

What Complaints are Outside of NAADAC's and NCC AP's Jurisdictions?

By Mita Johnson, EdD, LAC, MAC, SAP, NAADAC Ethics Committee Chair

“Why bother filing an ethics complaint? Nothing will probably come of it anyways!” I hear questions and statements like this often. NAADAC firmly supports the principle that we have an obligation to our clients and our profession to engage in the delivery of services that are individualized, relevant, evidence-based, and driven by outcomes data. Most difficulties between clients or colleagues/professional peers and service providers/clinicians result from misunderstandings, miscommunication, lack of appropriate policies and procedures, and/or unethical and/or illegal clinical and/or administrative practice. Clients and colleagues may not be offered the opportunity to engage in constructive dialogue, practices, or actions that work towards resolving questions, concerns, or differences, thereby eliminating the need for further action.

When clients and colleagues/professional peers are not satisfied with how a clinician is delivering care, they can turn to a state or national entity, like NAADAC, for assistance. NAADAC has a formal complaint process for filing an ethics complaint, which can be found at: www.naadac.org/assets/2416/naadac-nccap-ethics-complaint-form-122016.pdf. The ability to file an ethics complaint is available to anyone who feels compelled to do so. Initially, ethics complaints are read by the NAADAC and NCC AP Ethics Chairs and NAADAC Executive Director to determine if the complaint falls within NAADAC's and NCC AP's jurisdictions, and if it has been filed with the appropriate local and state authorities first. Their job is to review complaints to determine if the allegations made, if taken as fact, might indeed amount to the violation of the NAADAC/NCC AP Code of Ethics cited in the complaint.

There are complaints filed with NAADAC that do not fall within NAADAC's jurisdiction and are returned to the Complainant (the person filing the complaint) with suggestions for alternative remedies. Examples of complaints that do not fall within our scope of oversight and Code of Ethics include:

- **NAADAC Nonmember or NCC AP Non-Credentialed Complaints:** NAADAC does not have jurisdiction over individual clinicians or service providers who are not individual or organizational members of NAADAC or are not credentialed by NCC AP, and therefore cannot process complaints made against them. The most we can do with nonmembers is send them a letter notifying them that a complaint was filed against them (we do not share who sent the complaint) and that there is an expectation that they are delivering the highest level of care within our profession. It is our hope that nonmembers will look at their practices to see what needs to be addressed. The Complainant is notified that, because the person who they are filing a grievance against is neither a NAADAC member nor credentialed by NCC AP, his or her complaint falls outside of our jurisdiction. We do recommend that the Complainant contact his or her state licensing board, state grievance board, state regulatory agency, or Single State Authority to determine if the complaint would fall under one of their jurisdictions.
- **Licensure and Right-to-Practice Complaints:** NCC AP can and will remove or restrict a credential holder's certification or endorsement based on the facts of an investigation. However, NAADAC/NCC AP is ultimately unable to restrict a clinician, member or non-member, from practicing in the Complainant's state. NAADAC/NCC AP does not provide a license to practice and cannot fully restrict a clinician from practicing. Ultimately, restricting a clinician's ability to practice falls under the state's regulatory jurisdiction/licensing board where the individual is certified or licensed to practice. When NAADAC/NCC AP determines that a credential holder's credential (NCAC I, NCAC II, MAC, NDS, NCAAC, or NCPRSS) or endorsement (NESAP, NCSE, NECODP) will be formally revoked, NAADAC/NCC AP notifies the state regulatory agency/licensing board and Single State Authority of its decision. NAADAC/NCC AP does not otherwise have any influence on the state's decision to revoke or restrict the state license of a member or credential holder. The highest sanction NAADAC can impose on a member is to expel that member from the association with notifications to other entities. The highest sanction NCC AP can impose on a credential holder is to revoke that member's credential with notifications to the appropriate state entities. State regulatory agencies/licensing boards are separate entities from NAADAC/NCC AP.
- **Financial Complaints:** NAADAC/NCC AP cannot resolve financial disputes. NAADAC/NCC AP cannot obtain a refund or monetary award for a Complainant or compel a member or credential holder “to do something” that the Complainant has requested. NAADAC/NCC AP does not have jurisdiction over fees charged by a clinician or agency. Complaints that involve financial issues are referred back to the Complainant. The Complainant is notified that he or she needs to file a complaint with his or her state licensing board, Single State Authority, or Attorney General's office. The Complainant is also notified that he or she might want to seek legal counsel to determine potential legal courses of action.
- **Civil Complaints:** NAADAC/NCC AP cannot resolve civil disputes. A civil complaint initiates a civil lawsuit by setting before a court a claim for monetary or other relief from damages caused by, or wrongful conduct engaged in by, someone. Examples of civil complaints include: wrongful business practices, fraud, copyright infringement, negligence and liability, and malpractice concerns. When NAADAC receives a civil complaint, the Complainant is notified that his or her complaint falls outside of NAADAC/NCC AP's jurisdiction. He or she is advised to seek legal counsel to determine if there is a valid civil complaint and to explore all options for resolving the issues and concerns.

Other situations where a complaint may not be processed include, but are not limited to:

- **Second-Hand Knowledge:** NAADAC/NCC AP does not recommend that any individual file a complaint on behalf of another person. This can lead to a situation of hearsay and it is very difficult, if not impossible, to conduct a formal investigation without the involvement of and signed releases from the individual who has direct knowledge of the situation in question.
- **Incomplete Application:** NAADAC/NCC AP cannot process a complaint that is illegible, incomplete, or incoherent. It is important that complaint forms are filled out completely, and that they are legible. It is also equally important that the complaint include as much supporting documentation as possible in order for NAADAC/NCC AP to fully understand the nature and scope of the complaint. Finally, NAADAC/NCC AP will not accept a complaint that is not signed and dated by the Complainant.
- **Out-of-Order:** Many complaints are referred back to the Complainant. NAADAC/NCC AP's Ethics Chairs want the Complainant to submit his or her complaint to the appropriate authorities governing their state first (e.g., regulatory agency, licensing board, Single State Authority, attorney general's office, insurance board, etc.) for review, investigation and determination. Many states throw out cases because they do not fall under their jurisdiction. NAADAC may then decide to investigate those cases if there is a clear violation of the Code of Ethics. When a state determines that the complaint warrants investigation, NAADAC will wait until the Complainant sends the formal findings to NAADAC/NCC AP to determine if NAADAC/NCC AP also needs to act regarding membership and certification.

NAADAC and NCC AP wants their members and credential holders to know that all complaints are reviewed thoroughly. Each complaint is taken very seriously. NAADAC/NCC AP's mission is to enhance the health and recovery of individuals, families and communities — through prevention, intervention, quality treatment, and recovery support. Clients deserve the best care available to them, without risk of exploitation or damaging practices. NAADAC's and NCC AP's Ethics Chairs and Committee Members, Executive Director and Board of Directors appreciate the diligence of those who care enough about our practices in the profession to file a complaint when a principle within the Code of Ethics has been violated.



Mita M. Johnson, EdD, LAC, MAC, SAP, has a doctorate in Counselor Education and Supervision, a Master's Degree in Counseling, and a Bachelor's Degree in Biology. She is a licensed professional counselor, licensed marriage and family therapist, and licensed addiction counselor, along with earning the national Master Addiction Counselor (MAC) and Department of Transportation Substance Abuse Professional (SAP) certifications. Johnson has two supervisory credentials (ACS and AAMFT) and is

a NCC. She is a core faculty member at Walden University, and she maintains a private practice where she works with supervisees who are working on credentialing. Johnson is the Past-President of the Colorado Association of Addiction Professionals (CAAP), and is currently NAADAC Treasurer and Ethics Chair. She previously served as NAADAC's Southwest Regional Vice-President. In Colorado, Johnson is involved in regulatory and credentialing activities as well as workforce recruitment and retention initiatives. She speaks and trains regionally and nationally on a variety of topics. Her passions beyond workforce retention include pharmacology of drugs of addiction, infectious diseases, ethics, motivational interviewing, and clinical supervision.

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