

APA Procedures for Handling Grievances and Complaints of Unethical Conduct

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INTRODUCTION

The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility not only to patients but also to society, the profession, other health professionals, and to self. The *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry* (hereafter referred to as the “*Principles*”), adopted from the American Medical Association, are not laws but standards of conduct that define the essentials of honorable behavior for the psychiatrist.

The American Psychiatric Association (APA) periodically receives complaints about its members. Those complaints range from more minor complaints about less than optimal patient experiences or conduct by the APA Member that is unrelated to the psychiatrist’s competence or the quality of treatment – “Grievances” – to complaints that allege unethical conduct which may warrant disciplinary action that could negatively impact the members’ membership in APA – “Ethics Complaints”.

Some examples of Grievances are complaints which involve allegations not related to the competence or professional conduct of the physician and generally involve situations where adequate medical care was provided, but the patient’s experience may have been less than was expected, such as concerns about communication, rudeness, or fees and billing. Grievances are resolved informally by the APA Ethics Committee.

Ethics Complaints, by contrast, involve allegations of conduct, which if true, may violate the *Principles* regarding patient care. Examples include boundary violations such as inappropriate business or personal relationships with patients. Ethics Complaints undergo a peer review process consisting of investigation and resolution by the District Branch in which the APA Member resides, in accordance with these procedures which have been approved by the APA Assembly and the APA Board of Trustees. These procedures are congruent with the minimum requirements under the Health Care Quality Improvement Act. A District Branch (DB) of the APA may adopt additional requirements to comply with any additional or more stringent requirements of state law. A District Branch should notify the APA if additional requirements are adopted.

Ethics Complaints and their proceedings are confidential. The allegations, the names of the parties and other information are made available only to persons directly participating in the proceedings. Information regarding an ethics case is made public in limited circumstance as set forth in these procedures and only after a final determination has been reached when required by law or necessary to protect the public.

PART I: INITIAL PROCEDURES

A. The Complaint

1. A complaint can be filed by a patient or guardian, a family member of a patient, an APA member or other individual with personal knowledge of the alleged unethical conduct.
2. The individual submitting the complaint is the “Complainant” and the APA member against whom the complaint is made is the “APA Member”.
3. Complaints against an APA Member shall be:
 - a. In writing;
 - b. Signed by the Complainant; and
 - c. Submitted initially to the APA Ethics Committee (either by postal mail or email to apaethics@psych.org). If addressed to the District Branch initially, the complaint shall be referred to the APA Ethics Committee.

B. Proceeding on Extrinsic Evidence:

1. A complaint may be based on extrinsic evidence, including any documents attached to the complaint.
2. A DB may initiate a complaint based upon extrinsic evidence which it receives or otherwise becomes aware that a member has potentially acted in violation of the *Principles*. In such proceeding, a DB representative shall be the Complainant and lodge a complaint with the APA Ethics Committee by submitting via email to apaethics@psych.org.
3. Extrinsic evidence includes formal judicial or administrative reports, sworn deposition or trial testimony, medical or hospital records, and similar reliable documents.

C. Review for Jurisdiction

1. Once a complaint is received from any source, the APA Ethics Committee Staff shall review the complaint to determine if APA has jurisdiction over the matter. This review shall take place before the APA Member is notified that a complaint was filed.
2. This review will consider:
 - a. Is the named psychiatrist a member of the APA and a DB? Only complaints against APA members can be considered.* If the named psychiatrist is not a member, APA shall notify the Complainant that it cannot pursue the complaint because the named psychiatrist is not a member of the APA, no further action can be taken, and the complaint shall be deleted from APA’s records.

* *The named psychiatrist must be a member of the APA and a District Branch in the United States or Canada.*

- b. Does the complaint allege conduct that took place over ten (10) years ago? A complaint must be received within ten (10) years of the alleged conduct. In the case of a minor patient, the ten (10) year limit will not begin until the patient reaches the age of 18. If the alleged conduct took place outside of the ten-year limit, APA shall notify the Complainant in writing that no further action can be taken.
 - c. Is the alleged conduct the subject of another ongoing or pending proceeding? If the alleged conduct is the subject of another ongoing or pending action (such as a civil, criminal, or licensing board proceeding), APA shall postpone its consideration until all other actions have been finally resolved. If the alleged conduct is identified as the subject of another proceeding, APA Ethics Committee Staff shall notify the Complainant that no action can be taken by APA until the other proceeding(s) is finally resolved, and that the complaint shall be held by APA without action until the Complainant submits written confirmation to APA that the other proceeding(s) has been finally resolved along with documentation of the resolution.
3. A determination that a complaint does not meet these jurisdictional standards is final and there is no further review.
4. If the complaint meets these jurisdictional standards, a panel of one (1) to three (3) representatives (depending on the complexity of the issue presented) of the APA Ethics Committee shall evaluate the complaint to determine whether it constitutes a Grievance or an Ethics Complaint. Grievances will be resolved by the APA Ethics Committee in accordance with Section I.D. of these *Procedures*; and Ethics Complaints will proceed in accordance with Parts II-VII of these *Procedures*. The determination that a complaint is a Grievance is subject to revision based on information discovered during the Grievance process, in which case the complaint and any additional information learned will be referred to the appropriate District Branch for investigation in accordance with Part II of these *Procedures*.

D. Resolution of Grievances by APA Ethics Committee

The representative(s) of the APA Ethics Committee shall determine the appropriate action to resolve a Grievance.

1. Actions that may be taken by the APA Ethics Committee representative(s) to resolve a Grievance are intended to assist the APA Member to improve the patient experience they provide and to acknowledge the Complainant's concern. Such actions could include, but are not limited to: (i) meeting with the APA Member and Complainant simultaneously (either via video conference or telephone) to discuss the issue; (ii) sending a letter to the APA Member noting the basis for concern and suggesting how the APA Member might improve the patient experience they provide; (iii) requesting that the APA Member voluntarily complete an educational activity on a relevant topic; (iv) and/or providing direct counsel to the APA Member on potential practices to provide more optimal patient care.
2. In resolving the Grievance, the Ethics Committee representative(s) shall inform the APA Member that the complaint received was determined not to be an Ethics Complaint potentially warranting disciplinary action affecting membership (and therefore should not require reporting to a medical licensing board), but that such determination is subject to revision based on information discovered during the resolution process. If the determination is changed, the APA Member will

be informed that the allegations have triggered an Ethics Complaint which will be referred to the appropriate District Branch for investigation in accordance with Part II of these *Procedures*.

3. The decision of the APA Ethics Committee representative(s) regarding resolution of the Grievance is final and there is no further review or appeal of such decision. The APA Ethics Committee representative(s) shall send a letter to the Complainant and APA Member informing them that the complaint was resolved through a particular action and is closed.
 4. The APA Ethics Committee shall retain records of all Grievances resolved pursuant to this Part and may consider such information in connection with a decision as to how to handle any later complaints involving the same APA Member.
- E. **Notice:** Any "Notice" required in these *Procedures* should be sent by a delivery system that requires a verifying of receipt, such as certified or overnight mail.

PART II: REVIEW OF ALLEGATIONS

Following a determination that the complaint is an Ethics Complaint by the APA Ethics Committee, the DB Ethics Committee (DBEC) shall review the merits of the Ethics Complaint.

A. Confidentiality Agreement

Before initiating this below Review phase, a signed Confidentiality Agreement shall be obtained from the Complainant (including any attorney representing the Complainant) by which the Complainant agrees that all information and documents concerning the ethical procedures and all communications from the APA and DB, including their ethics committees and Hearing Panels, are confidential and shall be used solely in connection with the ethical proceedings and not for other purposes or legal proceedings.

B. Review of Allegations

1. This phase is the period during which the DBEC begins to look at the merits of the Ethics Complaint. The purpose of this process is to assess all information provided by the Complainant and then evaluate whether there is a basis for the allegation of unethical conduct. The DBEC can choose whether or not to contact and advise the APA Member of the Ethics Complaint during this stage.
2. The DB ethics chair shall appoint a member(s) to review the allegations in the complaint. The individual(s) shall submit a written or oral report to the DBEC.
3. To help ensure fairness, it is desirable that the DBEC arrange for those who do the review and those who serve on the hearing panel to be separate teams. Sometimes what surfaces during this review is not always relevant to or admissible at the hearing, and thus this separation of functions minimizes the chances that the hearing panel will have been influenced by an earlier phase of the case.
4. The review is accomplished by reviewing the allegations and any related materials provided to them by the Complainant. During the review phase, the reviewer(s) may seek additional information from the Complainant. The additional information can be obtained by written

request, phone conference or in person interview.

5. During this Review of Allegations phase, the DBEC may, but is not required to, notify the APA Member of the complaint and invite additional information from them. The additional information can be obtained by written request, phone conference or in person interview.
6. If the DBEC finds the complaint does state a potential ethics violation, it shall notify the APA Member and invite additional information from them before proceeding with a formal investigation of the APA Member pursuant to Part III.
7. If the DBEC finds the complaint does not state a potential ethics violation under the ethical standards established by the *Principles* and thus there is no basis to proceed, it shall notify the Complainant in writing of the conclusion. This Notice shall also inform the Complainant that they have 30 days to request a review of this decision by the Chair of the APA Ethics Committee as set forth in Part II.C.1.
8. If the DBEC determines there is a basis to proceed, it must notify the APA Ethics Committee Staff as well as the Complainant and the APA Member and proceed to the exchange of information phase.
9. DBECs should postpone adjudication of ethics complaints until all other pending actions such as civil, criminal or licensing board proceedings have been resolved.

C. Review of the Chair of the APA Ethics Committee

1. If the DBEC determines the complaint does not allege an ethics violation of the *Principles*, the Complainant may request a review of a DB's decision by the Chair of the APA Ethics Committee. The request for a review must be sent to the DB and the Chair of the APA Ethics Committee within 30 days of the date of the Notice by the DB not to proceed.
2. If the Chair of the APA Ethics Committee determines that the complaint identifies a potential violation, they will request that the DB proceed with processing the complaint and will provide the DB with a written explanation for this decision.
3. If the Chair of the APA Ethics Committee determines that the complaint does not warrant further action, then they will notify the Complainant and DB of this decision and that the case is closed.

PART III: EXCHANGE OF INFORMATION

A. Notice to APA Member

1. If the DBEC decides to proceed, the DBEC must notify the APA Member of the ethics complaint and that the DBEC will proceed to determine whether the APA Member violated the *Principles*. The Notice should include:
 - a. a copy of the complaint;

- b. All documents that were attached to the complaint or obtained during the initial review phase;
 - c. Copies of the *Principles* and these *Procedures*; and
 - d. The ethical principle(s) the APA Member is accused of violating.
- 2. The DBEC should also notify the APA Member of their due process rights. These include the right:
 - a. To request a hearing;
 - b. To be represented by an attorney or other person of the APA Member's choice (hereafter referred to as "Counsel");
 - c. To have record made of the proceedings (but not the Ethics Committee's subsequent deliberations, which will not have been preserved), copies of which may be obtained by the APA Member upon payment of any reasonable charges;
 - d. To call, examine, and cross-examine witnesses;
 - e. To present evidence determined to be relevant by the hearing panel, regardless of its admissibility in a court of law;
 - f. To submit a written statement or make an oral statement at the close of the hearing;
 - g. To receive a written decision; and
 - h. To appeal any adverse decision to the APA Ethics Committee.
- 3. When applicable, the DBEC shall obtain and provide the APA Member with valid written authorization(s) from the patient(s) involved to provide relevant medical records and other information about the patient, and, if applicable, psychotherapy notes.

B. APA Member's Response

- 1. The APA Member shall provide a written response to the complaint, including copies of all documents and a list of all witnesses they intend to present at the hearing. The APA Member is not limited at the hearing to the evidence and witnesses identified in their response.
- 2. The DBEC may also consider additional information prior to any scheduled hearing. On the basis of information in the APA Member's response, or other information that surfaces during the Exchange of Information phase but prior to the hearing, the DBEC may decide to dismiss the case. A decision by the DBEC to dismiss in this phase requires review by the APA Ethics Committee as set forth in Part VI.
- 3. The name of any member who resigns from the APA after an ethics complaint against them is received and before it is resolved shall be reported in *Psychiatric News* and in the district branch newsletter or other usual means of communication with its membership.

C. Appointment of Hearing Panel

The DBEC shall appoint a panel of no less than three members to hear the complaint. All members should be ethics committee members when possible, and at least one must be. One member of the panel shall be selected to chair the Hearing Panel (Hearing Panel Chair) and shall be a voting member of the panel. The APA Member may request those with whom they have a conflict of interest be excused, and reasonable requests should be honored.

D. Notice of Hearing

1. No less than 30 days before the scheduled hearing, the DBEC shall provide a Notice to the Complainant and the APA Member. The Notice should supply the following information:
 - a. The place, date, and time of the hearing;
 - b. The names of the Hearing Panel Chair and the other panel members who will hear the case; and
 - c. A list of witnesses expected to testify.
2. Any reasonable requests by the parties for alternative hearing dates should be honored.

E. Education Option

1. At any time before a final determination of whether the APA Member violated the ethical standards established by the *Principles*, and with the agreement of the APA Member, the complaint may be resolved in accordance with the Educational Option rather than determine whether the APA Member violated the *Principles*. In deciding whether to use this approach, the DBEC shall consider such factors as the nature and seriousness of the alleged misconduct and any prior findings or allegations of unethical conduct.
2. If the DBEC decides to attempt to resolve the complaint by using the Educational Option as described in paragraph 1 above, it shall proceed only after:
 - a. APA Member has been informed (1) that they are entitled to proceed under enforcement procedures, and (2) that the DBEC reserves the right to proceed on the complaint to determine whether the APA Member violated the *Principles* if, in its sole discretion, it determines that the APA Member has not satisfactorily cooperated;
 - b. APA Member agrees to proceed under the Education Option;
 - c. There are appropriate education opportunities available and the DBEC has the resources to monitor compliance; and
 - d. The APA Member will have the opportunity to respond to the suggestion to use the Education Option. The DBEC shall determine the procedures to be used to obtain the responses, including written submissions and/or meeting with the parties separately or together. However, in determining the procedure it will use, the DBEC shall seek to

provide a format that will facilitate the APA Member's understanding of the ethical issues raised by the complaint, including the reasons for or sources of the Complainant's concern, and to permit the DB to assess the APA Member's understanding of these matters.

3. The DBEC shall identify a specific educational program including courses, reading and/or consultation for the APA Member to complete within a specified period and shall notify the APA Member and the APA Ethics Committee of the required program. The DBEC will monitor the APA Member's compliance with any such educational requirements. The APA Member's failure to complete the specified educational program may result in the proceedings being reopened to determine whether the APA Member violated the *Principles*. It is preferable, but not required, that the subsequent proceeding be conducted by DBEC members other than those who participated in the process previously.
4. The DBEC shall retain records of complaints considered pursuant to this Part and of any education thereafter required of an APA Member. The DB may consider such information in connection with a decision as to how to handle any later complaints involving the APA Member.
5. Once the DBEC decides to resolve the complaint by using the Educational Option, it shall notify both the Complainant and APA Member.
6. Upon completion of an Education Option requirements, the proceeding shall be terminated.

PART IV: THE HEARING

A. Basic Requirements

1. While the spirit of this process is a collegial one based on mutual respect among professional colleagues -- and not a court of law -- procedural safeguards are an integral aspect in order to preserve the rights of the APA Member and provide fairness and respect for both the APA Member and the Complainant.
2. If deemed useful and not likely to prejudice the panel, the Hearing Panel Chair may allow the individual(s) who did the review of allegations under Part II to present oral or written documentary and testimony evidence, subject to cross examination by the APA Member or their counsel, for the panel's consideration. This reviewer(s) of the allegations should not participate any further in the hearing or be part of the panel's deliberations or voting.
3. Counsel's participation is subject to the continuing direction and control of the Hearing Panel Chair. The Hearing Panel Chair shall exercise their discretion so as to prevent the intimidation or harassment of the Complainant and/or other witnesses given the peer review nature of the proceedings. Panel members may ask questions of the APA Member.

4. The APA Member's voluntary waiver of a hearing shall not prevent the Hearing Panel from meeting with, and hearing the evidence of, Complainant and other witnesses, and reaching a decision in the case. The APA Member may choose not to be present at the hearing and to present their defense through other witnesses and/or Counsel.
5. The Complainant must be present in person at the hearing to testify regarding their allegations unless excused by the Hearing Panel Chair, and this should occur only when, in the judgment of the Hearing Panel Chair, participation would be harmful to them, or extrinsic evidence constitutes the complaint. Complainants may bring a support person to the hearing if approved by the Hearing Panel Chair. Complainants generally do not remain in the hearing once they have presented their testimony and evidence and been cross examined. The Hearing Panel Chair may have them wait outside during the remainder of the hearing in the event further information from the Complainant becomes needed.

B. The Hearing

1. The hearing may consist of:
 - a. An oral opening statement by the Complainant, and the APA Member or their Counsel;
 - b. Testimony by the Complainant and any witnesses, and any written or oral cross examination by APA Member or their Counsel;
 - c. Testimony by the APA Member;
 - d. Questions by the Hearing Panel members; and
 - e. Presentation of any evidence determined to be relevant by the Hearing Panel Chair, regardless of its admissibility in a court of law.
2. The APA Member or their Counsel shall be permitted to make an oral closing statement and/or submit a written statement at the close of the hearing or within a reasonable time thereafter.

PART V: DISTRICT BRANCH DECISION

After the hearing, the Hearing Panel shall meet and reach a decision based on the information presented at the hearing, including the testimony from the parties and any other witnesses, the documents submitted, and any other evidence provided as part of the hearing. The decision shall consist of (A) a determination of whether the APA Member violated the ethical standards established by the *Principles*, and (B) if so, then what sanction, if any, is appropriate.

A. Determination

1. After the conclusion of the hearing, the panel shall issue a written determination that sets forth the Hearing Panel's findings, recommendations, and reasoning.

2. In making its decision, the Hearing Panel should consider:
 - a. The nature and seriousness of the alleged conduct;
 - b. Whether or not there is a reasonable belief that an ethics violation occurred;
 - c. The credibility of the APA Member, Complainant and the other witnesses; and
 - d. Any documents submitted that the panel finds credible.
3. The DB executive council (or the DB's governing body) must review the panel's determination. The DB executive council can accept or modify the panel's findings. In all cases, the DB shall seek to reach a decision as expeditiously possible.
4. Before notifying the Complainant and APA Member, all determinations must be forwarded to the APA Ethics Committee for review pursuant to the procedures set forth in Part VI.
5. Unless the DBEC proceeds under the Education Option, there are two basic findings:
 - a. The APA Member did not act unethically; or
 - b. The APA Member acted unethically.
6. No Ethical Violation
 - a. If the Hearing Panel decides after a hearing that no ethical violation occurred, it shall prepare a written explanation that sets forth the reasons for the determination. This determination shall be submitted to the DB executive council and the APA Ethics Committee for review as set forth in Part VI.
 - b. If approved by the DB executive council and the APA Ethics Committee as set forth in Part VI, the DBEC shall notify the Complainant and APA Member in writing of the determination.
 - c. There is no appeal from this determination.
7. Ethical Violation
 - a. If the panel decides after a hearing that APA Member acted unethically, it shall prepare a written explanation that sets forth the reasons for the determination. It shall then proceed to determine the appropriate sanction. This determination shall be submitted to the DB executive committee and the APA Ethics Committee for review as set forth in Part VI.
 - b. If approved by both the DB executive committee and APA Ethics Committee, only the APA Member shall be notified in writing of the determination setting forth the reasons for the determination and the sanction. This Notice should be copied to the APA Ethics Office. This Notice shall also inform the APA Member of their right to appeal the determination to the APA Ethics Committee within 30 days. The appeal right applies to

all adverse findings.

- c. The Complainant is not notified of the determination until all appeals have been concluded or the time for the APA Member to appeal has expired.

B. Sanctions

If the panel finds that an ethical violation has occurred, it must determine the appropriate sanction. This determination may include consideration of any mitigating or aggravating circumstances such as illness or prior findings of unethical conduct that are relevant to the current violation. The three (3) sanctions in increasing order of severity are: (1) Reprimand; (2) Suspension; and (3) Expulsion.

1. Reprimand

- a. A reprimand is an official admonishment by the APA. The reprimand shall identify the conduct considered unethical and the basis of the determination.
- b. The reprimand is confidential and is not published to the general membership of the DB or the APA, or to the general public.
- c. Additional conditions may be included with the reprimand as set forth in Part V.C.

2. Suspension

- a. Suspension is a serious sanction that will be made public. An APA Member may be suspended for a period not to exceed five (5) years.
- b. A suspended Member shall pay dues and is eligible for APA benefits, except that such an APA Member will lose their rights to hold office, vote, nominate candidates, propose referenda or amendments to the Bylaws, and serve on any APA committee or component, including the APA Board of Trustees and the APA Assembly. If the suspended Member is a Fellow, Life Fellow, Distinguished Fellow or Distinguished Life Fellow, the Fellowship will be suspended for the same period of time.
- c. Each DBEC shall decide which, if any, DB privileges and benefits shall be denied the APA Member during the period of suspension.
- d. Additional conditions may be included with the suspension as set forth in Part V.C.
- e. The name of any APA Member who is suspended for an ethics violation, along with an explanation of the nature of the violation, shall be reported by the APA Ethics Office:
 - i. In *Psychiatric News*;
 - ii. To the DB to be included in the DB newsletter or other usual means of communication with its membership;
 - iii. To the medical licensing authority in all states in which the APA Member is licensed; and

iv. To the National Practitioner Data Bank.

f. The DB should also consult applicable state law to assure that it adheres to any requirements.

3. Expulsion

a. Expulsion is the most serious sanction. As a result, all determinations to expel an APA Member must be affirmed by the APA Board of Trustees.

b. Once a decision to expel an APA Member has been approved by the DB executive council and the APA Ethics Committee, and the appeal process under Part VII has been exhausted or expired the APA Ethics Committee Chair (or their designee) shall present the matter and the documentary record to the APA Board of Trustees at the Board's next meeting. The APA Board of Trustees may:

i. Affirm the sanction;

ii. Impose a lesser sanction;

iii. Remand to the APA Ethics Committee or DBEC for further action or consideration in which case these procedures shall apply to those actions; or

iv. Request further information from the DBEC before voting on the decision to expel.

c. A decision to affirm an expulsion must be by a vote of two-thirds (2/3) of those Trustees present and voting. A decision to impose a lesser sanction shall be by a majority vote.

d. If the APA Board of Trustees affirms expulsion, the APA Secretary shall notify the DBEC, and the DBEC shall in turn notify the Complainant and APA Member of the decision and that it is final. The APA Member shall also be provided copies of the DBEC and/or panel recommendation(s) and reasoning.

e. The name of any APA Member who is expelled from the APA for an ethics violation, along with an explanation of the nature of the violation, shall be reported by the APA Ethics Office:

i. In *Psychiatric News*;

ii. To the DB to be included in the DB newsletter (APA Office of Ethics will provide DBEC with language) or other usual means of communication with its membership;

iii. To the medical licensing authority in all states in which the APA Member is licensed; and

iv. To the National Practitioner Data Bank.

- f. The DB should also consult applicable state law to assure that it adheres to any state requirements.

C. Additional Considerations

Concurrent with the imposition of the sanctions of reprimand and suspension, additional conditions can be imposed. These conditions are designed to reinforce and facilitate ethical behavior.

1. Supervision

- a. The DBEC may impose supervisory requirements on a suspended APA Member. When such conditions are imposed, the following procedures shall apply:
 - i. If the DBEC imposes conditions, it shall ensure that the DB monitors compliance;
 - ii. If an APA Member fails to satisfy the conditions, the DBEC may decide to recommend a new sanction; and
 - iii. If the DBEC determines that an APA Member should be expelled for noncompliance with conditions, the APA Board of Trustees shall review the expulsion in accordance with the provisions set forth in Part V.B.3. of these procedures.
- b. In determining whether to require supervision, the Hearing Panel and/or the DBEC should consider the available resources to conduct and monitor such supervision.

2. Education Requirement

- a. The DBEC may impose an Education Requirement as part of the sanctions of reprimand or suspension.
- b. If the DBEC decides to impose an Education Requirement, the DBEC shall identify a specific educational program including courses, reading and/or consultation for the APA Member to complete within a specified period and shall notify the APA Member and the APA Ethics Committee of the required program. The DB will monitor the APA Member's compliance with any such educational requirements. The APA Member's failure to complete the specified educational requirement(s) may result in the proceedings being reopened (e.g., to determine if a greater sanction is indicated).

3. Personal Treatment

- a. As part of any sanction, personal treatment may be recommended, but not required, and any such recommendation shall be carried out in accordance with the ethical requirements governing confidentiality as set forth in the *Principles*. In appropriate cases, the DBEC may also refer the psychiatrist in question to a program responsible for considering impaired or physically ill physicians.

PART VI: REVIEW BY THE APA ETHICS COMMITTEE

A. APA Ethics Committee Review

1. After the DBEC decision is confirmed by its DB executive council (or the DB's governing body),

the decision and any pertinent information concerning the procedures followed or relating to the action taken shall be forwarded to the APA Ethics Committee for review. This review applies to all decisions, including those where the DBEC finds that an ethics violation has not occurred.

2. The APA Ethics Committee will appoint a panel composed of at least three (3) voting members of the APA Ethics Committee to undertake these review functions on behalf of the full APA Ethics Committee. The review shall assure that:
 - a. The complaint received a comprehensive and fair review;
 - b. That the review was in accordance with the applicable procedures; and
 - c. The sanction imposed was appropriate.
3. If the APA Ethics subcommittee concludes that these requirements were not satisfied, it shall so advise the DBEC, and the DBEC shall remedy the deficiencies and shall make further reports to the APA Ethics Committee until such time as the APA Ethics Committee is satisfied that these requirements have been met.
4. If the APA Ethics subcommittee concludes that the sanction should be reconsidered by the DBEC, it shall provide a statement of reasons explaining the basis for its opinion, and the DBEC shall reconsider the sanction. After reconsideration, the decision of the DBEC shall be final with the exception that Expulsions must also be approved by the APA Board of Trustees.
5. The Complainant and APA Member shall not be notified of any decision until this review is completed.

B. Notification of Decision

1. After the APA Ethics Committee or subcommittee completes the review process, the following Notices will be sent:
 - a. If the determination is that no ethics violation has occurred, the DB shall provide written Notice to the Complainant and APA Member of the decision.
 - b. If the determination is that an ethical violation did occur, the DBEC shall provide written Notice to the APA Member of the decision and the sanction. The APA Member shall be provided: (1) copies of the DBEC and/or panel recommendation(s), (2) the DBEC decision, and (3) notice of their right to Appeal the decision within 30 days of receipt of the letter. The Complainant shall not be notified until all appeals or the time for all appeals has expired.
 - c. If the decision is to expel the member, the DBEC shall not provide Notice until the APA Board of Trustees has approved the expulsion pursuant to Part V.B.3. Once approved by the Board, the DBEC shall provide written Notice to the Complainant and APA Member, with a copy to APA, that Expulsion has been approved by the Board of Trustees and that the decision is final.

PART VII: APPEALS

A. Appeal Panel

1. All appeals shall be considered and decided by a panel of three (3) members of the APA Ethics Committee who have not been involved in a review of the case pursuant to Part VI.
2. The Chair of the APA Ethics Committee may appoint a replacement if there are not three members of the Committee who have not been involved in the case who are able to serve.

B. Grounds for Appeal

All appeals shall be based on one (1) or more of the following grounds:

1. That there have been significant procedural irregularities or deficiencies in the case;
2. That *The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry* has been improperly applied;
3. That the findings of or sanction imposed by the DB are not supported by substantial evidence;
4. That substantial new evidence has called into question the findings and conclusions of the district branch.

C. APA Member's Request for Appeal

1. The APA Member's request for an appeal must be received within 30 days of the date the APA Member is notified of the district branch decision. Upon receipt of the APA Member's request for an appeal, the APA Ethics Committee shall request and the DB shall provide to the APA Ethics Committee a copy of the DB file, including the recording of the hearing. The APA Ethics Committee shall make a copy the DB file available to the APA Member upon request and compliance with any conditions set by the APA Ethics Committee.
2. In appeals heard by an APA Ethics Committee appeals panel, the panel will review and decide the appeal solely on the basis of the DB's documentary record of its actions and decision and any written appeal statements filed by the APA Member and the district branch. The APA Member's statement will be provided to the DB, which may file a written response. Any DB response will be forwarded to the APA Member, who will have the opportunity to respond in writing prior to the Ethics Committee's consideration of the appeal. Filing deadlines and other procedures governing the appeal shall be established by the APA Ethics Committee.

D. Decision by APA Ethics Committee Appeal Panel

1. After reviewing all documents, the APA Ethics Committee appeals panel may take any of the following actions:

- a. Affirm the decision, including the sanction imposed by the district branch;
 - b. Affirm the decision, but alter the sanction imposed by the district branch;
 - c. Revise the decision of the district branch and terminate the case; or
 - d. Remand the case to the district branch with specific instructions as to what further information or action is necessary. Remands will be employed only in rare cases, such as when new information has been presented on appeal or when there is an indication that important information is available and has not been considered. After the district branch or panel has completed remand proceedings, the case shall be handled in accordance with procedures in Part VI and VII.
2. After the APA Ethics Committee appeals panel reaches a decision, if the decision is anything other than to expel a member or remand, the Chair of the APA Ethics Committee shall provide Notice to the DB of the decision. The DB shall then provide Notice to the APA Member and the Complainant of the decision and that it is final.
3. If the decision is to expel the member, the decision would be forwarded to the APA Board of Trustees as outlined in Part V.B.3.