

# Disciplinary Action Procedural Document



**BOD R03-21-01-03** [Amended BOD R03-16-02-02; BOD R03-04-11-23; 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 has developed this Disciplinary Action Procedural Document to establish principles to guide the Ethics and Judicial Committee and Board of Directors in processing complaints against a member of APTA alleging the member has violated the APTA Code of Ethics for the Physical Therapist (Code) or APTA Standards of Ethical Conduct for the Physical Therapist Assistant (Standards).

## I. Scope of Authority

The EJC will process complaints regarding the conduct of APTA members only, and only for alleged ethics violations based on the APTA Code or Standards. The Board of Directors will consider appeals in accordance with this procedural document. The EJC is not a court, regulator, or other governmental tribunal; it is an APTA committee that reports to the Board of Directors. The Board has charged the EJC with processing and making decisions in disciplinary proceedings against members. The EJC does not have investigative means, such as the ability to subpoena information or swear in testimony. It can only process information brought before it.

## II. Complaints - Ethical Matters Involving Members

Complaints must allege an ethics violation concerning an APTA member. Complaints can come from any source.

## III. Principles for Processing Complaints, Meeting Requests, and Decisions

- A. A member shall be given the right to respond to all allegations made against them.
- B. A member shall have the opportunity to present their case before the EJC renders a decision or any form of discipline.
- C. A member shall have the right to request a meeting with the EJC, but it is within the EJC's sole discretion to determine whether a meeting is warranted.
- D. The EJC may defer a matter that would be more amenable to legal or regulatory review (e.g., a court, mediator, employer, or state licensing board) and address the ethical issues after the legal or regulatory review is completed.
- E. For matters that are deferred, the EJC shall monitor complaints for four years, or until such time as the legal or regulatory review is completed.
- F. The EJC may address ethical issues before the legal or regulatory review has been completed if there is the potential for immediate harm.
- G. The EJC shall render a timely decision on all matters.
- H. The EJC shall provide a copy of its decision to the complainant and member, and when applicable, an explanation of its decision and any disciplinary action.
- I. A member can appeal the EJC's decision to the Board.

## IV. Kinds of Discipline

- A. The EJC may administer one of the following kinds of discipline if it determines that a member has violated the Code or the Standards.
  1. Reprimand and Remediation. The EJC may issue a reprimand, which is a statement that the member's behavior was contrary to the Code or the Standards and may require remediation, such as requiring the member to take additional relevant continuing education. This statement will not be made public but will go into the member's file for future consideration regarding matters before the association.

2. Suspension. The EJC may suspend the member's rights and privileges of membership under the association's bylaws, with the exception of the privilege of receiving the official journal of the association and may require remediation. The suspension shall be for a period specified by the EJC.
3. Expulsion. The EJC may expel the member from the association.

#### **V. Appeal to the Board**

- A. Procedure. A member has the right to appeal to the Board an EJC decision to impose discipline. The member must exercise the member's right to appeal within 30 days from the date of the decision by submitting a written statement to APTA's General Counsel articulating why the EJC's decision was not supported by the evidence before it.
- B. Meeting. A member may request a meeting with the Board to discuss the member's appeal. The decision to grant a meeting with the member is within the sole discretion of the Board.
- C. Standard of Review. The Board shall limit its consideration of the appeal to the questions of (i) whether the EJC's decision is supported by the evidence and (ii) is whether the discipline is proportionate to the actions giving rise to the complaint.
- D. Decision. The Board may decide (i) to affirm the EJC's decision, (ii) to reverse the EJC's decision by dismissing the charges, or (iii) to amend the EJC's decision by imposing a different form of discipline. The Board shall send notice of its decision on appeal to the parties and the EJC. The Board's decision is final.

#### **VI. Post-Decision Procedures**

- A. Reprimand and Remediation. A member is responsible for providing the EJC evidence of the remediation they completed, if required. If the remediation is not completed in the timeframe stipulated by the EJC, the EJC may suspend the member in lieu of the reprimand for a period determined by the EJC. Such a suspension is appealable to the Board per the rules established herein.
- B. Suspension. A suspension of the member's membership shall run for the length of time specified by the EJC (or Board, in the case of an appeal), commencing on the date of the notice. If the member ceases to be a member, the time the member is not a member shall not count toward the period of suspension should the member request reinstatement as a member. APTA shall confirm upon request of the member or the president of the member's chapter whether the member remains suspended.
- C. Expulsion. A member who is expelled by the EJC or the Board may be reinstated to membership only as provided by the APTA bylaws in effect at the time.

#### **VII. Confidentiality and Retention**

- A. APTA has an interest in preserving and protecting the privacy of all individuals involved in a complaint against a member and related information. APTA also has an interest in protecting the association from unauthorized disclosure.
- B. APTA will keep confidential all information gathered and submitted to the EJC or the Board regarding complaints made against a member and use reasonable care to protect the confidentiality of this confidential information. APTA may use such confidential information for purposes consistent with this procedural document. Upon request and at the discretion of the EJC, APTA will make available to chapter presidents and ethics chairs (where applicable) only in cases that involved either a suspension or expulsion such confidential information about a member. Otherwise, APTA will not disclose the confidential information to any third party except with the prior written consent of the member, or without the member's consent as necessary to comply with or assist in any legal proceeding or regulatory investigation. APTA will not have any obligations under this procedural document with respect to a specific portion of the confidential information if APTA can reasonably demonstrate that it was in the public domain at the time it was disclosed to APTA, entered the public domain subsequent to the time it was disclosed to APTA, was in APTA's possession free of any obligation of confidence at the time it was disclosed, or was independently developed by APTA prior to any obligation of confidence.
- C. APTA will maintain such confidential information for three years after final disposition of charges.

**Explanation of Reference Numbers:**

HOD P00-00-00-00 stands for House of Delegates/month/year/page/vote in the House of Delegates minutes; the "P" indicates that it is a position (see below). For example, HOD P06-17-05-04 means that this position can be found in the June 2017 House of Delegates minutes on Page 5 and that it was Vote 4.

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

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