



## **DISCIPLINARY ACTION PROCEDURAL DOCUMENT BOD R03-04-11-23**

[Amended BOD 11-99-05-11; BOD 03-96-04-07; BOD 11-94-05-11; BOD 03-92-33-119; BOD 11-90-19-73; BOD 11-89-29-117; BOD 11-88-24-97; BOD 03-87-15-55; BOD 03-86-13-52; BOD 11-84-07-33; BOD 03-84-12-43; BOD 03-82-07-26; BOD 11-79-06-20] [Procedure]

The American Physical Therapy Association (Association or APTA) has developed this *Disciplinary Action Procedural Document* (Procedural Document) to establish a procedure to process claims that a member of the Association has violated the Association's *Code of Ethics* (Code) or *Standards of Ethical Conduct for the Physical Therapist Assistant* (Standards). This document encompasses the procedures for the investigation and hearing of such claims.

This Procedural Document will be followed when a Chapter President receives a signed complaint relating to a member of the Association or otherwise becomes aware of information indicating that a member has violated the Code or the Standards. The Appendix accompanying this Procedural Document is for informational purposes only. All time periods provided herein may be varied only for good cause consistent with fundamental fairness. Wherever this Procedural Document calls for the use of certified mail, return request requested, an alternative form of delivery may be used, provided that it generates a reliable record of receipt.

The Ethics and Judicial Committee of the American Physical Therapy Association will review all complaints, records, and recommendations that are initiated or generated at the Chapter level. At any time in the course of the disciplinary process the Ethics and Judicial Committee has the authority to assume responsibility for management of the ethics proceeding at the Chapter level. Questions of a legal nature may be addressed to Association headquarters.

### **1. INITIATION OF ETHICS PROCEEDING BY CHAPTER PRESIDENT**

A Chapter President may initiate an ethics proceeding in response to a complaint or on the basis of reliable information that comes to his/her attention.

#### **(a) Complaint.**

(1) Receipt, Forwarding, and Acknowledgment. Any person who believes that a member has acted in violation of the ethical principles or standards of the Association may submit a signed written complaint to the President of the Chapter to which the member is assigned. The President may proceed on the basis of a signed complaint submitted by fax but not on the basis of any email complaint. A complaint must describe the conduct which the complainant believes constitutes an ethical violation, but it need not cite specific sections of the Code or Standards. Within three (3) days of receiving a complaint, the President must forward a copy to the attention of the Ethics and Judicial Committee at Association headquarters (1111 North Fairfax Street, Alexandria, Virginia 22314). Upon receipt of a copy of a complaint Association staff shall assign a case number for use on all documents in the proceeding and shall communicate the case number to the Chapter President. The Chapter President and the Chapter Ethics Committee (CEC) must use this case number on all documents he/she or it issues in the proceeding. The Chapter President and the CEC may not send any communication to a complainant or respondent unless its heading includes the case number assigned by Association staff. Within fifteen (15) days after being advised of the case number, the President shall give the complainant written acknowledgment of receipt of the complaint, which acknowledgment shall enclose a copy of the Procedural Document and shall advise the complainant of the respondent's right to learn the identity of the complainant.

(2) Alternative Recipient of Complaint. In any case in which a person has a complaint against a Chapter President, a member closely associated with the Chapter President, or an elected or appointed leader of the Association or of any APTA chapter or section (or in which other circumstances exist which give rise to the appearance that the Chapter President may be unable to act impartially), the complainant may address the complaint to the Association's Ethics and Judicial Committee at the Association's headquarters. The Ethics and Judicial Committee, upon determining that the complaint falls within the foregoing sentence, shall proceed to carry out the functions hereunder of the Chapter President with respect to the complaint; in such a case, references in this Procedural Document to the Chapter President shall be deemed to be to the alternative recipient. The Ethics and Judicial Committee, upon determining that this paragraph does not apply, shall so notify the complainant (who will remain free to resubmit the complaint to the Chapter President).

(b) Chapter President's Action With Respect to a Complaint. The responsibility of a Chapter President with respect to a signed complaint is to decide whether to initiate an APTA ethics proceeding by issuing a notice of charges as described in subsection (b)(2)(C) below. The Chapter President shall consult with the Chair of the CEC in making this decision.

The Chapter President first shall determine whether the complaint, fairly construed, alleges conduct by the Association member that would constitute a violation of the Code or Standards. For purposes of this analysis, the President shall assume that the specific facts alleged are true, unless the allegations are plainly baseless.

(1) No Allegation of Ethical Violation. If the Chapter President determines that the conduct alleged would not constitute an ethical violation, he/she must send the Ethics and Judicial Committee written notice advising that he/she is declining to issue a notice of charges and briefly explaining his/her rationale. The Chapter President shall send the complainant a copy of such notice of decision not to initiate an ethics proceeding.

(2) Allegation of Ethical Violation. If the Chapter President determines that the conduct alleged would constitute an ethical violation, he/she still must exercise his/her best judgment as to whether to refer the case to the CEC, taking into account the nature of the alleged conduct, the ability of the CEC to investigate and dispose of the case, and other relevant considerations. The Chapter President may decline to issue a notice of charges on the ground that:

- (i) the conduct alleged would constitute only a de minimis violation such that referral to the CEC is not warranted;
- (ii) the conduct alleged occurred sufficiently long ago that referral to the CEC is not warranted; or
- (iii) the ultimate determination whether the conduct violates the Code or Standards would require resolution of legal or other issues beyond the competence of the CEC and/or the Ethics and Judicial Committee, so that referral to the CEC is not warranted.

(A) Decision Not To Initiate an Ethics Proceeding. If the Chapter President makes a discretionary decision not to refer the case to the CEC, he/she must send the Ethics and Judicial Committee written notice advising that he/she is declining to issue a notice of charges and briefly explaining his/her rationale. At the same time the Chapter President shall forward the complete file to the Ethics and Judicial Committee and shall send the complainant a copy of the notice of decision not to initiate an ethics proceeding.

(B) Decision To Initiate an Ethics Proceeding; Notice of Charges. If the Chapter President decides that a complaint's allegations of ethical misconduct should be referred to the CEC, he/she shall initiate an ethics proceeding against the member (respondent) by promptly sending a notice of charges to the respondent, with copies to the Ethics and Judicial Committee and the

CEC. The President shall send the notice of charges to the respondent by certified mail, return receipt requested.

(C) Notice of Charges. The notice of charges shall describe, in the President's words, the conduct which, if proven, would constitute a violation of the Code or the Standards. The notice must describe the conduct in sufficient detail to apprise a reader unfamiliar with the case of the behavior in which the respondent allegedly engaged. The notice must specify which provision(s) of the Code or Standards the conduct, if proven, would violate. The notice of charges may, but need not, specify any provision(s) of the *Guide for Professional Conduct* or the *Guide for Conduct of the Physical Therapist Assistant* which the Chapter President believes is (are) relevant to the conduct in question. The notice of charges shall state that the President is referring the matter to the CEC and shall identify the Chair of the CEC (name, address, and telephone number). The President shall enclose a copy of the complaint with the notice of charges, and the notice shall advise the respondent that a copy of the complaint is enclosed. The President shall refer the matter to the CEC by sending it a copy of the notice of charges and shall transmit also the underlying complaint, and any other documents in the President's possession that may be relevant to the proceeding.

(c) Chapter President's Action Based on Reliable Information. A Chapter President may initiate an ethics proceeding without having received a signed complaint, but only in accordance with this subsection. A proceeding may be initiated on the basis of written information that is available publicly, obtained from authorized agencies, or otherwise properly obtained, if such information reliably indicates that an APTA member engaged in conduct that would constitute a violation of the Code or Standards. Such information may include evidence that a member has violated a state or federal criminal law or that a state licensing agency has taken disciplinary action against a member.

(1) Receipt of Information. Association staff may forward to a Chapter President reliable information that might be the basis for initiation of an ethics proceeding, in which case staff shall assign a case number to the matter and communicate that case number to the Chapter President.

A Chapter President who obtains reliable information that might be the basis for initiation of an ethics proceeding from a source other than Association staff must forward a copy of the information to the attention of the Ethics and Judicial Committee at Association headquarters within three (3) days of obtaining such information. Upon receipt of a copy of such information, Association staff shall assign a case number for use on all documents in the proceeding and shall communicate the case number to the Chapter President. The Chapter President and the Chapter Ethics Committee (CEC) must use the case number assigned by Association staff on all documents he/she or it issues in the proceeding. The Chapter President and the CEC may not send any communication to a respondent unless its heading includes the case number assigned by Association staff.

(2) Chapter President's Action With Respect to Information Reliably Indicating Misconduct. The responsibility of a Chapter President with respect to information reliably indicating that a member engaged in unethical conduct is to decide whether to initiate an APTA ethics proceeding issuing a notice of charges as described in subsection (b)(2)(C) above. The Chapter President shall consult with the Chair of the CEC in making this decision.

The Chapter President first shall determine the facts that have been reliably established (e.g., by a guilty plea or verdict in a criminal proceeding or by a consent decree in a licensing action). Because such determinations often involve the interpretation of legal documents, the Chapter President shall consult with the Association's legal counsel as needed.

(A) No Evidence of Ethical Violation. If the Chapter President determines that the conduct reliably established would not constitute an ethical violation, he/she must send the Ethics and Judicial

Committee written notice advising that he/she is declining to issue a notice of charges and briefly explaining his/her rationale.

(B) Evidence of Ethical Violation. If the Chapter President determines that the conduct reliably established would constitute an ethical violation, he/she still must exercise his/her best judgment as to whether to refer the case to the CEC, taking into account the nature of the conduct, the ability of the CEC to investigate and dispose of the case, and other relevant considerations. The Chapter President may decline to issue a notice of charges on any ground specified in subsection (b)(2) above.

(i) Decision Not To Initiate an Ethics Proceeding. If the Chapter President makes a discretionary decision not to refer the case to the CEC, he/she must send the Ethics and Judicial Committee written notice advising that he/she is declining to issue a notice of charges and briefly explaining his/her rationale.

(ii) Decision To Initiate an Ethics Proceeding. If the Chapter President decides that an ethics proceeding based on reliable information should be initiated, he/she shall do so by promptly sending a notice of charges to the member (respondent), with copies to the Ethics and Judicial Committee and the CEC, in accordance with the requirements specified in subsection (b)(2)(C) above.

## 2. PROCEEDING BASED ON SERIOUS CRIME OR REVOCATION OF LICENSURE

(a) Serious Crimes. A member's commission of a crime which (i) is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant and (ii) is classified as a felony by the applicable federal, state, or territorial law, or is punishable by imprisonment for six months or more, is *prima facie* evidence of a violation of the ethical principles or standards of the Association. The procedures in this section shall apply in the event of (a) a member's plea of guilty or nolo contendere to a charge involving such a serious crime, (b) a finding of guilt after trial, or (c) a member's conviction of such a serious crime. Such a plea (if not withdrawn), finding, or conviction shall be deemed presumptive evidence that the member has engaged in the activity alleged in the criminal charges to which he/she pleaded, as to which there was a finding of guilt, or of which he/she was convicted.

(b) Revocation of Licensure. A member's engaging in conduct which would justify revocation of professional licensure is *prima facie* evidence of a violation of the ethical principles or standards of the Association. The procedures in this section shall apply in the event a state licensing agency revokes a member's license (except that this section shall not apply if the revocation of the member's license is stayed). Such a revocation shall be deemed presumptive evidence that the member has engaged in the conduct on which the revocation was based.

(c) Chapter Responsibilities. If a Chapter President, through receipt of a complaint or other information, becomes aware that a member has committed a crime such as described in subsection (a) above or has had his/her license revoked as described in subsection (b) above, the President shall forward the complaint or other information to the Ethics and Judicial Committee. If a CEC becomes aware of information such as described in subsection (a) or (b) above concerning a member who is a respondent in a case before the CEC that relates to the crime or the basis for the license revocation, the CEC shall forward the information and the complete record of the case to the Ethics and Judicial Committee.

(d) Ethics and Judicial Committee Responsibilities. If the Ethics and Judicial Committee receives reliable information (from a Chapter President or any other source) indicating that a member has made a plea (which has not been withdrawn), been found guilty, or been the subject of a criminal conviction such as described in subsection (a) or that a state licensing agency has taken action such as described in subsection (b), the Ethics and Judicial Committee shall initiate (or continue)

an ethics proceeding by preparing and sending a notice of suspension and charges to the member (respondent) by certified mail, return receipt requested.

(e) Notice of Suspension and Charges. The notice of suspension and charges shall advise the respondent that the Ethics and Judicial Committee has preliminarily suspended the respondent (ie, temporarily removed his/her membership rights as provided in Section 4), effective thirty (30) days after the date of the notice and continuing until the Ethics and Judicial Committee's decision. The notice shall describe the conduct which appears to constitute a violation of the Code or the Standards and shall specify which provision(s) of the Code or Standards the conduct appears to have violated. The notice of charges may, but need not, specify any provision(s) of the *Guide for Professional Conduct* or the *Guide for Conduct of the Physical Therapist Assistant* which the Ethics and Judicial Committee believes is (are) relevant to the conduct in question. The notice shall advise the respondent that the Ethics and Judicial Committee will consider the case at its next regularly scheduled meeting (or, if the date of the notice is sixty (60) or fewer days before the start of that meeting, at the first regularly scheduled meeting thereafter) and that the respondent may choose to appear before the Committee or to submit a written statement.

(f) Ethics and Judicial Committee Action. At the appropriate regularly scheduled meeting the Ethics and Judicial Committee shall consider the respondent's case. If the respondent exercises his/her right to appear before the Ethics and Judicial Committee, the hearing shall be limited to one hour.

(1) Serious Crime. With respect to any proceeding based on commission of a serious crime, the Ethics and Judicial Committee shall consider: whether the respondent in fact entered a plea of guilty or nolo contendere, was found guilty, or was convicted; the nature of the conduct underlying the criminal charges to which the respondent pleaded or was found guilty or convicted; the relationship of the criminal conduct to the qualifications, functions, or duties of a physical therapist or physical therapist assistant; the relationship of the criminal conduct to the provision(s) of the Code or Standards specified in the notice of suspension and charges; and any other matters which the Committee in its discretion deems relevant.

(2) Licensure Revocation. With respect to any proceeding based on revocation of licensure, the Ethics and Judicial Committee shall consider: whether the respondent in fact was the subject of administrative action resulting in revocation of licensure; the nature of the conduct upon which the licensing authority based its adverse action; the relationship of such conduct to the qualifications, functions, or duties of a physical therapist or physical therapist assistant; the relationship of such conduct to the provision(s) of the Code or Standards specified in the notice of suspension and charges; and any other matters which the Committee in its discretion deems relevant.

(3) Ethics and Judicial Committee Decision. The Ethics and Judicial Committee shall make a decision, based on the information available to it, to dismiss the charges or to impose any form of disciplinary action described in Section 4. The Ethics and Judicial Committee shall mail notice of its decision to the respondent, by certified mail, return receipt requested, within fifteen (15) days following the decision. If the Ethics and Judicial Committee decides to continue the suspension the notice of decision shall specify the length of the continuation (which shall be deemed the specified time of initial suspension for purposes of any future termination of suspension).

### 3. CHAPTER ETHICS COMMITTEE PROCEEDINGS

The CEC shall be responsible for processing any proceeding the Chapter President refers to it under Section 1. All CEC decisions shall be determined by a majority vote of members present and voting. The Chapter President, after referring a matter to the CEC, shall not participate any further in the proceeding.

(a) Appointment of Investigator. Within 30 days after receipt of the notice of charges, the CEC by letter (with a copy to the Ethics and Judicial Committee) shall appoint an investigator (who may

be a member of the CEC and who need not be an Association member) to conduct and investigation of the charges set forth in the President's notice of charges. The CEC shall provide the investigator with the complaint (if any), the documentation underlying any proceeding initiated by the President under Section 1(e), the President's notice of charges, and any other documents or information the CEC determines to be relevant to the investigation.

(b) Investigation. The investigation shall be an appropriately comprehensive and unbiased review of the circumstances of the alleged unethical activity. As a part of the investigation, the complainant and the respondent will be offered an opportunity to submit a statement of position or other evidence with respect to the allegations against the respondent. The investigator shall advise the respondent of all adverse evidence developed in the course of the investigation and shall give the respondent the opportunity to respond to all adverse evidence.

(c) Investigative File; Date of Receipt. The investigator shall prepare an investigative file which includes the complaint (if any), any documentation on which the President relied in initiating a proceeding under Section 1(e), the President's notice of charges, and other information and documents acquired or created during the investigation. The investigative file shall not include a recommendation concerning the CEC's action on the case. The investigator, within ninety (90) days of his/her appointment, shall submit to the CEC a cover letter enclosing the investigative file. The investigator shall be available to be called at the hearing (if any) to clarify the contents of the investigative file. The CEC shall make a record of the date of its receipt of the investigative file (e.g., by memorandum to file).

(d) Confidentiality. In order to protect the legitimate interests of the respondent, complainant, witnesses, and others, the confidential nature of a proceeding under this Procedural Document shall be preserved (except as explicitly provided herein). The Chapter President, the members of the CEC, and the investigator shall take due precautions to assure the confidential nature of the proceeding; they shall endeavor to restrict knowledge of the existence and substance of any proceeding to those individuals having a need to know (e.g., witnesses, legal counsel, expert advisors or witnesses, stenographers, Chapter or Association staff with support responsibilities, etc.). The Chapter President, the CEC, and the investigator may seek information and documentation from state licensing agencies (and courts) relating to disciplinary (or criminal) proceedings involving the respondent, but they shall not reveal to state licensing agencies (or other parties) information or documentation developed in the course of the proceeding under this Procedural Document. Upon the respondent's request, the investigator shall disclose to the respondent any publicly available documents or information upon which the Chapter President relied in initiating a proceeding under Section 1(e). Except when the CEC dismisses the charges summarily without a hearing, the respondent shall have the right to obtain a copy of the complete investigative file, which shall contain a copy of the underlying complaint (if any). The Association's Chief Executive Officer or President may take appropriate steps (including cessation of the processing of ethics complaints and charges in a state) to protect the interests of individual participants in the ethics process (including respondents and witnesses), the Chapter, and the Association itself upon determining (i) that the law or practice of any state requires (or could require) the disclosure of the existence of a complaint or proceeding under this Procedural Document or the reporting or disclosure of information or documentation developed hereunder and (ii) that such requirement would be unfair to affected parties or could expose any participant, the Chapter, or the Association itself to an undue risk of civil or criminal liability.

(e) Summary Dismissal Without a Hearing. If the CEC determines, based upon its preliminary review of the investigative file, that the evidence does not substantiate the violation(s) specified in the notice of charges, the CEC may dismiss the charges summarily. In such a case the CEC shall prepare a notice of summary dismissal, which shall state the CEC's rationale. The CEC shall send the notice of summary dismissal to the respondent by certified mail, return receipt requested, with copies to the Ethics and Judicial Committee, the Chapter President, and the complainant (if any).

(f) Notice of Right to Copy of Investigative File and Hearing. If the CEC does not dismiss the charges against the respondent summarily under subsection (e) above, the respondent shall have the right (i) to obtain a copy of the investigative file, and (ii) if the respondent still is an APTA member, to have a hearing before the CEC.

In such a case, the CEC, after receiving the investigative file, shall send the respondent a notice of his/her rights, in substantially the following form:

This Committee has conducted a preliminary review of the investigative file and determined that it contains evidence that could substantiate the charges against you specified in the [date] notice of charges that the Chapter President sent to you. Under APTA's *Disciplinary Action Procedural Document*, you have the right (i) to obtain a copy of the investigative file, and (ii) if you still are an APTA member, to have a hearing before the CEC. If you wish to exercise any such right, you must submit a written request for a copy of the investigative file or for a hearing within fifteen (15) days of your receipt of this notice.

The CEC shall send this notice by certified mail, return receipt requested, with a copy to the Ethics and Judicial Committee. The respondent shall have fifteen (15) days from receipt of the notice in which to request in writing a copy of the investigative file and/or a hearing.

(1) Respondent's Election of Hearing. If the respondent makes a timely election to have a hearing, then the CEC shall notify the respondent in writing of the date, time, and place of hearing at least thirty (30) days in advance. The hearing shall be scheduled within sixty (60) days of the CEC's receipt of the investigative file.

(2) CEC's Calling of Hearing. If the respondent declines the opportunity to have a hearing or fails to make a timely response, the CEC has the prerogative to call and convene a hearing (eg, if the CEC wishes to hear the respondent testify) to be held no later than sixty (60) days after the CEC's receipt of the investigative file. In such an event the CEC shall notify the respondent in writing of the date, time, and place of hearing at least thirty (30) days in advance.

(3) No Hearing. If no hearing is held the CEC shall proceed as described in Section 4 of this Procedural Document.

(g) Hearing. The CEC shall conduct the hearing to review the pertinent facts, including the calling of witnesses and the production of pertinent documents. Except for the purpose of offering testimony, attendance at the hearing is limited to members of the CEC, the respondent, the respondent's legal counsel (if any), the Chapter's legal counsel (if any), and a transcriber (if any). Additional persons may be allowed to attend with the mutual agreement of the CEC and the respondent. The respondent may call a witness(es) to the hearing. Witnesses, including the complainant, shall not be allowed to attend any part of the hearing in which they are not directly involved. The respondent shall have the right to appear at the hearing in person to present and question witnesses and examine evidence. If legal counsel for the respondent or the CEC is present at the hearing (or at any stage of the ethics proceeding including proceedings before the Ethics and Judicial Committee or Board of Directors of the Association) the scope of involvement of such counsel shall be to provide consultation and advice to the respective parties. Rules of evidence shall not be applied strictly, but the CEC shall exclude irrelevant or unduly repetitious evidence. An oral affirmation of truthfulness will be requested from each witness. All documents accepted by the CEC, including the investigative file, shall be made a part of the record of the hearing.

(h) Failure of Complainant To Participate. If a proceeding was based on a complaint and the situation arises where the complainant no longer participates, the CEC may continue the ethics proceeding.

(i) Termination of Respondent's Membership During Proceeding. If during an ethics proceeding the CEC learns that a respondent's membership in the Association has ended, the CEC shall still complete the collection of all available information to facilitate a later reopening of the case if the respondent at any time rejoins the Association. In such a case the CEC shall review the investigative file. The CEC may dismiss the charges summarily on the basis of the investigative file, in which case it shall send notice of such summary dismissal in accordance with subsection (e). Otherwise, the CEC shall notify the respondent in accordance with subsection (f) and shall conduct a hearing (if any) in accordance with subsection (g). If a hearing is held the CEC may dismiss the charges, in which case it shall so notify the respondent by certified mail, return receipt requested, with a copy of the notice to the Ethics and Judicial Committee. If the CEC does not determine to dismiss the charges against the respondent, the CEC shall forward the complete record of the case (including the investigative file and the record of any hearing) to the Ethics and Judicial Committee. In any such case the CEC may (but need not) make a recommendation to the Ethics and Judicial Committee concerning the disciplinary action that it deems would have been appropriate if the respondent had been a member throughout the time the proceeding was before the CEC. In any such case the Ethics and Judicial Committee shall proceed pursuant to Section 5(e).

(j) Stay of Proceeding. The CEC may (but need not) vote to stay any proceeding before it if the conduct in question is the subject of investigation or action by federal, state, or local governmental authorities. If the CEC stays any such proceeding it shall review its decision to stay at intervals of no more than six (6) months.

(k) Communications With Ethics and Judicial Committee. The Ethics and Judicial Committee may prescribe a form of Disciplinary Action Worksheet to be used to track the progress of any proceeding. The Chair of the CEC shall advise the Ethics and Judicial Committee periodically (and upon request) of the status of any matter pending before the CEC.

#### 4. CHAPTER ETHICS COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

(a) Dismissal or Recommendations of Disciplinary Action. The CEC shall take action based on the evidence contained in the investigative file and obtained at a hearing (if any). The CEC shall take one of the following actions:

(1) dismiss the charges; or

(2) recommend that the Ethics and Judicial Committee impose one of the following disciplinary actions:

(A) Reprimand -- a statement of recognition that the respondent's behavior was contrary to the Code or Standards. A reprimand is issued with the understanding that the respondent will correct the violation immediately (if he/she has not done so already). Ongoing conditions may not be added to a reprimand.

(B) Probation -- a stronger reprimand with conditions for corrective action that the respondent shall complete within a given time period, not less than six (6) months nor more than two (2) years. The CEC shall monitor compliance with the conditions of probation. Failure to comply with the conditions of probation shall result in review by the Ethics and Judicial Committee as described in Section 7(a).

(C) Suspension -- a temporary removal for not less than one (1) year of the rights and privileges of membership as identified in Article IV, Section 2 of the Association's *Bylaws*, "Rights and Privileges of Members," with the exception of B.(11). The affected rights and privileges shall be restored after the termination of the specified time of initial suspension, in accordance with Section 7(b), provided that there has been compliance with Article IV, Section 5 of the *Bylaws*, "Good Standing," during the suspension;

(D) Expulsion -- a removal of membership which is subject to reinstatement only as stipulated in Article IV, Section 7 of the *Bylaws*, "Reinstatement."

If the CEC recommends the imposition of disciplinary action, the recommendation must specify (i) the evidence that the CEC believes supports its recommendation and (ii) the Principle of the *Code of Ethics* or the Standard of the *Standards of Ethical Conduct for the Physical Therapist Assistant* that the CEC believes is implicated. The CEC shall not make any finding that the respondent has violated an ethical principle or any law or regulation.

(b) Notice to Respondent. The CEC shall mail a copy of its dismissal of the charges or its recommendation for disciplinary action to the respondent by certified mail, return receipt requested, within thirty (30) days of the hearing, or if no hearing is held, within seventy (70) days of the CEC's receipt of the investigative file. In either case the CEC shall send a copy to the Ethics and Judicial Committee. If the CEC recommends that the Ethics and Judicial Committee impose disciplinary action, the CEC must include notice of the respondent's right to have a hearing before the Ethics and Judicial Committee and to make a written submission. The notice shall be in terms substantially similar to the following:

Under APTA's *Disciplinary Action Procedural Document*, this Committee has authority to recommend but not to impose disciplinary action. APTA's Ethics and Judicial Committee has authority to impose the disciplinary action recommended by this Committee, to impose less severe disciplinary action, or to dismiss the charges against you. You have thirty (30) days after your receipt of this letter in which (i) to request in writing a hearing before the Ethics and Judicial Committee and/or (ii) to make a written submission to the Ethics and Judicial Committee for its consideration.

(c) Transmission of the Record. The CEC, within the same time frame as above, shall mail to the Ethics and Judicial Committee the entire original of the record, including an updated Disciplinary Action Worksheet, the investigative file, the record of hearing (if any), and evidence of the receipt of all items required to be sent by certified mail, return receipt requested. The CEC shall retain a duplicate copy of the entire record until and unless directed by Association staff in writing to destroy such copy.

## 5. DECISION OF THE ETHICS AND JUDICIAL COMMITTEE

(a) Time of Ethics and Judicial Committee Action. The respondent, within thirty (30) days after receipt of the CEC's recommendation of disciplinary action, by written notice to the Ethics and Judicial Committee may request a hearing before the Ethics and Judicial Committee. Within the same period the respondent may make a written submission to the Ethics and Judicial Committee for its consideration. The Ethics and Judicial Committee shall consider the case at its first regularly scheduled meeting after the respondent's receipt of the CEC's recommendation of disciplinary action if: (i) the Ethics and Judicial Committee receives a timely written request for hearing, a timely written submission, or a written waiver of the unexercised right(s) forty (40) or more days before such meeting; or (ii) the period for the respondent to request a hearing and/or make a written submission expires forty (40) or more days before such meeting. Otherwise, the Ethics and Judicial Committee shall consider the case at the immediately succeeding regularly scheduled meeting.

(b) Notice of Hearing; Hearing. If the respondent elects to have a hearing then the Ethics and Judicial Committee shall mail the respondent notice of the date, time, and place of the hearing at least thirty (30) days before the hearing. If a hearing is held, the hearing shall be limited to one hour. The respondent's presentation shall be limited to matters relevant to the charges.

(c) Decision of Ethics and Judicial Committee. The decision of the Ethics and Judicial Committee shall be based on only the record of the CEC, any oral or written testimony presented by the respondent, and any other information that fairness requires to be heard. The Ethics and Judicial Committee shall not set aside the CEC's dismissal of charges unless it is not supported by

substantial evidence, it resulted from a misinterpretation of procedures or of the Association's ethical principles or standards, or there is evidence of actual or apparent impropriety in the dismissal of the charges.

The decision of the Ethics and Judicial Committee with respect to a CEC's recommendation of disciplinary action shall be to:

- impose the disciplinary action recommended by the CEC and specify the effective dates thereof;
  
- impose less severe disciplinary action than recommended by the CEC or dismiss the charges;  
or
  
- remand to the CEC with appropriate directives.

If the Ethics and Judicial Committee decides to impose disciplinary action, its decision shall specify (i) its findings as to the conduct in which the respondent engaged and (ii) the Principle of the *Code of Ethics* or the Standard of the *Standards of Ethical Conduct for the Physical Therapist Assistant* that it believes was violated. Within thirty (30) days after the Ethics and Judicial Committee has considered the CEC's recommendations and any oral or written testimony, the Ethics and Judicial Committee shall prepare its decision and mail it to the respondent by certified mail, return receipt requested, with a copy to the CEC (and to the Chapter President who initiated the proceeding, if the decision is to approve a dismissal of charges). The Ethics and Judicial Committee shall include an explanation of the appeals procedure. All records of the proceeding shall be kept by the Ethics and Judicial Committee for at least the longer of three (3) years from the date of the decision or one (1) year after the termination of any probation or suspension, except that the records of any proceeding resulting in expulsion shall be kept for at least ten (10) years from the date of the decision.

(d) Publication of Disciplinary Action. If an Ethics and Judicial Committee decision that becomes final under Section 6 imposes suspension or expulsion, the Ethics and Judicial Committee shall publish the name of the respondent, the disciplinary action taken, and the effective date(s) of such action in *PT Magazine* and *Physical Therapy* and make appropriate communications regarding the matter wherever the public welfare requires.

(e) Non-Member Respondent. In a case where the respondent's membership has ended the Ethics and Judicial Committee may dismiss the charges if the evidence does not substantiate the violation(s) specified in the notice of charges, but it may not impose any disciplinary action upon a nonmember. If the Ethics and Judicial Committee does not dismiss the charges, it shall stay the proceeding until the respondent rejoins the Association. In such a case the Ethics and Judicial Committee shall maintain the record of the proceeding for at least ten (10) years from the date of the lapse and shall request the Association's staff to notify the Ethics and Judicial Committee upon the respondent's rejoining the Association so that the stay may be lifted and the proceeding brought to a conclusion.

## 6. APPEAL TO BOARD OF DIRECTORS

(a) Time for Taking Appeal; Notification of Finality If No Appeal. Within thirty (30) days after receiving the final decision of the Ethics and Judicial Committee, the respondent may appeal the decision by delivering a notice of appeal to (i) the Association's Board of Directors and (ii) the Ethics and Judicial Committee. If the Ethics and Judicial Committee does not receive a notice of appeal within thirty (30) days the decision shall become final and unappealable, and the Ethics

and Judicial Committee shall forward a copy of its decision and a notice that the decision is final to the Chapter President, the CEC, the complainant (if any), and the Board of Directors.

(b) Time of Board Consideration. If the Ethics and Judicial Committee receives a timely notice of appeal, then the Committee shall assemble the record of the proceeding and forward it to the Association's Board of Directors. The Board of Directors shall hear the appeal at its next regularly scheduled meeting which is not scheduled concurrently with the Annual Conference, provided that meeting begins thirty-five (35) or more days after the date of delivery of the notice of appeal to the Board of Directors. Otherwise, the Board of Directors shall hear the appeal at the immediately succeeding regularly scheduled meeting which is not scheduled concurrently with the Annual Conference.

(c) Notice of Board Consideration. The Board of Directors, at least thirty (30) days prior to the date of its consideration of the appeal, shall mail the respondent a notice, by certified mail, return receipt requested, stating the date, time, and place of the consideration of the appeal. The Board's notice shall advise the respondent that he/she may elect to have a hearing before the Board of Directors and/or to make a written submission. The respondent must exercise any such election in such manner and within such time as the Board's notice prescribes. If the respondent timely elects to have a hearing he/she may appear and present testimony. The hearing shall be limited to one hour.

(d) Decision on Appeal. The Board shall base its decision on appeal upon the record before the Ethics and Judicial Committee and any newly available information which the Board may decide to consider. The Board of Directors shall restrict its consideration of the appeal to the question whether the decision of the Ethics and Judicial Committee is appropriate.

The decision of the Board of Directors on initial appeal shall be to:

- affirm the Ethics and Judicial Committee's decision;
- modify the decision by dismissing the charges or by imposing less severe disciplinary action than imposed by the Ethics and Judicial Committee; or
- remand to the Ethics and Judicial Committee with appropriate directives.

If the Board of Directors does not remand the case to the Ethics and Judicial Committee, then its decision to affirm or modify the Ethics and Judicial Committee's decision shall be final.

(e) Remand to Ethics and Judicial Committee. If the Board of Directors remands the case the Ethics and Judicial Committee shall follow the procedures (if any) prescribed by the Board in its remand. In the absence of any such prescription of procedures, the Ethics and Judicial Committee on remand shall afford the respondent the opportunity to elect to have a hearing before the Committee and/or to make a written submission. If the respondent elects to have a hearing, the hearing shall be limited to one hour. The Ethics and Judicial Committee shall make its decision on remand and give notice thereof to the respondent as in Section 5(c).

(f) Appeal From a Decision on Remand. The respondent shall have thirty (30) days after the receipt of the Ethics and Judicial Committee's decision on remand in which to appeal to the Board of Directors, in the same manner as in subsection (a).

(1) No Appeal From Decision on Remand. If the Ethics and Judicial Committee does not receive a copy of a notice of appeal within thirty (30) days, its decision on remand shall become final and unappealable, and it shall forward copies of its decision on remand to the Chapter President, the CEC, the complainant (if any), and the Board of Directors.

(2) Board Action on Appeal From Decision on Remand. If the Ethics and Judicial Committee receives a timely notice of appeal from its decision on remand it shall forward the record to the Board of Directors. On an appeal following a remand the Board of Directors shall either (i) affirm the Ethics and Judicial Committee's decision on remand or (ii) modify the decision on remand by dismissing the charges or by imposing less severe disciplinary action than imposed by the Ethics and Judicial Committee. No further remand shall be ordered, and the Board of Directors' decision shall be final.

(g) Notice of Board's Final Decision. The Board of Directors shall notify the respondent of its decision, on initial appeal and upon appeal after remand, by certified mail, return receipt requested. The Board shall forward copies of a final decision (ie, one to affirm or modify the Ethics and Judicial Committee's initial decision or its decision on remand) to the Chapter President, the CEC, the complainant (if any), and the Ethics and Judicial Committee.

## 7. POST-DECISIONAL MATTERS

(a) Probation. In any case involving probation, responsibility for monitoring the respondent's compliance with the conditions of the probation shall lie with the CEC, which shall report to the Ethics and Judicial Committee as requested. If the Ethics and Judicial Committee determines that the period of probation has expired and that the respondent has complied with the conditions of probation, it shall send notice of the termination of the probation to the respondent by certified mail, return receipt requested, with a copy to the CEC (and appropriate notice to the staff of the Association responsible for maintaining membership records). If the CEC determines at any time that the respondent has violated the conditions of probation it shall promptly notify the Ethics and Judicial Committee in writing, with a copy to the respondent. Immediately upon receiving notification that a respondent has violated the terms of probation, the Ethics and Judicial Committee shall notify the respondent by certified mail, return receipt requested, that it will review the respondent's case.

(1) Notice of Review; Hearing or Written Submission; Time of Review. The notice of review shall advise the respondent that he/she may elect to appear before the Ethics and Judicial Committee (unless the Committee meets by conference call, in which case the respondent may participate in the call) and/or to make a written submission. The respondent must exercise any such election in such manner and within such time as the notice of review prescribes. If the respondent timely elects to appear before the Ethics and Judicial Committee (or participate in a conference call meeting), the hearing (or call) shall be limited to one hour. If the Ethics and Judicial Committee receives notification from the CEC forty (40) or more days before its next regularly scheduled meeting it shall review the case at that meeting. Otherwise, the Ethics and Judicial Committee shall review the case at the immediately succeeding regularly scheduled meeting or any special

meeting. The Ethics and Judicial Committee shall notify the respondent of the date, time, and place of its review, by certified mail, return receipt requested.

(2) Ethics and Judicial Committee Action Upon Review. The Ethics and Judicial Committee, on the basis of the information available to it, shall have authority to impose more severe disciplinary action, including suspension or expulsion, as the circumstances warrant. The Ethics and Judicial Committee shall prepare its decision and mail it to the respondent by certified mail, return receipt requested, with a copy to the CEC, within fifteen (15) days after the decision. The respondent may appeal the Ethics and Judicial Committee's decision to the Board of Directors in accordance with Section 6, but only if the decision imposes more severe disciplinary action than the probation previously imposed.

(3) Transfer of Responsibility for Monitoring Compliance. If the respondent moves or changes his chapter assignment during the period of probation, the CEC or the respondent may seek to transfer the responsibility for monitoring compliance to another CEC by mailing a request to the Ethics and Judicial Committee with a copy to the other party. The Ethics and Judicial Committee in its discretion shall grant or deny the request.

(b) Termination of Suspension. A member suspended under Section 2(f) or Section 5 may seek restoration of the affected membership rights by submitting to the Ethics and Judicial Committee, at any time after the expiration of the specified time of initial suspension, a request for termination of the suspension. If the Ethics and Judicial Committee receives the request forty (40) or more days before the start of its next regularly scheduled meeting, then it shall consider the request at that meeting. Otherwise, it shall consider the request at the succeeding regularly scheduled meeting. The Ethics and Judicial Committee shall notify the respondent of the date, time, and place of its consideration of the request to terminate suspension.

(1) Membership in Good Standing Determination. The Ethics and Judicial Committee shall terminate the suspension of a member who complied with the conditions of Article IV, Section 5 of the *Bylaws*, "Good Standing," throughout the period of initial suspension. Accordingly, a request for termination shall include an answer to each of the following questions:

(i) Did the respondent remain a member of the Association throughout the period of initial suspension?

(ii) Did the respondent comply with the ethical principles or standards applicable to his/her membership class throughout the period of initial suspension?

(iii) Did the respondent make timely payment of all Association and chapter dues throughout the period of initial suspension?

(iv) Was the respondent under suspension or revocation of a license or certificate of registration to practice physical therapy or to act as a physical therapist assistant in any jurisdiction at any time during the period of initial suspension?

The request for termination may contain such other information as may be relevant to the Ethics and Judicial Committee's decision whether to extend the suspension in the event of a negative compliance determination. The Ethics and Judicial Committee, in determining whether the respondent was in compliance with the "Good Standing" conditions throughout the period of initial suspension, may rely upon the information contained in the request for termination of suspension and may make such further inquiry or investigation as it deems appropriate. If the Ethics and Judicial Committee proposes to make a negative determination based on information extrinsic to the request for termination, the Ethics and Judicial Committee first shall so notify the respondent and afford him/her reasonable opportunity to respond.

(2) Termination Upon Affirmative Compliance Determination. If the Ethics and Judicial Committee makes an affirmative compliance determination it shall terminate the suspension immediately,

effective as of the expiration of the period of initial suspension. The Ethics and Judicial Committee shall send notice of the termination of suspension to the respondent by certified mail, return receipt requested, with a copy to the CEC (and appropriate notice to the staff of the Association responsible for maintaining membership records).

(3) Action Upon Negative Compliance Determination. If the Ethics and Judicial Committee makes a negative compliance determination it shall decide whether to terminate or extend the suspension. The Ethics and Judicial Committee in its discretion may terminate the suspension or extend it for any length of time (including an extension of less than one year). The Ethics and Judicial Committee shall mail its decision to terminate or extend the suspension to the respondent by certified mail, return receipt requested, with a copy to the CEC (and appropriate notice to the staff of the Association responsible for maintaining membership records).

(4) Extended Suspension. If the Ethics and Judicial Committee extends the suspension its decision shall specify the period of the extended suspension. Restoration of the affected membership rights shall be dependent upon compliance with the "Good Standing" conditions during the time of the extended suspension. A member under extended suspension may seek restoration of the affected membership rights by submitting to the Ethics and Judicial Committee, at any time after the expiration of the specified time of extended suspension, a request for termination of the suspension. Any such request shall be processed in the same manner as set forth above (substituting extended suspension for the initial suspension, as appropriate).

APTA Ethics and Judicial Committee: March 1978; Approved, Board of Directors: April 1978; Last Amended, Board of Directors: November 1999

## **APPENDIX**

### Complainant's Responsibilities and Rights

1. Make written complaint to Chapter President (or Ethics and Judicial Committee) that a member has violated the ethical principles or standards of the Association. (Section 1(a))
2. Receive acknowledgment of receipt of complaint. (Sections 1(a))
3. Have the opportunity to submit to investigator a statement of position or other evidence with respect to the allegations. (Section 3(b))
4. May act as witness if hearing takes place. (Section 3(g))
5. Receive notice of final action of the Ethics and Judicial Committee or the Board of Directors. (Section 6(a) or 6(g))

### Chapter President's Responsibilities

1. Obtain legal consultation from Association headquarters, as appropriate. (Introduction)
2. Receive written complaint. (Section 1(a))

3. Immediately forward copy of complaint to Ethics and Judicial Committee. (Section 1(a)(1))
4. Obtain a case number from APTA staff (Section 1(a)(1))
5. Send complainant acknowledgment of receipt of complaint. (Section 1(a)(1))
6. Decide whether to initiate an APTA ethics proceeding, in consultation with Chair of Chapter Ethics Committee (CEC). (Section 1(b))
7. Notify the Ethics and Judicial Committee if the President declines to issue a notice of charges based on complaint (Section 1(b)(1), Section 1(b)(2)(A))
8. Notify complainant of decision not to initiate an ethics proceeding. (Section 1(b)(1))
9. Forward to Ethics and Judicial Committee copy of any reliable information that might be the basis for an ethics proceeding (Section 1(c)(1))
10. Determine whether to initiate a proceeding based on reliable information indicating an ethical violation. (Section 1(c)(2))
11. Notify the Ethics and Judicial Committee if the President declines to issue a notice of charges based on reliable information (Section 1(c)(2)(a), Section 1(c)(2)(B)(i))
12. Prepare notice of charges describing conduct at issue, citing ethical Principle(s)/Standard(s), and referring case to CEC. (Section 1(b)(2)(C))
13. Send respondent notice of charges, with copy of complaint (if any), copy to CEC and Ethics and Judicial Committee. (Section 1(b)(2)(C))
14. Receive notice of final action of the Ethics and Judicial Committee or the Board of Directors. (Section 6(a) or 6(g))

#### Chair of Chapter Ethics Committee's Responsibilities

1. Consult with Chapter President as to whether to initiate an APTA ethics proceeding. (Section 1(b), Section 1(c)(2))

#### Chapter Ethics Committee's Responsibilities

1. Obtain legal consultation from Association headquarters, when appropriate. (Introduction)
2. Accept referral of case from Chapter President. (Section 1(b)(2)(C) or 1(c))

3. Appoint investigator. (Section 3(a))
4. Receive the investigative file and make record of date of receipt. (Section 3(c))
5. Determine whether investigative file has evidence tending to substantiate the charges in the President's notice. (Section 3(e))
6. Notify respondent, Ethics and Judicial Committee, Chapter President, and complainant (if any) of summary dismissal of charges. (Section 3(e))
7. Notify respondent of rights to obtain copy of investigative file and (if respondent is still a member) to have a hearing before the CEC. (Section 3(f))
8. Provide respondent copy of investigative file, if requested. (Section 3(f))
9. Notify respondent of date, time, and place of hearing (if any). (Section 3(f)(1))
10. Conduct hearing (if demanded by respondent or chosen by CEC). (Section 3(g))
11. If respondent ceases to be a member complete collection of available information to facilitate later reopening, and forward record to Ethics and Judicial Committee. (Section 3(i))
12. Report status of case to Ethics and Judicial Committee. (Section 3(k))
13. Issue a decision dismissing the charges or recommending disciplinary action. (Section 4(a))

14. Mail to respondent CEC's decision, including notice of right to request a hearing before Ethics and Judicial Committee and to make written submission, with copy to Ethics and Judicial Committee. (Section 4(b))

15. Mail entire original record to Ethics and Judicial Committee. (Section 4(c))

16. Retain duplicate copy of entire record until and unless directed by APTA staff in writing to destroy such copy. (Section 4(c))

17. Receive notice of Ethics and Judicial Committee's action with respect to CEC's recommendation of disciplinary action. (Section 5(c))

18. Receive notice of final action of the Ethics and Judicial Committee or the Board of Directors. (Section 6(a) or 6(g))

19. Monitor probation and report noncompliance to Ethics and Judicial Committee. (Sections 7(a))

#### Ethics and Judicial Committee's Responsibilities

1. Receive copy of complaint filed with Chapter President. (Section 1(a)(1))

2. Serve as alternative recipient of complaint -- for responsibilities, see Chapter President's responsibilities. (Section 1(a)(2))

3. Assign case number to proceeding. (Section 1(a)(1) and 1(c))

4. Receive copy of Chapter President's decision not to initiate an ethics proceeding. (Section 1(b)(1), 1(b)(2)(A))

5. Receive copy of notice of charges prepared by Chapter President. (Section 1(b)(2)(C) or 1(c)(2)(b)(ii))

6. Forward to Chapter President reliable information indicating an ethical violation. (Section 1(c))

7. Receive from Chapter President or CEC complaint (or other documentation) indicating commission of serious crime or revocation of licensure. (Section 2(c))

8. Prepare and send notice of suspension and charges in case of serious crime or revocation of licensure. (Section 2(d) and 2(e))

9. Dismiss charges based on serious crime or revocation of licensure or impose disciplinary action or impose disciplinary action. (Section 2(f)(3))
10. Receive copy of CEC notice of summary dismissal. (Section 3(e))
11. Receive copy of CEC notice of respondent's right to hearing and to obtain copy of investigative file. (Section 3(f))
12. Receive copy of CEC decision to dismiss or to recommend disciplinary action. (Section 4(b))
13. Receive entire original record together with CEC's dismissal of charges or recommendation for disciplinary action (if any). (Section 3(i) and 4(c))
14. Receive from respondent request for hearing or written submission. (Section 5(a))
15. Notify respondent notice of date, time, and place of hearing. (Section 5(b))
16. Make decision on CEC's recommendation and notify respondent and CEC. (Section 5(c))
17. Retain record of the proceeding for time required. (Section 5(c))
18. Publish fact of suspension or expulsion in *PT Magazine* and *Physical Therapy* after decision becomes final. (Section 5(d))
19. Alert staff as to respondent whose membership lapsed and maintain record of case for reactivation. (Section 5(e))
20. Forward copies of unappealed decision to Chapter President, CEC, complainant, and Board of Directors. (Section 6(a) and 6(f)(1))
21. Receive copy of notice of appeal and forward record to Board of Directors. (Section 6(b) and 6(f)(2))
22. Make decision on remand in accordance with directions from Board of Directors and Procedural Document. (Section 6(e))
23. Receive CEC notice of noncompliance with conditions of probation; send notice of review to respondent; review case; notify respondent and CEC of decision. (Section 7(a)(1) and 7 (a)(2))

24. Receive respondent's request for termination of suspension; determine compliance with "Good Standing" conditions of Bylaws; give respondent opportunity to respond to proposal to make negative compliance determination. (Section 7(b)(1))

25. Terminate suspension and notify respondent, CEC, and staff if compliance determination is affirmative. (Section 7(b)(2))

26. Decide whether to terminate or extend suspension if compliance determination is negative; notify respondent. (Section 7(b)(3))

#### Respondent's Responsibilities and Rights

1. Right to receive from Chapter President notice of charges describing conduct at issue and citing ethical Principle(s)/Standard(s) allegedly violated. (Section 1(b)(2)(C) or 1(c))

2. Receive notice of suspension and charges from Ethics and Judicial Committee in case involving commission of serious crime or revocation of licensure. (Section 2(d))

3. Right to have hearing before or make written submission to Ethics and Judicial Committee concerning serious crime or revocation of licensure. (Section 2(e))

4. Receive notice of Ethics and Judicial Committee's decision concerning serious crime or revocation of licensure. (Section 2(f)(3))

5. Right to submit statement of position or other evidence with respect to charges against respondent. (Section 3(b))

6. Right to be advised by investigator of adverse evidence and to respond. (Section 3(b))

7. Right to confidentiality as provided in Procedural Document. (Section 3(d))

8. Receive notice of CEC's summary dismissal of charges. (Section 3(e))

9. Receive notice of right to obtain copy of investigative file and (if still an APTA member) to have a hearing before CEC. (Section 3(f))

10. Receive CEC's notice of date, time, and place of hearing. (Section 3(f)(1) or 3(f)(2))

11. Attend the CEC hearing; right to examine and cross-examine witnesses, produce documents, consult with counsel. (Section 3(g))

12. Receive notice of recommended disciplinary action or dismissal of complaint. (Section 4(b))

13. Request hearing before Ethics and Judicial Committee or make written submission to Ethics and Judicial Committee. (Section 5(a))
14. Receive Ethics and Judicial Committee's notice of date, time, and place of hearing. (Section 5(b))
15. Attend the Ethics and Judicial Committee hearing. (Section 5(b))
16. Receive notice of the Ethics and Judicial Committee's decision and explanation of appeals procedure. (Section 5(c))
17. Appeal Ethics and Judicial Committee's decision to Board of Directors. (Section 6(a))
18. Receive Board's notice of date, time, and place of hearing; appear and present testimony or make written submission. (Section 6(c))
19. Receive notice of Board of Directors' decision on appeal. (Section 6(g))
20. Receive notice of Ethics and Judicial Committee's decision on remand (if any) with explanation of appeals procedure. (Section 6(e))
21. Receive copy of CEC notice of noncompliance with conditions of probation. (Section 7(a))
22. Receive notice of Ethics and Judicial Committee's review as to noncompliance with probation and right to appear and/or make written submission. (Section 7(a)(1))
23. Receive Ethics and Judicial Committee's decision as to noncompliance with probation; right to appeal to Board of Directors if result is stricter disciplinary action. (Section 7(a)(2))
24. Submit request for termination of suspension to Ethics and Judicial Committee. (Section 7(b))
25. Receive notice of proposed determination of noncompliance with "Good Standing" conditions if based on evidence extrinsic to request for termination. (Section 7(b)(1))
26. Receive Ethics and Judicial Committee decision to terminate or extend suspension. (Section 7(b)(3))

#### Investigator's Responsibilities

1. Conduct objective unbiased investigation. (Section 3(b))

2. Give respondent and complainant opportunity to submit a statement of position or other evidence bearing on the charges. (Section 3(b))
3. Give respondent opportunity to respond to adverse evidence developed. (Section 3(b))
4. Transmit investigative file, with no recommendation, to CEC. (Section 3(c))
5. Be available if hearing takes place to clarify the contents of investigative file. (Section 3(c))

#### Board of Directors' Responsibilities

1. If no appeal is taken, receive copy of final decision of Ethics and Judicial Committee. (Section 6(a))
2. Receive notice of appeal from respondent. (Section 6(b))
3. If appeal is taken, receive record of proceedings of Ethics and Judicial Committee. (Section 6(b))
4. Notify respondent of date, time, and place of consideration of appeal. (Section 6(c))
5. Hear and make decision on appeal. (Section 6(d))
6. Notify the respondent of its decision. (Section 6(g))
7. Forward a copy of a final decision to the Ethics and Judicial Committee, the Chapter President, the CEC and the complainant (if any). (Section 6(g))

Relationship to Vision 2020: Professionalism  
(General Counsel, ext 3252)

[Document updated: 12/14/2009]

#### Explanation of Reference Numbers:

BOD P00-00-00-00 stands for Board of Directors/month/year/page/vote in the Board of Directors Minutes; the "P" indicates that it is a position (see below). For example, BOD P11-97-06-18 means that this position can be found in the November 1997 Board of Directors minutes on Page 6 and that it was Vote 18.

P: Position | S: Standard | G: Guideline | Y: Policy | R: Procedure