B)(1). The Council therefore based its imposition of the sanction of Probation in part on the Council's conclusion that NUHS was not in compliance with Policy 56.

For the reasons set forth in Section III(C), *above*, the Council's decision to apply Policy 56 to NUHS and its decision that NUHS was not compliant with the threshold for NBCE exam success was arbitrary and capricious. Therefore, CCE failed to employ fair procedures in rendering its decision to place NUHS on Probation. Accordingly, and in the alternative to relief requested if the Council does not accept the Ground for Appeal set forth in Section III(A), *supra*, the Appeal Panel should (1) reverse the Council's decision to impose a sanction of Probation and (2) remand the issue of determination of NUHS's compliance with CCE's accreditation

requirements only after the Council applies Policy 56 in a manner that gives due consideration to Illinois' pre-July 1, 2016 NBCE exam requirements for licensure and NUHS's actual success rates given Illinois' pre-July 1, 2016 NBCE exam requirements for licensure.

E. The Council's Action to Place NUHS on Probation Should be Reversed because the Sanction has the Effect of Substantially and Materially Hindering NUHS's Ability to Correct the Areas of Concern within the Permissible Timeframes Set Forth in Standards § 1(V).

NUHS's reaffirmed accredited status means that NUHS is "deemed by the Council to comply with the eligibility requirements and requirements for accreditation." Ex. 5: CCE Standards § 1(I). "An enduring purpose of CCE accreditation is to encourage ongoing improvement." *Id.* § 1(II)(C)(2). CCE informed NUHS that the Council initiated concerns regarding Standards § 2.A and § 2.H and Policy 56. Ex. 3: CCE Letter, Feb. 2, 2018 p.3. It directed NUHS to submit a Progress Report by August 1, 2018 "addressing the areas of concern noted in this letter and providing evidence that the DCP is in compliance with the respective standards/policies." *Id.* The Council further imposed a sanction of Probation, which requires public disclosure pursuant to Policy 111. Ex. 1: CCE Policies, Policy 111(2). By imposing a sanction of Probation, the Council is substantially and materially hindering NUHS's ability to correct the areas of concern within the permissible timeframes set forth in Standards § 1(V) because Probation has the effect of diverting and reducing NUHS resources and revenue.

For the reasons set forth in Sections III(A)-(D), *above*, the Council's determination of noncompliance and imposition of the sanction of Probation violated NUHS's due process rights, failed to follow CCE's policies and procedures, and was arbitrary and capricious. The sanction of Probation at this stage, as opposed to a Warning, punishes and hinders NUHS from continuing to implement the improvements to its DCP and demonstrate continued compliance with CCE's accreditation requirements. The Council's sanction of Probation contradicts the Site Team's

recommendations that NUHS continue to implement the changes and improvements that the Site Team reviewed, its recognition that NUHS's implementation of these processes and assessment tools was adequate and that NUHS didn't need to start over with new or different processes and assessment tools. A Warning, if any sanction, would be appropriate because it embraces the Site Team's concerns and recommendations to continue on the same path.

NUHS's goal is professional integration. As such, the University's structure requires planning and assessment that differ from other DCPs. NUHS's Assessment Record Overview ("ARO"), for example, was developed shortly before NUHS submitted its Self Study Report, but reflects NUHS's commitment and prioritization of data capture and assessment. As stated in its Response to the Final Site Team Report, NUHS is scheduled to complete its review of the ARO before September 15, 2018. **Ex. 9:** NUHS Response p.5. NUHS has also introduced a Streams process. Streams is a robust curriculum analysis that takes several years to fully assess, but which provides enhanced opportunities for identifying specific needs and enhancing program quality. Indeed, the Site Team recognized the positive work NUHS was doing and "recommends that the DCP continue its maturation process in capturing assessment data that can formulate program priorities which feed into the budgeting and long-range planning of the University." **Ex. 2:** Final Site Team Report p.4.

NUHS began implementing the Mini-CEX tool to assess student meta-competencies during the Fall 2017 trimester. NUHS's transition from RIME to Mini-CEX improves the quality of NUHS's data collection, enhances documentation of assessments, and better ensures the integrity between the overall curriculum and the clinical experience. **Ex. 9:** NUHS Response p.21. As explained in its Response to the Final Site Team Report, NUHS completed its pilot of the Mini-CEX tool in December 2017 and began its inter-rater reliability study in early 2018. *Id.*

As of the date of the submission of its Grounds for Appeal, NUHS's students will have completed the Spring 2018 trimester. An August 17, 2018 commencement is scheduled for the first graduates whose last 3 trimesters of DCP study were assessed with the Mini-CEX tool. Shortly before that date, NUHS will have its first full set of data to analyze. With each subsequent trimester, NUHS will continue to collect and analyze data and improve on the application and assessment capabilities of Mini-CEX to ensure all students meet the meta-competencies prior to graduation. The Site Team "recommends that the DCP continue to implement the new clinic assessment process to ensure that all its graduate [sic] demonstrate all the meta-competency outcomes," thereby encouraging continued use of the Mini-CEX tool. Ex. 2: Final Site Team Report p.18.

Illinois changed its licensure requirements to include Part IV of the NBCE exam, effective July 1, 2016. 68 Ill. Admin. Code § 1285.60(b)(1) NUHS reported an 87% pass rate for the NBCE exam for 2016. The Site Team conceded, "The historical data for parts I, II, III has an overall 94% pass rate, so it is anticipated that the DCP will achieve an overall pass rate above the 80% benchmark within 1-2 years." Ex. 2: Final Site Team Report p.21. Notwithstanding the fact that NUHS's pass rate taking into consideration Illinois' pre-July 1, 2016 licensure requirements is 87%, as more fully set forth in Section III(C), *supra*, NUHS fully expects that its pass rate will continue to be higher than CCE's 80% threshold. Similarly, the Site Team recognized that the benchmark would be met "as more students in the DCP take part IV over the next 1-2 years." Ex. 2: Final Site Team Report p.22.

If the Appeal Panel affirms the Council's decision to impose a sanction of Probation, NUHS will be irreparably harmed. CCE's "life or death power" over DCPs must comply with its due process requirements because adverse actions such as Probation and withdrawal of

accreditation may force a DCP out of business or reduce the value of the degrees it confers and has conferred on students. *Prof'l Massage*, 781 F.3d at 170. Because CCE is required to publish final decisions of Probation, other DCPs will immediately use the information to recruit current and prospective students away from NUHS. Lower enrollment will reduce NUHS's revenue such that it will have fewer resources to continue to implement the improvements to its data capturing and analysis, thereby making it less possible that NUHS is able to demonstrate continued compliance.

Further, imposing a sanction of Probation would irreparably harm NUHS's reputation. The sanction of Probation at a minimum suggests to third-parties that NUHS provides a poor education. Such a statement is not warranted or supported in light of CCE's decision to reaffirm accreditation and the errors in the decision-making set forth in Section III(A)-(D), *supra*. Accordingly, the Appeal Panel should reverse the Council's imposition of the sanction of Probation. At most, the Council can support imposing a sanction of Warning.

IV. CONCLUSION

National University of Health Sciences requests that this Appeal Panel reverse the imposition of the sanction of Probation. In the alternative, NUHS requests that this Appeal Panel (1) reverse the imposition of sanction of Probation and (2) remand the following issues with instruction for determination by the Council prior to determining compliance with CCE accreditation requirements:

- (a) remand the issue of noncompliance to the Council with instruction to afford NUHS sufficient time and opportunity to provide a written response to the Council's letter dated February 2, 2018 prior to and for consideration by the Council in determining whether the imposition of an adverse action is warranted;

- (b) remand the issue of NUHS's compliance with Policy 56 to the Council to, after complying with 34 C.F.R. § 602.25(d), apply Policy 56 in a manner that gives due consideration to Illinois' pre-July 1, 2016 NBCE exam requirements for licensure and NUHS's actual success rates given Illinois' pre-July 1, 2016 NBCE exam requirements for licensure; and
- (c) remand the issue of determination of NUHS's compliance with CCE's accreditation requirements only after the Council complies with 34 C.F.R. § 602.25(d) and applies Policy 56 in a manner that gives due consideration to Illinois' pre-July 1, 2016 NBCE exam requirements for licensure and NUHS's actual success rates given Illinois' pre-July 1, 2016 NBCE exam requirements for licensure.

April 30, 2018

Respectfully submitted,

NATIONAL UNIVERSITY OF HEALTH SCIENCES

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V. APPENDIX A: LIST OF EXHIBITS

- Exhibit 1:** Manual of Policies of The Council on Chiropractic Education, Inc., July 2017
("CCE Policies")
Policies 8, 22, 56, and 111
- Exhibit 2:** Final Site Team Report
- Exhibit 3:** CCE Letter, Feb. 2, 2018
- Exhibit 4:** Bylaws
Article VI
- Exhibit 5:** CCE Accreditation Standards: Principles, Processes & Requirements for
Accreditation, Jan. 2013 ("CCE Standards")
- Exhibit 6:** Accreditation Manual: Designed for Programs/Institutions, July 2016
("Accreditation Manual")
- Exhibit 7:** Academy of Site Team Visitors Manual: Guide for Site Team Chairs, Team
Members & Observers, July 2016 ("Site Team Manual")
- Exhibit 8:** CCE Letter, Nov. 8, 2017
- Exhibit 9:** NUHS Response Report of the Comprehensive Site Visit ("NUHS Response")
- Exhibit 10:** Policy 56 Taskforce Jan. 2013 ("2013 Taskforce")
- Exhibit 11:** NUHS Letter, Sep. 16, 2015
- Exhibit 12:** NUHS Self Study Report
Pages 52, 2084, 2289-90

EXHIBIT 9



GROUNDS FOR APPEAL
FROM THE
COUNCIL ON CHIROPRACTIC EDUCATION'S
FEBRUARY 2, 2018 ADVERSE ACTION

May 11, 2018 Appeal Hearing

NUHS's Doctor of Chiropractic Degree Program

- Accredited by the CCE since 1971 (predecessor 1966)
- Comprehensive curriculum to train DC candidates to think, diagnose and treat patients just as a physician
- Board Passage Success Rate of 87.5% from 2013-2016 (weighted average)
- Illinois & Florida Campus, educating 679 students
- In 2014 and 2015, NUHS commences culture shift, implements material changes to strengthen its DCP and show further compliance with CCE Standards/Policies
- The Council and the Site Visit Team recognize NUHS has embraced new processes designed to assess program effectiveness and meta-competencies

Roadmap of NUHS's Grounds for Appeal

Council erred in its February 2, 2018 imposition of the sanction of Probation

1. Council did not follow its own standards, policies and procedures when it—
 - a) reaffirmed NUHS's accreditation and
 - b) found NUHS to be in significant noncompliance to a level compromising program integrity.
2. Council failed to meet due process requirements of 34 CFR § 602.25 (c) and (d).
3. Council applied Policy 56 in a discriminatory, arbitrary and unreasonable manner.
4. Council based its adverse action in part on its arbitrary and capricious decision of noncompliance with Policy 56, which is an unfair procedure.
5. Probation sanction materially hinders NUHS's corrective improvements.

CCE's Authority and Obligations as an Accrediting Agency

CCE Must:

- Comply with requirements for recognition by Dep't of Ed – 20 U.S.C. § 1099b and 34 C.F.R. Part 602
- Establish clear, written standards ensuring it is a reliable authority
- Establish standards that do not conflict with the public policy of the jurisdiction, including State licensing requirements
- Follow its standards in making accrediting decisions
- Consistently and reasonably apply and enforce standards
- Afford DCPs due process throughout CCE's accrediting process

Timeline of Events Relevant to NUHS's Appeal

- 2014-15 – NUHS Culture Shift
- May 1, 2017 – NUHS Self Study
- Sep. 25-28, 2017 – CCE Site Visit Team at Lombard, IL campus
- Oct. 10-12, 2017 – CCE Site Visit Team at Pinellas Park, FL campus
- Nov. 8, 2017 – CCE Final Site Team Report
- Dec. 6, 2017 – NUHS Response to Final Site Team Report
- Jan. 13, 2018 – CCE Council Status Review Meeting
- Feb. 2, 2018 – CCE Notice to NUHS re Reaffirmation of Accreditation and Probation
- Feb. 23, 2018 – NUHS's Notice of Appeal

Appeal Ground #1
Reaffirmation of Accreditation = NUHS COMPLIANCE

Reaffirmation of Accreditation = NUHS COMPLIANCE

Reaffirmation of Accreditation

Accreditation “ensure[s] that the courses or programs of instruction, training, or study offered by the institution of higher education...are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered.”

- 20 U.S.C. § 1099b(a)(4)A)

“CCE accreditation is granted to DCPs deemed by the Council to comply with the eligibility requirements and requirements for accreditation.”

- CCE Standards §1(I)

“Following the status review meeting, the Council conducted deliberations and reached a consensus decision to reaffirm the accreditation of the NUHS doctor of chiropractic degree program.”

- CCE Letter Feb. 2, 2018 at 1

Vs.

Probation

“Probation is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements.”

- CCE Standards § 1(V)(B)

“The Council has concluded that the DCP is in significant noncompliance with accreditation standards or policy requirements and determined the noncompliance compromises program integrity.”

- CCE Letter Feb. 2, 2018 at 3

CCE'S STANDARDS PROVIDED THE COUNCIL WITH A MECHANISM TO REACH A RATIONAL RESULT

“In cases where additional information is needed in order to make a[n accreditation] decision . . .the Council may choose to defer a final decision regarding accreditation status.”

- CCE Standards §1(IV).

CCE Standards also provide for measures to monitor DCPs after a reaffirmation decision, but before the 8 year accreditation cycle is concluded, for example annual and bi-annual reporting and interim or focused site visits.

- CCE Standards § 1(II)(D)

TAKEAWAY:

On February 2, 2018, CCE affirms to the public that NUHS is fully compliant with CCE standards for the 8-year reaffirmation cycle.

At the same time, CCE informs NUHS that it is in significant noncompliance.



CCE's contradictory decisions on compliance with accreditation requirements are arbitrary and capricious

Appeal Ground #2
No Notice and Opportunity to Respond where
Deficiency is “Significant Noncompliance”

Accrediting Agency's Due Process Requirements

<p>(a)</p> <p>Adequate written specification of requirements</p>	<p>(b)</p> <p>Reasonable time period to comply with requests for information</p>	<p>(c)</p> <p>Written specification of deficiencies</p>
<p>(d)</p> <p>Sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency... <i>before any adverse action is taken</i></p>	<p>(e)</p> <p>Notice adverse action</p>	<p>(f)</p> <p>Opportunity to appeal</p>

CCE's Failure to Follow Due Process Procedures

34 C.F.R. § 602.25(c) – (f)	If Adverse Action was Probation	If Adverse Action was No Sanction / Warning
(c) Written notice of deficiencies	None	Nov. 8, 2017 Final Site Team Report – “concerns”
(d) Sufficient opportunity for DCP to respond <u>before</u> adverse action	None	Dec. 6, 2017 NUHS response to “concerns”
(e) Written notice of decision and basis of adverse action	Feb. 2, 2018 Notice of probation based on “significant noncompliance” that “compromises program integrity”	N/A
(f) Opportunity for written appeal	Apr. 30, 2018 NUHS's Grounds for Appeal of Adverse Action of Probation	

NUHS's Response to Sites Team Report Does Not Constitute Opportunity to Respond

Site Team has no authority to make determinations of compliance and its report cannot state whether the DCP is in compliance.

“The site visit team report *must not*: ...

- 3) Indicate compliance or non-compliance with the requirements for accreditation of the CCE Standards
- 4) Contain any team judgments about, [sic] possible Council actions.”
 - Site Team Manual §VI (Nature of Report)

“The site team does not stipulate whether or not the program is meeting the requirements of the *Standards* as **this is the prerogative of the Council.**”

- Accreditation Manual § VII(A)

TAKEAWAY:

NUHS had a due process right to respond to CCE's notice of sanction of probation before CCE imposed the adverse action.

The Site Team's concerns and the Council's adverse action finding noncompliance were impermissibly married together.



CCE's imposition of Probation violated NUHS's due process rights.

Appeal Ground #3
Policy 56 Conflicts with Illinois Public Policy, Violates
Policy 22, and is Discriminatory

Policy 56

Policy 56 states, in relevant part:

Each program shall post annual and an overall weighted average of the four (4) most recent years' NBCE Parts I, II, III, and IV Exam success rates. The DCP's may use the Canadian Chiropractic Examining Board (CCEB) Part C exam data in lieu of NBCE Part IV data. Annual NBCE success rates must be posted by July 1 each year using the format described below.

The DCP shall annually post:

1. The total unduplicated number of graduates of the program who attempted any or all parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation;
2. The total unduplicated number of graduates of the program who successfully passed all parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation; and
3. The percentage of these graduates who successfully passed all parts (Parts I, II, III and IV*) of the NBCE exams within six (6) months post-graduation.

* or CCEB Part C data in lieu of NBCE IV data

CCE's Required Policy 56 Publication Format

SAMPLE DATA/NBCE Licensing Exam Success Rates

Calendar Year (Last 4 Years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post- graduation	Number of Graduates Passing All Parts (I, II, III IV*) of NBCE Exams within six (6) months post- graduation	Percentage of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post- graduation
2011	321	268	83%
2012	344	306	89%
2013	299	259	87%
2014	315	287	91%
Totals	1279	1120	88%

NUHS's Unique Position in Reporting NBCE Exam Outcomes as an Indicator of Student Licensure Rates

- Before July 1, 2016, Illinois was the only state that did not require a student to take Part IV of the NBCE Exam in order to obtain licensure.
- As a majority of NUHS students plan on practicing in Illinois, they had little or no reason, obligation or incentive to take Part IV.
- In fact, students had disincentives to take Part IV—financial cost and opportunity costs.

CCE's Application of Policy 56 to NUHS

- Site Team reviewed NUHS's records for NBCE exam success rates on all four Parts of the exam for the years 2013
- But the Site Team (and Policy 56 as written) counted those students who did not take Part IV as not passing or failing

Calendar Year (Last 4 Years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post- graduation	Number of Graduates Passing All Parts (I, II, III IV*) of NBCE Exams within six (6) months post- graduation	Percentage of Graduates Passing All Parts (I, II, III, IV*) of NBCE Exams within six (6) months post- graduation
2012	116	76	66%
2013	137	98	72%
2014	108	80	74%
2015	100	71	71%
Total	461	325	70% Weighted Average

NUHS's Actual NBCE Exam Parts I-III Success Rates

NBCE Exam Parts I - III ONLY			
Calendar Year (Last 4 Years)	Number of Graduates Attempting Any or All Parts (I, II, III) of NBCE Exams within six (6) months post- graduation	Number of Graduates Passing All Parts (I, II, III) of NBCE Exams within six (6) months post- graduation	Percentage of Graduates Passing All Parts (I, II, III) of NBCE Exams within six (6) months post- graduation
2012	116	111	96%
2013	137	134	98%
2014	108	108	100%
2015	100	82	82%
TOTAL	461	435	94% Weighted Average

NUHS's Actual NBCE Exam Parts I-IV Success Rates

NBCE Exam Parts I - IV			
Calendar Year (Last 4 Years)	Number of Graduates Attempting Any or All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation	Number of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation or licensed	Percentage of Graduates Passing All Parts (I, II, III, IV) of NBCE Exams within six (6) months post- graduation or licensed
2012	116	100	86%
2013	137	123	90%
2014	108	101	94%
2015	100	79	79%
TOTAL	461	403	87% Weighted Average

NUHS's Actual 2013-2016 NBCE Exam Part IV Success Rates

<u># of Examinees</u>	<u># of Examinees that passed Part IV</u>	<u>Pass Rate</u>
408	353	87%

CCE Policy 56 Conflicts with Illinois Pre-July 1, 2016 Public Policy

- Illinois legislature only required NBCE Exam Parts I, II, and III.
 - 68 Ill. Admin. Code 1285.60(b) (1)
- CCE must give consideration to different institutions' needs with appropriate consideration of State licensing examinations.
 - 34 C.F.R. §602.16(a)(1)(i)
- Accreditation "standards must be reasonable, applied with an even hand, and not in conflict with the public policy of the jurisdiction."
 - *Marjorie Webster Jr. Coll., Inc. v. Middle States Ass'n of Colls. & Secondary Schs., Inc.*

CCE Policy 56 Requires NUHS Report Distorted, Unreliable, Misleading NBCE Success Rates

- CCE requires NUHS to violate its own rule—DCPs cannot report “incorrect, misleading or misrepresentation of public statements about its success of graduates.”
- CCE Policies, Policy 22
- Falsely low success rates must be reported—counting a non-taker of NBCE Exam Part IV as a failing-taker of the exam
- Policy 56-formatted data for NUHS distorts data and reduces transparency to the public and Dep’t of Educ.

CCE Does Not Apply Policy 56 Fairly, with An Even Hand

- CCE modified Policy 56 for Canadian Chiropractic Examining Board—removing Part IV from its NBCE success rate calculation
- CCE made the modification for Canadian schools while making no similar modification for NUHS
- CCE unreasonably punishes NUHS and its graduates while graduates seeking Canadian licensure can satisfy Policy 56 requirements with special treatment

TAKEAWAY:

Policy 56 is in Conflict with Illinois Public Policy of Licensure Requirements.

Policy 56 Figures for NUHS Distort Data and Reduce Transparency to Public.

CCE's Modification of Policy 56 for Canadian Purposes But Not NUHS Is Discriminatory.



CCE's determination that NUHS was noncompliant with Policy 56 was arbitrary and capricious, conflicts with Illinois public policy, requires NUHS to report misleading outcomes, and is discriminatory.

Appeal Ground #4
Council's Accreditation Decision Based on Policy 56 is
Arbitrary and Capricious

CCE's Placement of NUHS on Probation Violates Due Process

- Common law due process requires CCE employ fair procedures when making accreditation decisions.
 - *McKeesport Hosp. v. Accredited Council for Grad. Med. Educ*; *Prof. Massage v. Accreditation Alliance of Career Sch. & Colls.*; *Cooley Law v. Am. Bar Ass'n*; *Med. Inst. of Minn. v. Nat'l Ass'n of Trade & Technical Schs.*
- Basing a decision to impose sanctions on an unreasonable, unreliable, discriminatory policy is not a fair procedure.
- CCE's February 2, 2018 letter indicates that the Council based the sanction of Probation on its decision NUHS was noncompliant with Standards 2.A and 2.H and Policy 56.

TAKEAWAY:

CCE decided to impose Probation based on Standards 2.A and 2.H and Policy 56

CCE's application and determination of noncompliance with Policy 56 is arbitrary and capricious



CCE failed to employ fair procedures by making an accreditation decision
based on an arbitrary and capricious conclusion

Appeal Ground #5
Probation Irreparably Harms NUHS and the Purpose of
Ongoing Improvement in Accreditation

Goal of Accreditation

“An enduring purpose of CCE accreditation is to encourage ongoing improvement.”
- CCE Standards § 1(l)

NUHS's Improvement Efforts Underway

- NUHS implemented the Assessment Record Overview, which reflects the DCP programmatic plan

Evaluation of this data capture will be ripe before September 15, 2018

- NUHS introduced a Streams process—a robust curriculum analysis system.

Site Team “recommends that the DCP continue its maturation process in capturing assessment data that can formulate program priorities which feed into the budgeting and long-range planning of the University.”

- NUHS implemented Mini-CEX tool to assess student meta-competencies

By August 2018 graduation commencement, NUHS will have its first full set of Mini-CEX data to analyze

Site Team “recommends that the DCP continue to implement the new clinic assessment process [Mini-CEX] to ensure all its graduate [sic] demonstrate all the meta-competency outcomes.”

Site Team Concedes

- NUHS has a historical pass rate of 94% for Parts I, II, III of NCBE “so it is anticipated the DCP will achieve an overall pass rate above the 80% benchmark within 1-2 years.
 - This is true even as Policy 56 is still applied to count non-takers of Part IV as failing
- It is also true that 87% of graduates (who attempted all Parts I, II, III, and IV) passed or licensed—during the 4 year period.

Irreparable Harm

The harm that will result from an affirmation of an illegitimate decision arising from a violation of due process cannot be undone.

- NUHS will lose prospective/current students to other DCPs
- Lower enrollment will reduce NUHS's revenue and, in turn, decrease resources available to continue to implement the improvements to its data capturing and analysis
- Value of graduates' degrees will be adversely impacted
- Current students will be financially harmed
- NUHS's reputation will be adversely effected by suggesting to third parties NUHS provides a poor education—when CCE reaffirmed accreditation and graduation success rates are high

TAKEAWAY:

By imposing a sanction of Probation, the Council is

- (a) Substantially and materially hindering NUHS's ability to correct areas of concern within the permissible timeframes set forth in Standards § 1(V) and
- (a) Imposing the unnecessary punitive effect of diverting and reducing NUHS's resources and revenue

Relief

The Council determined that NUHS is in full compliance with CCE's accreditation standards by reaffirming accreditation.

The Appeal Panel must reverse the Council's inconsistent decision that NUHS was at the same time noncompliant.

EXHIBIT 10

CCE APPEALS HEARING

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NATIONAL UNIVERSITY OF :

HEALTH SCIENCES, :

Appellant, :

v. :

COUNCIL ON CHIROPRACTIC :

EDUCATION, :

Respondent. :

-----x

Hearing before Dr. Michael T. Hoefer

Arlington, Virginia

Friday, May 11th, 2018

1:00 p.m.

Job No. 189845

Pages: 1-96

Transcribed by: Megan Wunsch

Transcript of Hearing
Conducted on May 11, 2018

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1 Hearing held at the offices of:

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4 Crystal Gateway Marriott
5 1700 Jefferson Davis Hwy
6 Arlington, Virginia 22202
7
8
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10 Pursuant to agreement, before Anthony Vorndran,
11 Notary Public in and for the State of Virginia.
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Transcript of Hearing
Conducted on May 11, 2018

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A P P E A R A N C E S

APPEALS PANEL:

Dr. Michael T. Hoefer, Chair

Dr. Kathleen M. Galligan, Member

Dr. Robert Irwin, Member

NUHS REPRESENTATIVES:

Dr. Joseph Stiefel, President

Dr. Nick Chancellor, Dean for Institutional
Effectiveness

Dr. Randy Swenson, Vice President for Academic
Services

Dr. Ron Mensching, Vice President for Business
Services

Dr. Christopher Arick, Assistant Dean and Chief
Academic Officer, Chiropractic Medicine

Ms. Julia K. Whitelock, Gordon & Rees, Scully
Mansukhani, Attorneys at Law, counsel for
NUHS

Mr. James B. Hiller, Gordon & Rees, Scully
Mansukhani, Attorneys at Law, counsel for
NUHS

APPEARANCES CONTINUED ON FOLLOWING PAGE

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A P P E A R A N C E S C O N T I N U E D

CCE REPRESENTATIVES:

Dr. Gary D. Schultz, Council Chair

Dr. Craig S. Little, President

Mr. S. Ray Bennett, Vice President for

Accreditation & Operations

Ms. Elise Scanlon, Elise Scanlon Law Group,
counsel for CCE

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E X H I B I T I N D E X

(Attached to transcript)

HEARING EXHIBIT

PAGE

Exhibit 13

Grounds for Appeal from the CCE 2/2/18

Adverse Action

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1 process for a sanction of probation. In this
2 instance, the Council concluded in a written decision
3 that the deficiencies identified through- --
4 throughout the accreditation process was in
5 significant noncompliance with several standards.

6 As noted in CCE Standards Section 1(IV)(E),
7 "Accreditation is a privilege, not a right. And any
8 action may be applied in any order, at any time, if
9 the Council determines that DCP conditions warrant
10 them."

11 Revocation of accreditation was available to
12 the Council at the time of the decision. However, the
13 Council did not revoke NUHS's accreditation status.
14 Instead, through probation, the Council provided the
15 opportunity for NUHS to preserve accreditation and
16 come into compliance with the CCE standards, through
17 the process of monitoring and reporting.

18 The record of the NUHS self-study, the CCE
19 site team report, and the two NUHS responses thereto
20 provide evidence of the deficiencies that warranted
21 the Council's action to determine noncompliance with
22 accreditation standards and to continue NUHS's

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1 accreditation with the sanction of probation, as the
2 noncompliance was significant, it impacted the
3 education program at NUHS, and it provided a
4 foundation for reasonable doubt as to whether
5 compliance would be achieved within the permissible
6 timeframe.

7 The Council's action relative to NUHS is
8 consistent with other actions it's taken, either
9 during the reaffirmation process or as a result of
10 other reporting reviews when noncompliance was
11 determined. As we will distinguish later, warning was
12 not appropriate in this circumstance as the Council
13 determined there was evidence of significant
14 noncompliance with Standards 2-A, 2-H, and Policy 56.

15 In Item B of Section 3, the program asserts
16 that the Council's action to place NUHS on probation
17 violates their due process rights as set forth in 34
18 CFR 602.25. As you may have noticed in the grounds
19 for appeal document, the programs included many
20 references to USDE Criteria for Recognition 602.25,
21 Due Process. CCE believes it's complied fully with
22 602.25 and has been faithful to the Council's own

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1 standards and procedures in applying them to NUHS.

2 First, USDE has conducted numerous recognition
3 reviews with CCE regarding this criteria since first
4 being recognized in 1974, most recently in 2013 and
5 2016. In those reviews, CCE is required to provide
6 evidence in the form of standards, policies, Council
7 documents, procedures and processes.

8 As mentioned above, CCE received its most
9 recent USDE recognition status in 2013 and '16 by
10 providing evidence of compliance with all 18 sections
11 and 214 subsections of the Criteria for Recognition.
12 In both instances, USDE staff and the National
13 Advisory Committee on Institutional Quality and
14 Integrity recommended renewal of the recognition to
15 the U.S. Secretary of Education, which in turn
16 concurred with the recommendations to continue CCE's
17 recognition as a nationally recognized agency.

18 It's important to note that the U.S. Secretary
19 of Education did so without any concerns or further
20 reporting requirements regarding the 18 subsections of
21 602.25 for due process. The observation process that
22 USDE followed in coming to a conclusion that CCE is

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1 compliant with 602.25 included a review of CCE's
2 standards and policies, a review of Council files with
3 self-studies, site team reports, program responses,
4 accreditation decisions, and reports to programs.

5 Furthermore, during the 2016 recognition
6 review, USDE staff attended a Council accreditation
7 meeting where the Council reaffirmed accreditation of
8 an individual program with the sanction of probation,
9 the very same decision applied to NUHS in this
10 instance. CCE has made no changes with the process
11 and procedures the Department of Education determined
12 to be compliant with 602.25 during CCE's recognition
13 reviews.

14 The Secretary of Education has the authority
15 to determine compliance with the Criteria of
16 Recognition. However, the evidence on the record
17 before you demonstrates the application of CCE's
18 standards, process, and procedures in this instance
19 complied with 602.25.

20 In accordance with 602.25(a), CCE has clear
21 standards, policies and procedures that are published,
22 are part of a self-study, they were cited in the site

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1 visit report to explain deficiencies in NUHS
2 compliance with the standards.

3 In accordance with 602.25(b), CCE provided the
4 program not one but two opportunities to respond to
5 the site visit report and provide evidence that the
6 deficiencies had been corrected: once in the written
7 response to the site team report and second during the
8 status review meeting that included a 60-minute face-
9 to-face discussion with Dr. Stiefel, Chancellor,
10 Swenson, Arick, and Mr. Mensching, along with 15
11 members of the CCE Council.

12 The written response and the in-person meeting
13 occurred before the Council's decision to continue
14 accreditation with probation became effective. It's
15 important to note that CCE's extra step of organizing
16 a face-to-face meeting between the Council and the
17 program is unusual for accrediting organizations and
18 demonstrates CCE's commitment to due process.

19 With respect -- respect to 602.25(c) and (d),
20 which require a written specification of the
21 deficiencies and a reasonable opportunity to respond,
22 NUHS received a detailed site visit report

Transcript of Hearing
Conducted on May 11, 2018

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1 specifically referencing the substantial standards
2 with which the team found NUHS deficient. NUHS
3 asserts that the site visit report alone is not
4 sufficient notice of the deficiencies since it's not a
5 report that was generated by the Council itself.

6 Accreditation depends upon the expertise of
7 peer reviewers, and the secretary's recognition
8 criteria acknowledged this fact. The criteria
9 required recognized accrediting agencies to include
10 peer reviewers on site visiting teams and within the
11 comp- -- composition of the Council and committees.
12 Accrediting organizations appropriately depend upon
13 the review and analysis of peer reviewers in
14 evaluating deficiencies as CCE did in this case.

15 The Council weighs the report and the
16 program's response in making compliance decisions.
17 The detailed analysis of the site visit report meets
18 the expectation for particularized notice inherent in
19 the recognition criteria.

20 As noted earlier, the second opportunity the
21 program had to address the Council, on the very same
22 deficiencies, shows how CCE provides extraordinary due

Transcript of Hearing
Conducted on May 11, 2018

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1 process even where, as in the case with NUHS,
2 accreditation has not been revoked.

3 CCE has met 602.25(e) by providing the program
4 with the decision to reaffirm the probation in a
5 letter explaining in detail the reasons for CCE's
6 decision and its findings of noncompliance with the
7 CCE standard in the February 2, 2018, Council letter
8 to the program.

9 CCE has met 602.25(f) by presenting NUHS with
10 the opportunity to appeal the Council's decision to
11 place the program on probation before the decision
12 became final, even though probation is an
13 accreditation status and not an adverse action under
14 CCE policies.

15 Regarding Item C of Section 3, the program
16 asserts the Council's decision that NUHS is out of
17 compliance with the CCE Policy 56 is arbitrary and
18 capricious. The program separates Item 3 into three
19 distinct areas, so we'll cover each area separately in
20 our statement.

21 First item: CCE Policy 56 is unreasonable and
22 conflicts with Illinois pre-July 1, 2016, public

EXHIBIT 11

May 21, 2018

Joseph Stiefel, Ed.D., D.C., President
National University of Health Sciences
200 East Roosevelt Rd.
Lombard, IL 60148

RE: Appeals Panel Report and Public Notice Disclosure - Probation

Dear Dr. Stiefel:

In accordance with CCE Policy 8, Post Hearing Procedures, Item e, the attached Appeals Panel Report is sent for your information as submitted by Dr. Michael Hoefer, Chair, NUHS Appeals Panel.

Also, as stated in CCE Policy 8, Final Action and Notification, if the Appeals Panel affirms the action of the Council, the decision of the Council becomes final and effective on the date of the Appeals Panel decision.

Therefore, in accordance with CCE Policy 111, *Notification of CCE Accrediting Decisions*, CCE will provide written notice to the public and a brief summary of the reasons for the Council's final decision to place the Doctor of Chiropractic Degree Program at National University of Health Sciences (NUHS) on probation. Along with the notice, CCE must provide NUHS with an opportunity to provide official comment that the affected DCP may wish to make with regard to that decision. The public notice disclosure is attached for your information.

At this time, NUHS may either provide official comment to be included in the public notice disclosure or make a determination NOT to provide comment by **Wednesday, May 23, 2018**. If NUHS does not notify CCE of its decision to provide comment by the deadline date, the public notice disclosure will be sent to the appropriate agencies in accordance with CCE Policy 111 and posted to the CCE website. NOTE: Email notification is appropriate, to: bennett@cce-usa.org.

If you have questions regarding the above, please feel free to contact me or Mr. S. Ray Bennett, Vice President for Accreditation & Operations, through the CCE Administrative Office.

Sincerely,



Craig S. Little, D.C., M.Ed.
President

Enclosure: NUHS Appeals Panel Report – May 21, 2018
Public Notice Disclosure - Probation

cc: Gary D. Schultz, D.C., Council Chair
CCE Administrative Office

EXHIBIT 12

Appeals Panel Report
to
The Council on Chiropractic Education (CCE)
and
National University of Health Sciences (NUHS)

Submitted by

Dr. Michael Hoefer, Chair
Dr. Kathleen Galligan
Dr. Robert Irwin

Appeal Hearing Date
May 11, 2018

Report Date
May 21, 2018

Appeals Panel Report, May 2018

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Appeals Panel Report, May 2018

A. Introduction

On May 11, 2018 an Appeals Panel was convened to consider the appeal by National University of Health Sciences (NUHS) of a decision by the Council on Chiropractic Education (CCE) to place NUHS on probation for failure to demonstrate compliance with CCE Standards, Section 2.A regarding Planning and Assessment; CCE Standards, Section 2.H regarding Assessment of Meta-Competencies; and, CCE Policy 56 regarding NBCE Performance Disclosure, Thresholds and Outcomes. The appellate proceeding was conducted pursuant to the procedures outlined in CCE Policy 8, *Appeals of Decision by the Council*.

The following individuals were designated to serve on the Appeals Panel: Dr. Michael Hoefer, Chair; Dr. Kathleen Galligan and Dr. Robert Irwin.

Appearing on behalf of NUHS was Dr. Joseph Stiefel, President; Dr. Nick Chancellor, Dean for Institutional Effectiveness; Dr. Randy Swenson, Vice President for Academic Services; Mr. Ron Mensching, Vice President for Business Services; Dr. Christopher Arick, Assistant Dean and Chief Academic Officer, Chiropractic Medicine; Ms. Julia K. Whitelock, counsel and Mr. James B. Hiller, counsel.

Appearing on behalf of the CCE were Dr. Gary Schultz, Council Chair; Dr. Craig Little, President; Mr. S. Ray Bennett, Vice President for Accreditation & Operations and Ms. Elise Scanlon, counsel.

Prior to the hearing, the panel reviewed the complete record of proceedings forwarded to the panel from the CCE Administrative Office on March 30, 2018 and the grounds for appeal documentation submitted by NUHS and forwarded to the panel on April 30, 2018. The panel also had the opportunity to review and reference various CCE publications prior to the meeting, to include; the CCE Standards, CCE Policy 56 and the CCE Accreditation Manual.

The appeal hearing was conducted at the Crystal Gateway Marriott, Jefferson Meeting Room, 1700 Jefferson Davis Highway, Arlington, VA, and began its proceedings at 1:00 pm and concluded at 2:44 pm.

NOTE: A complete listing of all documentation reviewed by the appeals panel is located in Appendix 1.

Appeals Panel Report, May 2018

B. Background Information

The appeals panel was selected by The Council on Chiropractic Education Executive Committee and officially seated through a letter dated March 28, 2018 from Dr. Craig Little President of the CCE. The panel received at that time the CCE Policy 8, *Appeals of Decisions of the Council*, and National University of Health Sciences (NUHS) Notice of Intent to Appeal, dated February 23, 2018. Each panel member completed and signed an Appeal/Review Panel Confidentiality Agreement. The record of accreditation proceedings was provided to the panel by CCE for review. The panel held its first conference call on April 17 to discuss logistics for the hearing, review of CCE Policy 8, and to schedule a follow-up call in early May once the panel received and had time to review the grounds for appeal from NUHS. CCE received the Grounds for Appeal from NUHS on April 30, 2018 and forwarded the materials to the panel that same day. The panel held a second conference call on May 9th before traveling to Washington D.C.

The appeal panel reviewed the NUHS grounds for appeal and documents provided by CCE to determine if the decision to place NUHS on probation, for failure to demonstrate compliance with standards, section 2.A & 2.H, and Policy 56, was correct. Based on CCE Policy 8, *Appeals of Decisions of the Council*, the charge to the appeals panel is to;

1. Determination whether each concern or area of noncompliance was supported by substantial evidence.
2. Determination whether those concerns or areas of noncompliance supported by substantial evidence are sufficient to support the adverse action of the Council.
3. Determination whether the procedures used to reach the adverse action were contrary to established CCE procedures, policies, or practices and whether any procedural error prejudiced the Council's consideration.

NUHS grounds for appeal centered around five arguments;

- A. The Council's action to place NUHS on probation subsequent to reaffirming NUHS's accredited status fails to comply with CCE standards and is arbitrary and capricious.
- B. The Council's action to place NUHS on probation violates NUHS's due process rights as set forth in 34 C.F.R 602.25.
- C. The Council's decision that NUHS is out of compliance with CCE Policy 56 is arbitrary and capricious because Policy 56 violates 34 C.F.R. 602.16 (a)(1)(i) and conflicts with Illinois Public

Appeals Panel Report, May 2018

Policy, is unreasonable for requiring NUHS to report misleading NBCE success rates, and is discriminatory.

- D. The Council's action to place NUHS on probation violates NUHS's due process rights because the decision arises from the Council's arbitrary and capricious decision that NUHS is out of compliance with CCE Policy 56.
- E. The Council's Action to place NUHS on probation should be reversed because the sanction has the effect of substantially and materially hindering NUHS's ability to correct the areas of concern within the permissible timeframe set forth in Standards 1(V).

The panel members, following the review of NUHS materials, made the following observations. The CCE is recognized by the Department of Education (DOE) and as such is in compliance with regulations required for recognition. The CCE followed its policy and provided NUHS written notification of noncompliance in the Final Site Team Report and provided an opportunity for response in the Response to the Final Report and also at the CCE Status Review Meeting. Institutions are obligated to understand terminology used in the accreditation process such as concern and recommendations following a concern. NUHS states that they believe that Policy 56 is biased against them and that the appeal panel should recommend the policy be changed. Review of NUHS for reaffirmation of accreditation is based on current accreditation standards and policies and review of standards and policies is outside the scope of the appeal panel action.

C. Panel Review and Findings

In accordance with CCE Policy 8, the Appeals Panel has made the following determinations (for the purpose of this report the areas described within CCE Policy 8 are listed first, followed by the detailed findings of the panel):

1) Whether each concern or area of non-compliance was supported by substantial evidence. Substantial evidence is such relevant evidence which might reasonably be accepted as supporting the concern or area of non-compliance cited.

The Appeals panel reviewed the documents supplied by the CCE which included the NUHS Self Study, the CCE Site Team Report, NUHS Response to the Site Team Report and the NUHS Grounds for Appeal, among others. The above-mentioned reports were utilized to address Post-Hearing Procedures (a) from CCE

Appeals Panel Report, May 2018

Policy 8. Also taken into consideration was the testimony provided in the hearing from both CCE and NUHS.

From Exhibit 2, Final Site Team Report (page 23):

Reference: 2013 *CCE Accreditation Standards*, Section 2.A

The site team is concerned that the DCP does not have a formal programmatic plan that ties to the University's LRP, indicating DCP program priorities and program effectiveness. The site team recommends that the DCP continue its maturation process in capturing assessment data that can formulate program priorities which feed into the budgeting and long-range planning of the University.

After review of the documents provided and the materials presented during the Appeals Hearing, the Appeals Panel has concluded that this concern is supported by substantial evidence. The DCP failed to provide evidence which demonstrates compliance with Section 2.A of the Standards. The DCP describes multiple recent changes to their assessment process, yet substantial results will not be available for a significant amount of time.

From Exhibit 2, Final Site Team Report (page 23):

Reference: 2013 *CCE Accreditation Standards*, Section 2.H

The site team is concerned that since 2012 the DCP has not been able to demonstrate that all students are able to meet all the outcomes of the meta-competencies, as outlined in the 2013 Standards, and that this inability will be ongoing for another two trimesters. The site team recommends that the DCP continues to implement the new clinic assessment process to ensure that all its graduate demonstrate all the meta-competency outcomes.

After review of the documents provided and the materials presented during the Appeals Hearing, the Appeals Panel has concluded that this concern is supported by substantial evidence. The DCP failed to provide evidence which demonstrates compliance with Section 2.H of the Standards. Furthermore, there is evidence that students have and will continue to graduate for some time without demonstrating that they have met the outcomes for each CCE meta-competency. In fact, the site team report states "The DCP acknowledged its continued inability to verify that the next two graduating cohorts will demonstrate the acquisition of all the meta-competency outcomes, and does not plan any changes in the assessment of these students. "

Appeals Panel Report, May 2018

From Exhibit 2, Final Site Team Report (page 23):

Reference: CCE Policy 56: Student Performance Disclosure, Thresholds, and Outcomes

The site team is concerned that the DCP does not meet the 80% benchmark for NBCE performance. The site team recommends that the DCP continues to monitor the benchmark as more students in the DCP take part IV over the next 1-2 years for compliance with the standard.

After review of the documents provided and the materials presented during the Appeals Hearing, the Appeals Panel has concluded that this concern is supported by substantial evidence. There was no evidence provided to demonstrate that NUHS meets Policy 56. To the contrary, evidence was provided that NUHS has known it was out of compliance with this policy since 2015. It is important to note that this policy is applied equally to all accredited DCPs.

In summary, the DCP did not provide substantial relevant evidence to demonstrate compliance with the above noted two areas of the CCE Standards and Policy 56. The evidence provided by the CCE is substantial in nature and supports the concerns noted.

2) Whether the concern or area of non-compliance that are supported by substantial evidence are sufficient to support the adverse action of the Council.

Panel Findings: The review panel analysis of the three areas of noncompliance with the CCE Standards and Policy 56 has led to the conclusion that the severity of the noncompliance is sufficient to support the determination of probation by the Council on Chiropractic Education. The findings are based on the following analysis.

The intent of issuing a Warning is to alert the DCP/Institution of the requirement to address specific Council concerns regarding its accreditation. The Council may decide to issue a Warning if the Council concludes that a DCP/Institution:

Is in noncompliance with the accreditation standards or policies and the Council determines that the deficiencies do not compromise the overall program integrity and can be corrected by the DCP/Institution within the permissible timeframe; Warning is a sanction that is not subject to appeal, and shall not exceed twelve (12) months.

Appeals Panel Report, May 2018

Probation is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements. Such a determination may be based on the Council's conclusion that:

1. The noncompliance compromises program integrity; for example, the number of areas of noncompliance, institutional finances, or other circumstances cause reasonable doubt on whether compliance can be achieved in the permissible timeframe; or
2. The noncompliance reflects recurrent noncompliance with one or more particular standard(s) and/or policy(ies); or
3. The noncompliance reflects an area for which notice to the public is required in order to serve the best interests of students and prospective students.

As stated in the CCE Accreditation Standards, "Accreditation is a privilege, not a right. Any of the above actions may be applied in any order, at any time, if the Council determines that DCP/Institutional conditions warrant them."

In summary, the combination of the three areas of noncompliance present evidence for the determination that the program is in significant noncompliance with accreditation standards or policy requirements and that this level of noncompliance compromises program integrity.

3) Whether the procedures used to reach the adverse action were contrary to established CCE procedures, policies or practices and whether the procedural error prejudiced the Council's consideration.

Panel Findings:

The appeal panel found no evidence that the procedures, policies, or practices followed during the reaffirmation process were contrary to established CCE procedures, policies, or practices. Information presented during the appeal hearing demonstrated that the procedures, policies, or practices were followed and an example of a similar circumstance was provided by CCE that reaffirmation of accreditation with a sanction of probation has been applied to an institution previously and in recognition by the Department of Education. In addition, review of CCE by the Department of Education in 2013 and 2016 demonstrates that CCE is in compliance with the requirements for recognition by the DOE.

Appeals Panel Report, May 2018

4) (Decision – Affirm, Amend, Reverse or Remand the adverse actions of the Council)

The decision of the appeals panel is to **Affirm** the decision of The Council on Chiropractic Education as stated in the February 2, 2018 Council letter to NUHS. The evidence demonstrates that CCE followed its policies and procedures and NUHS did not provide evidence of compliance with cited standards and policies.

Appendix I

Record of Accreditation Proceedings - CCE

- 1 February 26, 2016 Request to NUHS for Letter of Intent to Reaffirm
- 2 March 3, 2016 NUHS Intent to Reaffirm Response Letter
- 3 March 30, 2016 Response to Letter of Intent to Reaffirm - NUHS
- 4 May 1, 2017 NUHS Self-Study Report
- 5 May 25, 2017 Review of NUHS Self-Study Report Letter w/attachments
- 6 June 23, 2017 Comprehensive Site Visit Letter to NUHS w/attachments
- 7 June 28, 2017 NUHS Letter to CCE RE Request for Removal – Site Team Chair
- 8 June 30, 2017 CCE-NUHS Business Associate Agreement – Signed
- 9 June 30, 2017 Revised Team Agreement Form – NUHS
- 10 June 30, 2017 NUHS Site Team Agreement Form – Signed
- 11 October 27, 2017 NUHS Draft Site Team Report Letter
- 12 October 27, 2017 NUHS Draft Site Team Report
- 13 November 3, 2017 NUHS Corrections of Errors Letter
- 14 November 8, 2017 Email to NUHS RE Final Site Team Report – Summary of Changes
- 15 November 8, 2017 NUHS Final Site Team Report Letter
- 16 November 8, 2017 NUHS Final Site Team Report
- 17 December 6, 2017 NUHS Response to Final Site Team Report w/attachments
- 18 December 6, 2017 NUHS Invite Letter to Attend Council Meeting
- 19 December 11, 2017 Council Appearance Form - NUHS
- 20 February 2, 2018 NUHS Post Council Meeting Letter w/signed Certified Receipts

Appeals Panel Report, May 2018

Grounds for Appeal Documents - NUHS

1. National University of Health Sciences Grounds for Appeal From the Council on Chiropractic Education's February 2, 2018 Adverse Action

Supporting Documentation (Referenced in the Appeal Statement)

- Exhibit 1: Manual of Policies of The Council on Chiropractic Education, Inc., July 2017 ("CCE Policies") Policies 8, 22, 56, and 111
- Exhibit 2: Final Site Team Report
- Exhibit 3: CCE Letter, Feb. 2, 2018
- Exhibit 4: Bylaws Article VI
- Exhibit 5: CCE Accreditation Standards: Principles, Processes & Requirements for Accreditation, Jan. 2013 ("CCE Standards")
- Exhibit 6: Accreditation Manual: Designed for Programs/Institutions, July 2016 ("Accreditation Manual")
- Exhibit 7: Academy of Site Team Visitors Manual: Guide for Site Team Chairs, Team Members & Observers, July 2016 ("Site Team Manual")
- Exhibit 8: CCE Letter, Nov. 8, 2017
- Exhibit 9: NUHS Response Report of the Comprehensive Site Visit ("NUHS Response")
- Exhibit 10: Policy 56 Taskforce Jan. 2013 ("2013 Taskforce")
- Exhibit 11: NUHS Letter, Sep. 16, 2015
- Exhibit 12: NUHS Self Study Report Pages 52, 2084, 2289-90
- Exhibit 13: NUHS Presentation Document – May 11, 2018

EXHIBIT 13



8049 North 85th Way
Scottsdale AZ 85258-4321
480-443-8877 | www.cce-usa.org

PUBLIC DISCLOSURE NOTICE ON
NATIONAL UNIVERSITY OF HEALTH SCIENCES
DOCTOR OF CHIROPRACTIC DEGREE PROGRAM
Lombard, Illinois/Pinellas Park, Florida
Effective: May 21, 2018

The doctor of chiropractic degree program ("the Program") at National University of Health Sciences in Lombard, Illinois (main campus) and Pinellas Park, Florida (additional educational site) is accredited by the Council on Chiropractic Education (CCE). As of the above date, the Program has been placed on Probation. The Council took this action due to noncompliance concerns related to program effectiveness, meta-competency assessment and student performance success rates.

Recent Council Action

On February 2, 2018, the Council placed the Program on Probation. At the same time, the Council notified the Program that the decision would not become final until after 20 days following receipt of a notification letter, during which time the Program could exercise its right to appeal, since the Council's procedures define probation as an appealable decision. In accordance with CCE Policy 8, on February 23, 2018 NUHS provided a notice of intent to appeal letter to the Council and subsequently an appeal hearing was conducted on May 11, 2018. The appeals panel issued a report to the program and the Council Chair on May XX, 2018 affirming the action of the Council.

The Council determined that the Program is in significant noncompliance with the following *Standards* and *Policy* requirements:

- CCE Accreditation Standards, Section 2.A, "...The plan is structured, implemented, and reviewed in a manner that enables the DCP to assess the effectiveness of its goals and objectives, and permits the DCP to implement those changes necessary to maintain and improve program quality."
- CCE Accreditation Standards, Section 2.H, "...The didactic and clinical education components of the curriculum are structured and integrated in a manner that enables the graduate to demonstrate attainment of all required competencies..."
- CCE Policy 56, "The overall weighted average of the four (4) most recent years' NBCE Parts I, II, III, and IV Exam success rates must not be less than 80%."

Probation

Probation is an action reflecting the conclusion of the Council that a program is in significant noncompliance with accreditation standards or policy requirements. The Council may require the DCP to submit a report, host a site visit and/or make an appearance before the Council to provide evidence of compliance. Probation is a sanction, subject to appeal, and shall not exceed twenty-four (24) months. The Council will make public notice of a final decision to impose Probation by notifying the U.S. Department of Education, regional (institutional) accrediting agency, jurisdictional licensing boards, and the public that a program has been placed on Probation in accordance with CCE policy and procedures.

Public Disclosure Notice
NUHS – Doctor of Chiropractic Degree Program

May 24, 2018

During the Probation period, the Program remains accredited and has the opportunity to remedy the noncompliance concerns that led to the sanction.

Next Steps

The Program is required to submit a Progress Report no later than August 1, 2018, specifically addressing the noncompliance concerns listed above and providing evidence that the Program is in compliance with the respective standards/policies.

The Program is required to host a Focused Site Visit in the Fall of 2018 for verification/validation of the August 2018 Progress Report.

At its meeting in January 2019, the Council will review the August 2018 Progress Report, Fall 2018 Final Site Team Report and the Program response to the Final Site Team Report. The Council will then determine whether the Program has demonstrated compliance with the standards/policies identified in the action and whether Probation can be removed, or the Program has not demonstrated compliance and other action may be appropriate.

Comment from the Program

Enter comments...(optional)

Contact Information

You may contact the Council on Chiropractic Education (CCE) by email at cce@cce-usa.org or by phone at 480-443-8877, if you have any questions regarding this notice.

Distribution:

CCE Councilors
State/Jurisdictional Licensing Boards
Higher Learning Commission
National, Regional & Specialized Accrediting Agencies
U. S. Department of Education
Council for Higher Education Accreditation

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
Phoenix Division**

This matter coming to be heard on Plaintiff National University of Health Sciences (“NUHS”) Emergency Ex Parte Motion for Temporary Restraining Order:

1. Plaintiff's Motion is GRANTED.
2. This finding is based on the facts set forth in NUHS's Emergency Ex Parte Motion for Temporary Restraining Order and Memorandum in Support.
3. Defendant is hereby enjoined from (A) publicly disclosing that it has imposed a sanction of Probation on NUHS and (B) enforcing its sanction of Probation.

1 The injunctions ordered will continue until the Court determines whether preliminary
2 injunctive relief is appropriate after the parties have had sufficient time to brief and argue
3 the issues.

4 4. Plaintiff is ordered to file its motion for preliminary injunction by
5 _____.

6 5. Defendant is ordered to file its opposition, if any to Plaintiff's motion by
7 _____.

8 6. Plaintiff is ordered to file its reply to Defendant's opposition, if any, by
9 _____.

10 7. The Court shall hear oral argument on Plaintiff's motion for preliminary
11 injunction on _____, 2018 at _____ a.m./p.m.

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13 Dated: _____

14 _____
15 United States District Court Judge
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