

**Canadian Athletic Therapists Association**  
**Code of Ethics and Professional Conduct – Claim Procedures**  
 Effective November 1, 2022

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## 1. INTRODUCTION

- 1.1 This document sets out the procedures to be followed by the Association where there is a complaint or concern about the conduct of an Athletic Therapist.
- 1.2 This document is a guideline only. The failure of the Association or any of its representative to comply with a requirement set out in the document does not affect the validity of the process or a decision that is made.
- 1.3 This document is subject to the Bylaws of the Association. To the extent that there is any discrepancy between this document and the Bylaws, the Bylaws shall take precedence.

## 2. INTERPRETATION

### 2.1 In this document,

- 2.1.1.1. “Association” means the Canadian Athletic Therapists Association
- 2.1.1.2. “Committee” includes, where appropriate, a panel of the Committee; and
- 2.1.1.3. “Member” means a person admitted into membership in the Association and can include, if the context so indicates, a suspended or former Member.

## 3. MANDATE

- 3.1. This document applies to a complaint or concern that a Member of the Association has breached the Code of Ethics and Professional Conduct of the Association.
- 3.2. The Association shall review and administer Code of Ethics and Professional Conduct complaints brought against a Member of the Association, whether made directly to a Regional Association or the Association and whether from the public or other Members.
- 3.3. In the event a Code of Ethics or Code of Conduct complaint is brought forward to a Regional Association against a common Member, the Regional Association shall assign exclusive jurisdiction to all such complaints including without limitation, investigation, administration, and disciplinary sanctions resulting from the complaint to the Association. Further any disciplinary sanctions arising from all complaints under the Code of Ethics and Professional Conduct shall be adopted and reciprocally enforced by the Regional Association concurrent with the Association.

- 3.4. The Association has jurisdiction over the conduct of a Member during the time they was a Member and during any period of suspension of membership.
- 3.5. The jurisdiction over a Member continues even though the person is no longer a Member or the person's membership is suspended.
- 3.6. No Member may resign or otherwise voluntarily terminate their membership in the Association once the Ethics Committee receives a complaint or initiates an investigation of a concern until the matter is finally disposed of.
- 3.7. The Ethics Committee may provide clarification to Member about the interpretation of the Code of Conduct if requested to do so. Any such request shall be in writing and shall specify all material facts. The advice is not binding on the Ethics Committee if any material fact was omitted or inaccurately stated in the request.

#### 4. CHAIRPERSON AND COMMITTEES

##### 4.1. Chairperson

- 4.1.1. The Chairperson of the Ethics Committee shall be appointed by the Executive Director for a three-year term commencing June 1.
- 4.1.2. The ethics committee members recommend the appointment of their chair to the Executive Director, as required. Where no recommendations are forthcoming, the Executive Director, at their discretion, can appoint the Chair, where applicable.
- 4.1.3. The Chairperson shall not serve in any other office or on any other committee of the Association during their term of office.
- 4.1.4. If the Chairperson has an appearance of bias or a conflict of interest or is otherwise unable to perform their functions in a particular matter, they shall appoint another member of the Ethics Committee or, failing that the other members of the Ethics Committee shall select one of their number, to act as Chairperson for that matter.
- 4.1.5. The Chairperson shall not select themselves to sit on a Subcommittee or Committee handling a complaint or concern.

## 4.2. Ethics Administrator

- 4.2.1. The Ethics Administrator shall be responsible for all the administrative procedures of the Ethics Committee.
- 4.2.2. The Ethics Administrator shall be responsible for:
  - 4.2.2.1.1. Processing of all complaints received.
  - 4.2.2.1.2. Communications with all parties involved in the complaint.
  - 4.2.2.1.3. Communications between committees.
  - 4.2.2.1.4. Communications between committees and Chairperson.
- 4.2.3. The Ethics Administrator along with the Chairperson shall be responsible for the selection of committee members to a panel.
- 4.2.4. The Ethics Administrator will not participate in any decisions in any of the Ethic Committee panels.

## 4.3. Subcommittees and Panels

- 4.3.1. The subcommittees of the Ethics Committee include:
  - 4.3.1.1.1. Ethics Advisory Subcommittee
  - 4.3.1.1.2. Investigative Subcommittee
  - 4.3.1.1.3. Judicial Subcommittee
  - 4.3.1.1.4. Appeals Subcommittee
- 4.3.2. If a Subcommittee does not have sufficient members who are able and willing to serve on a panel, the Chairperson may select a member of the other Subcommittee to serve on that panel so long as they have had no prior involvement in the matter.
- 4.3.3. If there is a vacancy in a panel of a Subcommittee, the Chairperson may select another member to fill the vacancy except, if a hearing has started before a panel of the Judicial Subcommittee, the vacancy shall not be filled.

#### 4.4. Ethics Advisory Subcommittee

- 4.4.1. The Ethics Advisory Subcommittee is responsible for reviewing the received complaints.
- 4.4.2. The Ethics Advisory Subcommittee will determine whether a complaint will be investigated.
  - 4.4.2.1. In circumstances where there is evidence that misconduct of a member of the Canadian Athletic Therapists Association (the “CATA”) exposes or is likely to expose the public to harm or injury and it is necessary to protect the legitimate business interests of CATA, the Ethics Advisory Subcommittee may suspend a member’s membership in the CATA pending an investigation into allegations of the misconduct. Without limiting the generality of the foregoing, misconduct which may require the Ethics Advisory Subcommittee to suspend a member’s membership in the CATA, pending an investigation, including sexual assault, sexual harassment, and assault.
  - 4.4.2.2. Any such suspension will be enacted in good faith and will be for no longer than is necessary to complete the investigation. The CATA will confirm the suspension in writing. While suspended a member shall have all rights and privileges as a member of the CATA suspended, including without limitation, they shall not use any of the CATA’s certification marks and shall not engaged in their position as a Certified Athletic Therapist or contact any clients, contractors or staff, or any witnesses involved in the investigation, unless authorized to do so by the Ethics Committee.
  - 4.4.2.3. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has been made about allegations of misconduct. During any suspension under this section a member is required to co-operate with investigative procedures such as interviews or document disclosure.
  - 4.4.2.4. The Ethics Advisory Subcommittee will review the complaint and a unanimous vote by the Ethics Advisory Subcommittee will be quorum.
- 4.4.3. The Ethics Advisory Subcommittee will consist of up to 9 members.
- 4.4.4. Each Ethics Advisory Subcommittee panel per complaint will consist of 3 members.
- 4.4.5. Two persons of the Ethics Advisory Subcommittee shall constitute quorum.

#### 4.5. Investigative Subcommittee

- 4.5.1. The Investigative Subcommittee shall sit in panels of three members selected by the Ethics Administrator and Chairperson.
- 4.5.2. The Ethics Administrator and Chairperson shall select one of the panel members to act as its “Lead”.
- 4.5.3. Two persons of a panel constitute quorum.
- 4.5.4. If there is a vacancy in a panel of an Investigative Subcommittee, the Ethics Administrator and Chairperson may select another member to fill the vacancy except, if an investigation has started, the vacancy shall not be filled.

#### 4.6. Judicial Subcommittee

- 4.6.1. The Judicial Subcommittee shall sit in panels of three members selected by the Ethics Administrator and Chairperson.
- 4.6.2. The Ethics Administrator and Chairperson shall select one of the panel members to act as its “Lead”.
- 4.6.3. Two persons of a panel constitute quorum.
- 4.6.4. If there is a vacancy in a panel of a Judicial Subcommittee, the Ethics Administrator and Chairperson may select another member to fill the vacancy except, if a hearing has started, the vacancy shall not be filled.

#### 4.7. Appeals Subcommittee

- 4.7.1. The Appeals Subcommittee shall sit in panels of three members selected by the Ethics Administrator and Chairperson.
- 4.7.2. The Ethics Administrator and Chairperson shall select one of the panel members to act as its “Lead”.
- 4.7.3. Two persons of a panel constitute quorum.
- 4.7.4. If there is a vacancy in a panel of an Appeals Subcommittee, the Ethics Administrator and Chairperson may select another member to fill the vacancy except, if an investigation has started, the vacancy shall not be filled.

## 4.8. Removal and Expiry of Term

- 4.8.1. The Executive Director of the Association may remove the Chairperson from their office if they do not fulfill their duties with competence, diligence, or integrity.
- 4.8.2. The Chairperson, with the approval of the Executive Director, may remove a member of an Ethics Subcommittee if they do not fulfill their duties with competence, diligence, or integrity.
- 4.8.3. If the term of a member of a Subcommittee ends for any reason other than removal for lack of competence, diligence or integrity and the member is dealing with a matter, the member shall be deemed to remain a member of the Subcommittee for the purpose of completing that matter. However, the member shall not be deemed to remain a member of the Subcommittee for any new matters.

## 4.9. Appearance of Bias

- 4.9.1. The Chairperson and the members of a Subcommittee shall not participate in a matter in which they had prior involvement.
- 4.9.2. The Chairperson and the members of a Subcommittee shall not participate in a matter in which they have an appearance of bias or a conflict of interest unless the parties receive full disclosure of the material facts and waive the appearance of bias or a conflict of interest.
- 4.9.3. Where the Chairperson or a member of a Subcommittee has doubts as to whether he or she has an appearance of bias or a conflict of interest, they shall declare the material facts to the parties and receive submissions on the matter.
- 4.9.4. Where a Subcommittee concludes that the Chairperson has an appearance of bias or a conflict of interest and the Chairperson has not disqualified himself or herself from the matter, the Subcommittee may disqualify the Chairperson from acting in the matter and shall select another member of the Ethics Subcommittee to act as Chairperson for that matter.
- 4.9.5. Where a Subcommittee concludes that a member of the Subcommittee has an appearance of bias or a conflict of interest and the member has not disqualified himself or herself from the matter, the Subcommittee may disqualify the Chairperson from acting in the matter.

#### 4.10. Legal Counsel

4.10.1. The Chairperson and the Investigative Subcommittee may retain legal counsel.

4.10.2. The Judicial Subcommittee and the Appeals Subcommittee may retain legal counsel who is not legal counsel to the Chairperson or the Investigative Subcommittee.

### 5. FILING OF A COMPLAINT OR CONCERN

5.1. A complaint shall be made through the CATA website Ethics portal.

5.2. A complaint shall include all relevant evidence.

5.3. A complaint shall be processed by the Ethics Administrator and forwarded to the selected Ethics Advisory Subcommittee panel for review.

### 6. INVESTIGATIONS

#### 6.1. Investigation

6.1.1. The Chairperson shall notify the Member in writing within a reasonable time of the following:

6.1.1.1. The complaint or concern,

6.1.1.2. the Member's right to make submissions in writing to the Investigative Subcommittee about the complaint or concern within thirty days of the sending of the notice,

6.1.1.3. the availability of this document, and

6.1.1.4. the Member's right to retain legal counsel.

6.1.2. The Investigative Subcommittee may decline to investigate a complaint or concern if it concludes that the complaint or concern is frivolous or vexatious or otherwise an abuse of process. The Investigative Subcommittee shall issue a written decision and reasons to the Member and the complainant or the Chairperson if it reaches such a conclusion.

6.1.3. Otherwise, the Investigative Subcommittee shall investigate the complaint or concern in a manner that it deems appropriate. The investigation may include the following:



- 6.1.3.1. reviewing the information about the matter held by the Chairperson,
- 6.1.3.2. arranging for the interviewing of the complainant, originator of a concern, the Member, or any witness,
- 6.1.3.3. gathering relevant documents,
- 6.1.3.4. permitting either the complainant or the initiator of a concern or the Member to respond to information received by the Investigative Subcommittee,
- 6.1.3.5. retaining a private investigator,
- 6.1.3.6. retaining experts, and
- 6.1.3.7. such other inquiries as may seem appropriate

## 6.2. Disposition

- 6.2.1. After considering the information gathered in its investigation and considering any written submissions by the Member, the Investigative Subcommittee may do one or more of the following:
  - 6.2.1.1. take no action on the complaint or concern,
  - 6.2.1.2. refer specified allegations to the Judicial Subcommittee for a hearing;
  - 6.2.1.3. provide a written caution or advice to the Member,
  - 6.2.1.4. require the Member to attend before the Investigative Subcommittee for a verbal caution or advice, and
  - 6.2.1.5. such other action appropriate to the matter that is not inconsistent with this document and the Bylaws of the Association.
- 6.2.2. In determining whether a complaint or concern should be referred to the Judicial Subcommittee, the Investigative Subcommittee shall consider the following:
  - 6.2.2.1. whether the alleged conduct is serious enough to warrant such a referral, and,

- 6.2.2.2. whether there is a reasonable prospect of proving the alleged conduct at a hearing.
- 6.2.3. The Investigative Subcommittee shall issue a decision in writing and, except for a decision to refer specified allegations to a hearing, written reasons for its decision.
- 6.2.4. The decision and any reasons shall be sent to the Member, any complainant, and the Chairperson.
- 6.2.5. Decisions of the Investigative Subcommittee shall be by majority vote. If there is a tie vote, the vote most favorable to the Member shall be implemented.

## 7. JUDICIAL HEARING

### 7.1. Preliminary Steps

- 7.1.1. If the Investigative Subcommittee refers specified allegations to a hearing, the Chairperson shall select a panel of the Judicial Subcommittee to hear the matter.
- 7.1.2. The Member and the Investigative Subcommittee are the parties to the hearing.
- 7.1.3. The Chairperson shall notify the parties of the composition of the panel of the Judicial Subcommittee. Either party shall raise any objections, including full particulars of any grounds, to the composition of the panel within fifteen days of the sending of the notice. Any objections shall be in writing and served on the other party and filed with the Chairperson. The Chairperson shall consider any objections and any written response to them and may change the members of the panel.
- 7.1.4. The Investigative Subcommittee shall promptly make disclosure to the Member of all the relevant evidence in its possession that is not protected by a legal privilege.
- 7.1.5. Both parties shall deliver a report from any expert witness who will be called and any documents that will be filed at the hearing to the other party at least thirty days before the start of the hearing.

### 7.2. Pre-hearing Conference

- 7.2.1. The parties may agree to participate in a pre-hearing conference and shall participate in a pre-hearing conference if directed to do so by the Chairperson.
- 7.2.2. The Chairperson shall select a presiding officer to facilitate the pre-hearing conference if requested to do so by the parties or if it appears expedient to the

Chairperson to do so. The presiding officer may be a member of the Ethics Subcommittee who has not been involved in the matter or any other person.

- 7.2.3. The pre-hearing conference shall be conducted on a without prejudice basis and no information revealed at the pre-hearing conference (other than agreements reached by the parties) shall be disclosed to the Judicial Subcommittee or the Appeals Subcommittee.

### 7.3. Form and Notice of Hearing

- 7.3.1. If a hearing date is not agreed to at any pre-hearing conference, the Chairperson shall fix a hearing date. Where feasible, the Chairperson shall consult with the parties and the members of the Judicial Subcommittee when fixing the hearing date.
- 7.3.2. A hearing may be held in person, electronically or in writing, or a combination of them.
- 7.3.3. If the form of the hearing is not agreed to at any pre-hearing conference, the Chairperson shall fix the form of the hearing. Where feasible, the Chairperson shall consult with the parties and the members of the Judicial Subcommittee when fixing the form of the hearing.
- 7.3.4. Either party shall raise any objections, including full particulars of any grounds, to the date or form of the hearing within fifteen days of being notified of them. Any objections shall be in writing and served on the other party and filed with the Chairperson. The Chairperson shall consider any objections and any written response to them and may change the date or form of the hearing.
- 7.3.5. Once the date and form of the hearing have been set, the Investigative Subcommittee shall deliver to the Member and the Judicial Subcommittee a written notice of hearing setting out the time, place, form and purpose of the hearing and a statement that if a party does not participate the hearing may proceed without them.
- 7.3.6. Hearings are open to the public, including access to documents filed at the hearing, unless the Judicial Subcommittee decides that safety, privacy, or similar concerns outweigh the principle of public hearings. Rather than restrict access entirely, the Judicial Subcommittee may decide to limit access to only part of the hearing or documents.
- 7.3.7. The Chairperson may cause public notice to be given (for example, on the Association's website) of an upcoming hearing.

## 7.4. Conducting the Hearing

- 7.4.1. The parties are entitled to file relevant and reliable documents and make written submissions at the hearing. If the hearing is not just a written hearing, the parties may also call and examine witnesses and may, if permitted to do so by the Judicial Subcommittee, make oral submissions.
- 7.4.2. The procedure at the hearing shall be informal. The Judicial Subcommittee shall direct the parties in the conduct of the hearing in any manner that permits the parties to fairly present its case.
- 7.4.3. The Judicial Subcommittee may admit any evidence that it finds to be relevant and reliable even if the evidence might not be admissible in a court of law except that evidence that is protected by a legal privilege is not admissible.
- 7.4.4. The Judicial Subcommittee shall record any oral evidence given at the hearing.

## 7.5. Decisions

- 7.5.1. The Judicial Subcommittee shall first determine the following:
  - 7.5.1.1. Whether the factual allegations are admitted or have been proved on a balance of probabilities based on clear, cogent, and convincing evidence consistent with the seriousness of the matter.
  - 7.5.1.2. Whether the facts admitted or proved constitute a breach of the Code of Conduct.
- 7.5.2. If the Judicial Subcommittee determines that there has been a breach of the Code of Conduct, it shall then hear any evidence or submissions on penalty and determine the appropriate penalty.
- 7.5.3. The Judicial Subcommittee may order one or more of the following penalties:
  - 7.5.3.1.1. Cancellation of membership in the Association,
  - 7.5.3.1.2. Non-renewal of membership in the Association,
  - 7.5.3.1.3. Suspension of membership in the Association,
  - 7.5.3.1.4. Payment to Association of a fine of not more than \$25,000,

- 7.5.3.1.5. Terms and conditions under which the Member may continue as a Member of the Association,
  - 7.5.3.1.6. Deferral of the commencement of some or all the penalties on specified terms and conditions, and
  - 7.5.3.1.7. Payment to the Association of a reasonable amount to reimburse the Association for the costs incurred by it in the investigation and prosecution of the matter in question.
- 7.5.4. In considering the appropriate penalty, the Judicial Subcommittee shall consider any early admission in writing before the Investigative Subcommittee of the allegations by the Member.
- 7.5.5. Decisions of the Judicial Subcommittee shall be by majority vote. If there is a tie vote on an allegation, it shall be deemed not to have been proved. If there is a tie vote on the penalty, the penalty most favorable to the Member shall be imposed.
- 7.5.6. The Judicial Subcommittee shall deliver a written decision and reasons to the parties and the Chairperson.

## 8. APPEALS

### 8.1. Initiation

- 8.1.1. Either party may appeal a decision of the Judicial Subcommittee by delivering a written notice of appeal to the other party and filing a copy with the Chairperson within thirty days of the issuing of the written decision and reasons by the Judicial Subcommittee.
- 8.1.2. The notice of appeal shall set out the grounds of the appeal and the ordersought from the Appeals Subcommittee.
- 8.1.3. The Chairperson shall select an Appeals Subcommittee promptly after the filing of the notice of appeal.

### 8.2. Materials for the Appeal

- 8.2.1. Within ten days of filing the notice of appeal, the appealing party shall order the transcript including filing a deposit with the Judicial Subcommittee's transcription service.

- 8.2.2. The appealing party shall not delay or cancel the order of the transcript and shall pay for it as soon as it is ready.
- 8.2.3. Within ten days of the transcript being ready, the appealing party shall deliver a copy of the transcript and the exhibits and other record from the hearing to the responding party and shall file four copies of them with the Appeals Subcommittee.
- 8.2.4. No party shall file with the Appeals Subcommittee evidence that was not before the Judicial Subcommittee without the prior written permissions of the Appeals Subcommittee.
- 8.2.5. The Appeals Subcommittee shall not permit additional or fresh evidence to be filed unless the additional or fresh evidence:
  - a. Is apparently credible,
  - b. If admitted it would probably have an important influence on the result, and
  - c. It could not have been obtained by reasonable diligence at the time of the hearing before the judicial subcommittee.
- 8.2.6. Within thirty days of the transcripts, exhibits and other record being filed, the appealing party shall deliver written submissions to the other party and shall file four copies with the Appeals Subcommittee and one copy with the Chairperson.
- 8.2.7. Within thirty days of the appealing party filing its written submissions, the responding party shall deliver written submissions to the other party and shall file four copies with the Appeals Subcommittee and one copy with the Chairperson.

### 8.3. Date and Form of the Appeal

- 8.3.1. After the responding party has filed its written submissions, or at such other time as seems appropriate, the Chairperson shall set an appeal date. Where feasible, the Chairperson shall consult with the parties and the members of the Appeals Subcommittee when setting the appeal date.
- 8.3.2. An appeal may be held in person, electronically (e.g., to include web casting or satellite broadcasting) or in writing, or a combination of them.
- 8.3.3. If the form of the appeal is not agreed to, the Chairperson shall adjust the form of the appeal. Where feasible, the Chairperson shall consult with the parties and

the members of the Appeals Subcommittee when adjusting the form of the appeal.

- 8.3.4. Either party shall raise any objections, including full particulars of any grounds, to the date or form of the appeal within fifteen days of being notified of them. Any objections shall be in writing and served on the other party and filed with the Chairperson. The Chairperson shall consider any objections and any written response to them and may change the date or form of the appeal.
- 8.3.5. Once the date and form of the appeal have been set, the Judicial Subcommittee shall deliver to the Member and the Appeals Subcommittee a written notice of hearing of appeal setting out the time, place, form and purpose of the appeal and a statement that if a party does not participate the appeal may proceed without them.
- 8.3.6. Appeals are open to the public, including access to documents filed on the appeal, unless the Appeals Subcommittee decides that safety, privacy, or similar concerns outweigh the principle of public appeals. Rather than restrict access entirely, the Appeals Subcommittee may decide to limit access to only part of the appeal or documents.
- 8.3.7. The Chairperson may cause public notice to be given (for example, on the Association's website) of an upcoming appeal.

#### **8.4. Powers of the Appeals Subcommittee**

- 8.4.1. The Appeals Subcommittee shall only grant an appeal if the Judicial Subcommittee made an error of law or procedure that made the hearing substantially unfair or if the Judicial Subcommittee made an unreasonable decision.
- 8.4.2. If the Appeals Subcommittee decides that a ground of appeal should succeed, the Appeals Subcommittee can vary or reverse the decision of the Judicial Subcommittee, and the Appeals Subcommittee has all the powers of the Judicial Subcommittee.
- 8.4.3. The Appeals Subcommittee may order a party to pay a reasonable amount to reimburse the other party for the costs incurred by the successful party in the appeal.

## 8.5. Decision and Reasons

- 8.5.1. Decisions of the Appeals Subcommittee shall be by majority vote. If there is a tie vote on a ground of appeal, it shall be deemed not to have been established. If there is a tie vote on varying or reversing the decision of the Judicial Subcommittee, the one that is most favorable to the Member shall be imposed.
- 8.5.2. The Appeals Subcommittee shall deliver a written decision and reasons to the parties and the Chairperson.
- 8.5.3. The decision of the Appeals Subcommittee is final, and no party shall appeal, challenge, or seek a further review of it.

## 9. ENFORCEMENT OF DECISION

- 9.1. The Executive Director shall implement a final decision of the Judicial Subcommittee or the Appeals Subcommittee.
- 9.2. If a Member's membership is suspended, the Executive Director shall notify the Member that they are not eligible for the following:
  - a) To hold office at any level of the Association,
  - b) To serve as a member of a Subcommittee,
  - c) To serve as a certification examiner,
  - d) To represent the Association in any capacity. This applies especially to selection for National or International teams,
  - e) To attempt the certification examination, and
  - f) To count practical hours toward certification.
- 9.3. The Association shall publish a copy or a summary of the final decision of the Judicial Subcommittee or the Appeals Subcommittee in the Association's newsletter and on the Association's website. If a finding was made against the Member, the Member shall be identified in the publication.



## 10. CONFIDENTIALITY

- 10.1. The Association shall preserve confidentiality of all information obtained while handling a complaint or concern unless:
- a) Disclosure is desirable for the purpose of handling the matter;
  - b) Disclosure is permitted by this document;
  - c) Disclosure is desirable to protect the health or safety of a person or a group of persons; or
  - d) Disclosure is permitted or required by law.
- 10.2. The Chairperson and the members of the Ethics Subcommittees shall return all their files to the Ethics Administrator when at the termination of a case, regardless of the outcome, and when they have completed their term of office.
- 10.3. The Ethics Administrator shall maintain these files in a confidential manner and may securely destroy the files after five years.

## 11. AMENDMENT OF THIS DOCUMENT

- 11.1. The Executive Director shall approve of any changes to the Code of Ethics, the Code of Conduct, and this document after receiving any comments from the CATA Ethics Committee.