

THE PRINCIPLES OF MEDICAL ETHICS With Annotations Especially Applicable to Psychiatry

The American Psychiatric Association

© 1978 revised

This statement was approved by the Assembly of District Branches and the Board of Trustees of the American Psychiatric Association at their May 5-6, 1973, meetings, upon recommendation of the Committee on Ethics.¹ Additional annotations and the Procedures for Handling Complaints of Unethical Conduct were approved by the Assembly and the Board at subsequent meetings.

Members of the American Psychiatric Association will find additional value in the publication *Opinions and Reports of the Judicial Council*, the latest revision is dated 1971.

FOREWORD

ALL PHYSICIANS should practice in accordance with the medical code of ethics set forth in the *Principles of Medical Ethics* of the American Medical Association. An up-to-date expression and elaboration of these statements is found in the *Opinions and Reports of the Judicial Council* of the American Medical Association². Psychiatrists are strongly advised to be familiar with these documents.³

However, these general guidelines have sometimes been difficult to interpret for psychiatry, so further annotations to the basic principles are offered in this document. While psychiatrists have the same goals as all physicians, there are special ethical problems in psychiatric practice that differ in coloring and degree from ethical problems in other branches of medical practice, even though the basic principles are the same. The annotations are not designed as absolutes and will be revised from time to time so as to be applicable to current practices and problems.

Following are the AMA *Principles of Medical Ethics*, printed in their entirety, and then each principle printed separately along with an annotation especially applicable to psychiatry.

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²Judicial Council Opinions and Reports. American Medical Association. Chicago, 1977.

³Chapter 8, Section I of the By-Laws of the American Psychiatric Association states: "All members of the American Psychiatric Association shall be bound by the ethical code of the medical profession, specifically defined in the *Principles of Medical Ethics* of the American Medical Association." In interpreting the APA Constitution and By-Laws, it is the opinion of the Board of Trustees that inactive status in no way removes a physician member from responsibility to abide by the *Principles of Medical Ethics*.

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PRINCIPLES OF MEDICAL ETHICS, AMERICAN MEDICAL ASSOCIATION

PREAMBLE

These principles are intended to aid physicians individually and collectively in maintaining a high level of ethical conduct. They are not laws but standards by which a physician may determine the propriety of his conduct in his relationship with patients, with colleagues, with members of allied professions, and with the public.

SECTION 1

The principal objective of the medical profession is to render service to humanity with full respect for the dignity of man. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

SECTION 2

Physicians should strive continually to improve medical knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

SECTION 3

A physician should practice a method of healing founded on a scientific basis; and he should not voluntarily associate professionally with anyone who violates this principle.

SECTION 4

The medical profession should safeguard the public and itself against physicians deficient in moral character or professional competence. Physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

SECTION 5

A physician may choose whom he will serve. In an emergency, however, he should render service to the best of his ability. Having undertaken the care of a patient, he may not neglect him; and unless he has been discharged he may discontinue his services only after giving adequate notice. He should not solicit patients.

SECTION 6

A physician should not dispose of his services under terms or conditions which tend to interfere with or impair the free and complete exercise of his medical judgment and skill or tend to cause a deterioration of the quality of medical care.

SECTION 7

In the practice of medicine a physician should limit the source of his professional income to medical services actually rendered by him, or under his supervision, to his patients. His fee should be commensurate with the services rendered and the patient's ability to pay. He should neither pay nor receive a commission for referral of patients. Drugs, remedies or appliances may be dispensed or supplied by the physician provided it is in the best interest of the patient.

SECTION 8

A physician should seek consultation upon request; in doubtful or difficult cases; or whenever it appears that the quality of medical service may be enhanced thereby.

SECTION 9

A physician may not reveal the confidences entrusted to him in the course of medical attendance, or the deficiencies he may observe in the character of patients, unless he is required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

SECTION 10

The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to society where these responsibilities deserve his interest and participation in activities which have the purpose of improving both the health and the well-being of the individual and the community.

Principles with Annotations

Following are each of the AMA *Principles of Medical Ethics* printed separately along with an annotation especially applicable to psychiatry.

PREAMBLE

These principles are intended to aid physicians individually and collectively in maintaining a high level of ethical in his relationship with patients with colleagues, with members of allied professions, and with the public.⁴

SECTION 1

The principal objective of the medical profession is to render service to humanity with full respect for the dignity of man. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

1. The patient may place his/her trust in his/her psychiatrist knowing that the psychiatrist's ethics and professional responsibilities preclude him/her from gratifying his/her own needs by exploiting the patient. This becomes particularly important because of the essentially private, highly personal, and sometimes intensely emotional nature of the relationship established with the psychiatrist.

2. The requirement that the physician "conduct himself with propriety in his profession and in all the actions of his life" is especially important in the case of the psychiatrist because the patient tends to model his/her behavior after that of his/her therapist by identification. Further, the necessary intensity of the therapeutic relationship may tend to activate sexual and other needs and fantasies on the part of both patient and therapist, while weakening the objectivity necessary for control. Sexual activity with a patient is unethical.

3. The psychiatrist should diligently guard against exploiting information furnished by the patient and should not use the unique position of power afforded him/her by the psychotherapeutic situation to influence the patient in any way not directly relevant to the treatment goals.

4. Physicians generally agree that the doctor-patient relationship is such a vital factor in effective treatment of the patient that preservation of optimal conditions for development of a sound working relationship between a doctor and his/her patient should take precedence over all other considerations. Professional courtesy may lead to poor psychiatric care for physicians and their families because of embarrassment over the lack of a complete give-and-take contract.

SECTION 2

Physicians should strive continually to improve medical knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

1. Psychiatrists are responsible for their own continuing education and should be mindful of the fact that theirs must be a lifetime of learning.

SECTION 3

A physician should practice a method of healing founded on a scientific basis and he should not voluntarily associate professionally with anyone who violates this principle.

SECTION 4

The medical profession should safeguard the public and itself against physicians deficient in moral character or professional competence. Physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

1. It would seem self-evident that a psychiatrist who is a law-breaker might be ethically unsuited to practice his/her profession. When such illegal activities

⁴Statements in italics are taken directly from the American Medical Association's *Principles of Medical Ethics* or annotations thereto.²

bear directly upon his/her practice, this would obviously be the case. However, in other instances, illegal activities such as those concerning the right to protest social injustices might not bear on either the image of the psychiatrist or the ability of the specific psychiatrist to treat his/her patient ethically and well. While no committee or board could offer prior assurance that any illegal activity would not be considered unethical, it is conceivable that an individual could violate a law without being guilty of professionally unethical behavior. Physicians lose no right of citizenship on entry into the profession of medicine.

2. A psychiatrist who regularly practices outside his/her area of professional competence should be considered unethical. Determination of professional competence should be made by peer review boards or other appropriate bodies.

3. Special consideration should be given to those psychiatrists who, because of mental illness, jeopardize the welfare of their patients and their own reputations and practices. It is ethical, even encouraged, for another psychiatrist to intercede in such situations.

4. When a member has been found to have behaved unethically by the American Psychiatric Association or one of its constituent district branches, there should not be automatic reporting to the local authorities responsible for medical licensure, but the decision to report should be decided upon the merits of the case.⁵

5. Where not specifically prohibited by local laws governing medical practice, the practice of acupuncture by a psychiatrist is not unethical per se. The psychiatrist should have professional competence in the use of acupuncture (see Section 4, Annotation 2). Or, if he/she is supervising the use of acupuncture by non-medical individuals, he/she should provide proper medical supervision (see Section 6, Annotations 4 and 5).⁶

SECTION 5

A physician may choose whom he will serve. In an emergency, however, he should render service to the best of his ability. Having undertaken the care of a patient, he may not neglect him; and unless he has been discharged he may discontinue his services only after giving adequate notice. He should not solicit patients.

1. A psychiatrist should not be a party to any type of policy that excludes, segregates, or demeans the dignity of any patient because of ethnic origin, race, sex, creed, age, or socioeconomic status.

2. What constitutes unethical advertising, in an attempt to solicit patients, varies in different parts of the country. Local guidance should be sought from the county or state medical society. Questions that should be asked include: to whom are materials distributed, when and what is distributed, and the form in which it is distributed.⁷

SECTION 6

A physician should not dispose of his services under terms or conditions which tend to interfere with or impair the free and complete exercise of his medical judgment and skill or tend to cause a deterioration of the quality of medical care.

1. Contract practice as applied to medicine means the practice of medicine under an agreement between a physician or a group of physicians, as principals or agents, and a corporation, organization, political subdivision, or individual whereby partial or full medical services are provided for a group or class of individuals on the basis of a fee schedule, for a salary, or for a fixed rate per capita.

2. Contract practice per se is not unethical. Contract practice is unethical if it permits features or conditions that are declared unethical in these *Principles of Medical Ethics* or if the contract or any of its provisions causes deterioration of the quality of the medical services rendered.

3. The ethical question is not the contract itself but whether or not the physician is free of unnecessary nonmedical interference. The ultimate issue is

⁵Approved by the Board of Trustees and the Assembly, 1975.

⁶Approved by the Board of Trustees, 1974, and the Assembly, 1975.

⁷Approved by the Board of Trustees, 1974, and the Assembly, 1975.

his/her freedom to offer good quality medical care.

4. In relationships between psychiatrists and practicing licensed psychologists, the physician should not delegate to the psychologist or, in fact, to any nonmedical person any matter requiring the exercise of professional medical judgment.

5. When the psychiatrist assumes a collaborative or supervisory role with another mental health worker, he/she must expend sufficient time to assure that proper care is given. It is contrary to the interests of the patient and to patient care if he/she allows himself/herself to be used as a figurehead.

6. In the practice of his/her specialty, the psychiatrist consults, associates, collaborates, or integrates his/her work with that of many professionals, including psychologists, psychometricians, social workers, alcoholism counselors, marriage counselors, public health nurses, etc. Furthermore, the nature of modern psychiatric practice extends his/her contacts to such people as teachers, juvenile and adult probation officers, attorneys, welfare workers, agency volunteers, and neighborhood aides. In referring patients for treatment, counseling, or rehabilitation to any of these practitioners, the psychiatrist should ensure that the allied professional or paraprofessional with whom he/she is dealing is a recognized member of his/her own discipline and is competent to carry out the therapeutic task required. The psychiatrist should have the same attitude toward members of the medical profession to whom he/she refers patients. Whenever he/she has reason to doubt the training, skill, or ethical qualifications of the allied professional, the psychiatrist should not refer cases to him/her.

7. Also, he/she should neither lend the endorsement of the psychiatric specialty nor refer patients to persons, groups, or treatment programs with which he/she is not familiar, especially if their work is based only on dogma and authority and not on scientific validation and replication.

8. In accord with the requirements of law and accepted medical practice, it is ethical for a physician to submit his/her work to peer review and to the ultimate authority of the medical staff executive body and the hospital administration and its governing body.

9. In case of dispute, the ethical psychiatrist has the following steps available:

- a. Seek appeal from the medical staff decision to a joint conference committee, including members of the medical staff executive committee and the executive committee of the governing board. At this appeal, the ethical psychiatrist could request that outside opinions be considered.
- b. Appeal to the governing body itself.
- c. Appeal to state agencies regulating licensure of hospitals if, in the particular state, they concern themselves with matters of professional competency and quality of care.
- d. Attempt to educate colleagues through development of research projects and data and presentations at professional meetings and in professional journals.
- e. Seek redress in local courts, perhaps through an enjoining injunction against the governing body.
- f. Public education as carried out by an ethical psychiatrist would not utilize appeals based solely upon emotion, but would be presented in a professional way and without any potential exploitation of patients through testimonials.⁸

10. When involved in funded research, the ethical psychiatrist will advise human subjects of the funding source, retain his or her freedom to reveal data and results, and follow all appropriate and current guidelines relative to human subject protection.⁹

⁸Approved by the Board of Trustees and the Assembly, 1976.

⁹Approved by the Board of Trustees and the Assembly, 1978.

SECTION 7

In the practice of medicine a physician should limit the source of his professional income to medical services actually rendered by him, or under his supervision, to his patients. His fee should be commensurate with the services rendered and the patient's ability to pay. He should neither pay nor receive a commission for referral of patients. Drugs, remedies or appliances may be dispensed or supplied by the physician provided it is in the best interests of the patient.

1. The psychiatrist may also receive income from administration, teaching, research, education, and consultation.

2. Charging for a missed appointment or for one not cancelled 24 hours in advance need not, in itself, be considered unethical if a patient is fully advised that the physician will make such a charge. The practice, however, should be resorted to infrequently and always with the utmost consideration of the patient and his circumstances.¹⁰

3. Psychiatric services, like all medical services, are dispensed in the context of a contractual arrangement between the patient and the treating physician. The provisions of the contractual arrangement, which are binding on the physician as well as on the patient, should be explicitly established.

4. It is ethical for the psychiatrist to make a charge for a missed appointment when this falls within the terms of the specific contractual agreement with the patient.

5. An arrangement in which a psychiatrist provides supervision or administration to other physicians or non-medical persons for a percentage of their fees or gross income is not acceptable; this would constitute fee-splitting. In a team of practitioners, or a multidisciplinary team, it is ethical for the psychiatrist to receive income for administration, research, education or consultation. This should be based upon a mutually agreed upon and set fee or salary, open to renegotiation when a change in the time demand occurs. (See also Section 6, Annotations 4, 5 and 6; and AMA Judicial Council Opinions and Reports, the section on "Public Responsibilities," VI. 6.20, 6.21, 6.22, 6.24, 6.25, 6.26, pp. 37-40).¹¹

SECTION 8

A physician should seek consultation upon request; in doubtful or difficult cases; or whenever it appears that the quality of the medical service may be enhanced thereby.

1. The psychiatrist should agree to the request of a patient for consultation or to such a request from the family of an incompetent or minor patient. The psychiatrist may suggest possible consultants, but the patient or family should be given free choice of the consultant. If the psychiatrist disapproves of the professional qualifications of the consultant or if there is a difference of opinion that the primary therapist cannot resolve he/she may, after suitable notice, withdraw from the case. If this disagreement occurs within an institution or agency framework, the differences should be resolved by the mediation or arbitration of higher professional authority within the institution or agency.

SECTION 9

A physician may not reveal the confidences entrusted to him in the course of medical attendance, or the deficiencies he may observe in the character of patients, unless he is required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

1. Psychiatric records, including even the identification of a person as a patient, must be protected with extreme care. Confidentiality is essential to psychiatric treatment. This is based in part on the special nature of psychiatric therapy as well as on the traditional ethical relationship between physician and patient. Growing concern regarding the civil rights of patients and the possible adverse effects of computerization, duplication equipment, and data banks makes the dissemination of confidential information an increasing hazard. Because of the sensitive and private nature of the information with which

¹⁰This paragraph is reprinted as an annotation to the section on "Office Practices" in AMA Judicial Council Opinions and Reports (IV.4.00, p. 15).

¹¹Approved by the Board of Trustees, 1974, and the Assembly, 1975.

the psychiatrist deals, he/she must be circumspect in the information that he/she chooses to disclose to others about a patient. The welfare of the patient must be a continuing consideration.

2. A psychiatrist may release confidential information only with the authorization of the patient or under proper legal compulsion. The continuing duty of the psychiatrist to protect the patient includes fully apprising him/her of the connotations of waiving the privilege of privacy. This may become an issue when the patient is being investigated by a government agency, is applying for a position, or is involved in legal action. The same principles apply to the release of information concerning treatment to medical departments of government agencies, business organizations, labor unions, and insurance companies. Information gained in confidence about patients seen in student health services should not be released without the student's explicit permission.

3. Clinical and other materials used in teaching and writing must be adequately disguised in order to preserve the anonymity of the individuals involved.

4. The ethical responsibility of maintaining confidentiality holds equally for the consultations in which the patient may not have been present and in which the consultee was not a physician. In such instances, the physician consultant should alert the consultee to his/her duty of confidentiality.

5. Ethically the psychiatrist may disclose only that information which is immediately relevant to a given situation. He/she should avoid offering speculation as fact. Sensitive information such as an individual's sexual orientation or fantasy material is usually unnecessary.

6. Psychiatrists are often asked to examine individuals for security purposes, to determine suitability for various jobs, and to determine legal competence. The psychiatrist must fully describe the nature and purpose and lack of confidentiality of the examination to the examinee at the beginning of the examination.

7. Psychiatrists at times may find it necessary, in order to protect the patient or the community from imminent danger, to reveal confidential information disclosed by the patient.

8. Careful judgment must be exercised by the psychiatrist in order to include, when appropriate, the parents or guardian in the treatment of a minor. At the same time the psychiatrist must assure the minor proper confidentiality.

9. When the psychiatrist is ordered by the court to reveal the confidences entrusted to him/her by patients he/she may comply or he/she may ethically hold the right to dissent within the framework of the law. When the psychiatrist is in doubt, the right of the patient to confidentiality and, by extension, to unimpaired treatment, should be given priority. The psychiatrist should reserve the right to raise the question of adequate need for disclosure. In the event that the necessity for legal disclosure is demonstrated by the court, the psychiatrist may request the right to disclosure of only that information which is relevant to the legal question at hand.

10. With regard to the person's dignity and privacy and with truly informed consent, it is ethical to present a patient to a scientific gathering, if the confidentiality of the presentation is understood and accepted by the audience.¹² It is ethical to present a patient or former patient to a public gathering or to the news media only if that patient is fully informed of enduring loss of confidentiality, is competent, and consents in writing without coercion.¹³

SECTION 10

The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to society where these responsibilities deserve his interest and participation in activities which have the purpose of improving both the health and the well-being of the individual and the community.

1. Psychiatrists should foster the cooperation of those legitimately concerned with the medical, psychological, social, and legal aspects of mental health and illness. Psychiatrists are encouraged to serve society by advising

¹²Approved by the Board of Trustees and the Assembly, 1975.

¹³Approved by the Executive Committee and the Assembly, 1977.

and consulting with the executive, legislative, and judiciary branches of the government. A psychiatrist should clarify whether he/she speaks as an individual or as a representative of an organization. Furthermore, psychiatrists should avoid cloaking their public statements with the authority of the profession (e.g., "Psychiatrists know that...").

2. Psychiatrists may interpret and share with the public their expertise in the various psychosocial issues that may affect mental health and illness. Psychiatrists should always be mindful of their separate roles as dedicated citizens and as experts in psychological medicine.

3. On occasion psychiatrists are asked for an opinion about an individual who is in the light of public attention, or who has disclosed information about himself through public media. It is unethical for a psychiatrist to offer a professional opinion unless he/she has conducted an examination and has been granted proper authorization for such a statement.

4. The psychiatrist may only permit his/her certification to be used for the involuntary treatment of any person following his/her personal examination of that person. To do so, he/she must find that the person, because of mental illness, cannot form a judgment as to what is in his/her own best interests and without which treatment substantial impairment is likely to occur to the person or others.¹⁴

¹⁴Approved by the Executive Committee and the Assembly, 1977.

Procedures for Handling Complaints of Unethical Conduct¹⁵

A complaint concerning the behavior of a member of this Association shall be in writing, signed by the complainant, and filed with the Secretary. The Secretary shall refer it to the appropriate District Branch for investigation and action. The Secretary shall notify the accused member of the receipt of such a complaint and that it has been forwarded to the member's local District Branch and shall inform the accused member of his or her right to appeal any forthcoming action to the Board. The District Branch may appeal to the Board for relief from responsibility for considering any complaint. The member against whom the complaint was brought shall have the right of appeal to the Board for reconsideration of the decision of the District Branch.¹⁶

As noted above, a complaint must be written, must be signed by the complainant, and must be filed with the Secretary of the Association.

Procedure A. Allegation Received by District Branch

I. District Branch:

- A. Receives signed communication alleging or inferring unethical conduct.
- B. Determines the membership status of the potential defendant.
- C. Determines if allegation or inference constitutes a complaint of unethical conduct as defined in the PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY—that is, does the allegation or inference merit an investigation, and, if so, files a copy of the complaint with the Secretary of the American Psychiatric Association.

II. Secretary of the American Psychiatric Association:

- A. Receives written and signed copy of the complaint from the District Branch and refers complaint back to the Branch for investigation.

¹⁵Approved by the Executive Committee and the Assembly, 1975; revision approved by the Board of Trustees and the Assembly, 1977.

¹⁶Chapter 10, Section 1, By-Laws, American Psychiatric Association, 1977 revision.

- B. Notifies the accused member that a copy of a complaint has been received and filed, that the investigation will be conducted by the District Branch and of the member's right to appeal a negative decision to the Board of Trustees of the American Psychiatric Association.
- III. District Branch:
- A. Upon receiving complaint from the Secretary of the American Psychiatric Association, notifies the accused member of the complaint, who made the complaint, relates the complaint to the appropriate Section(s) of the PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY, informs the accused member of his/her right to be advised and represented by legal counsel, and forward to him/her a copy of the complaint, these PROCEDURES, the PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY, all addenda to the PROCEDURES and PRINCIPLES, and a copy of the Constitution and By-Laws of the American Psychiatric Association.
 - B. Notifies complainant that the complaint has been received, will be investigated, of his/her right to legal counsel during the investigation, and that he/she will be informed of the decision of the District Branch.
 - C. Refers the complaint to the District Branch Ethics Committee or whatever body serves that function for investigation and recommendations for action to the Council of the District Branch.
 - D. Ethics Committee or whatever body serves that function investigates the complaint, permitting both the defendant and complainant to be heard. If the complainant is expected to produce evidence, he/she should be so advised in writing.
 - E. May refer the complaint to the American Psychiatric Association for investigation under unusual circumstances and then PROCEDURE B would be followed, with the APA Ethics Committee conducting the investigation. Unusual circumstances would include, but not be limited to, conflicts of interest, interested parties from different parts of the country, or a complaint of significant national importance.
 - F. The Council of the District Branch, upon receiving the recommendation for action, determines:
 - 1. Either that the complaint is without merit and dismisses it;
 - 2. Or, that the complaint has been sustained and the defendant shall be subject to one of the following penalties:
 - a. admonishment
 - b. reprimand
 - c. suspension from membership for a specific period of time
 - d. expulsion from the District Branch.
 - G. Notifies the Secretary of the American Psychiatric Association of the procedures followed, the Section under which the complaint was filed, and the action taken.
- IV. Secretary of the American Psychiatric Association:
- A. Receives the report of the District Branch.
 - B. Sends the report to the Ethics Committee of the American Psychiatric Association.
- V. Ethics Committee of the American Psychiatric Association:
- A. Reviews the procedures followed by the District Branch.
 - B. Obtains additional information from the District Branch about procedures if necessary.
 - C. Reports to the Board of Trustees on the procedures followed and the action taken.
- VI. Board of Trustees of the American Psychiatric Association:
- A. On recommendation of the Ethics Committee of the American Psychiatric Association:
 - 1. Approves that proper procedures have been followed. If not approved, the District Branch is directed to complete this investigation properly following the procedures.
 - 2. Receives the report of action taken.
 - 3. Orders the action taken be kept in a confidential file, listed by initial of the defendant only.
 - 4. When expulsion from the District Branch is the action, notifies the defendant of his expulsion from the American Psychiatric Association and his right of appeal.
 - B. Instructs the Secretary of the American Psychiatric Association to notify the District Branch whether or not proper procedures have been followed.
- VII. District Branch:
- A. Notifies the accused member of action taken and his/her rights of appeal.
 - B. Notifies complainant of action taken after avenues of appeal to the American Psychiatric Association have been exhausted or waived.
- VIII. Appeal Procedure:
- A. Within 30 days of receipt of notice of action by the District Branch (and the Board of Trustees in case of expulsion), the defendant files written notice of his/her appeal with the Secretary of the American Psychiatric Association.
 - B. The Secretary of the American Psychiatric Association notifies the District Branch of the appeal and asks them to submit all information in their possession. The defendant is asked to submit the justification for his/her appeal and any information which he/she has which would support his/her appeal.
 - C. This information is submitted to the APA Ethics Committee. The defendant, with thirty (30) days' written notice, has the right to personal appearance, accompanied by legal counsel if he/she wishes, before the APA Ethics Committee. The APA Ethics Committee has the right to request the defendant and/or complainant to appear, with legal counsel if desired by either. (See Procedure B.IV.D.).

**Procedure B. Allegations Received by
The American Psychiatric Association**

- I. Secretary of the American Psychiatric Association:
- A. Receives signed communication alleging or inferring unethical conduct.
 - B. Determines the membership status of the potential defendant.
 - C. Determines if allegation or inference constitutes a complaint of unethical conduct as defined in the PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY—that is, does the allegation or inference merit an investigation.
 - D. Notifies the accused member of the complaint, who made the complaint, relates the complaint to the appropriate Section(s) of the PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY, informs the accused member of his/her right to be advised and represented by legal counsel, and forwards to him/her a copy of the complaint, these PROCEDURES, the PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY, all addenda to the PROCEDURES AND PRINCIPLES, and a copy of the Constitution and By-Laws of the American Psychiatric Association.

- E. Notifies complainant that complaint has been received, that an investigation will be conducted by the District Branch (or APA Ethics Committee), advises him/her of his/her right to legal counsel during the investigation, and that he/she will be informed of the decision.
- F. Sends complaint to the District Branch for investigation with information to the APA Ethics Committee.

II. District Branch:

- A. Accepts the responsibility and assigns investigation to its Ethics Committee or whatever body acts in that capacity (and the Committee follows Procedures A.I.); recommendations from that body are made to the Council of the District Branch.
- B. The Council of the District Branch determines:
 - 1. Either that the complaint is without merit and dismisses it;
 - 2. Or, that the complaint has been sustained and the defendant shall be subject to one of the following penalties:
 - a. admonishment
 - b. reprimand
 - c. suspension from membership for a specific period of time
 - d. expulsion from the District Branch.
- C. The Council of the District Branch notifies the Secretary of the American Psychiatric Association of the procedures followed and the action recommended.

III. Secretary of the American Psychiatric Association:

- A. Reviews the procedures and recommendations of the District Branch.
- B. Sends the report to the APA Ethics Committee.

IV. Ethics Committee of the American Psychiatric Association:

- A. Reviews the procedures and recommendations of the District Branch.
- B. Obtains additional information from the District Branch about procedures and recommendations if necessary.
- C. Reports to the APA Board of Trustees on the procedures followed and actions recommended.
- D. When the APA Ethics Committee is the original investigating body:
 - 1. The Ethics Committee may request two Fellows of the American Psychiatric Association residing in the same area as the complainant and defendant to serve as investigators. These investigators may interview the parties and gather other pertinent information which they will submit to the Ethics Committee. If the complainant is expected to produce evidence, he/she should be so advised in writing.
 - 2. Because of possible distances involved, the defendant and complainant shall be given thirty (30) days' notice in writing of the time and place of the meeting of the Ethics Committee.
 - 3. The defendant and complainant shall have the right to appear and to legal counsel.
 - 4. The Ethics Committee makes its recommendation to the Board of Trustees.

V. Board of Trustees of the American Psychiatric Association:

- A. On recommendation of the APA Ethics Committee:
 - 1. Approves that proper procedures have been followed. If not approved, the District Branch (or the Ethics Committee if the investigating body) is directed to complete their investigation properly following the procedures.
 - 2. Approves, disapproves, or modifies the action recommended by the District Branch (or the Ethics Committee if the investigating body). In case of expulsion, a two-thirds (2/3) vote of the Board of Trustees is required.
 - 3. Notifies the complainant after avenues of appeal have been exhausted or waived, and the defendant and the District Branch of

the action taken. The defendant is again advised of his/her right to appeal and to be represented by legal counsel.

- 4. Orders the action taken be kept in a confidential file, listed by initial of the defendant only.
- 5. In the case of expulsion, the member is also expelled from the District Branch.

VI. Appeal Procedure:

- A. Within thirty (30) days of receipt of action by the APA Board of Trustees, the defendant files written notice with the Secretary of the American Psychiatric Association of his/her appeal.
- B. Expelled members shall be denied all membership privileges pending the appeal.
- C. All other penalties shall be suspended pending the appeal.
- D. The appeal shall be heard at the next Annual Meeting of the American Psychiatric Association at a session attended only by voting members and the necessary secretarial staff and legal counsel as selected by the President.
- E. The defendant shall have the right to be heard, present his/her evidence, and be represented by legal counsel.
- F. Presentation of evidence and arguments for the American Psychiatric Association shall be made by the President or a member of his choice.
- G. A two-thirds (2/3) vote of those present by secret written ballot shall be required to reverse the action of the Board of Trustees, leading to a modified action or dismissal of the charges.

**OUTLINE REPORT
RESULTS OF ETHICS COMPLAINT INVESTIGATION**

District Branch: _____
 Initials of Complainant & Defendant: _____
 Complaint: _____
 Section: _____
 Brief Description: _____

Initiated at:
 District Branch (Procedure A): _____
 APA (Procedure B): _____

Preliminary review shows complaint to be without sufficient merit for further investigation: _____

Complainant advised and action taken: _____

Right to be heard: _____

Right to counsel: _____

Defendant advised and action taken: _____

Right to be heard: _____

Right of confrontation of complainant: _____

(At the discretion of the district branch)

Right to counsel: _____

Right of appeal: _____

Findings and brief justification: _____

Recommended Action: _____

Admonishment: _____

Reprimand: _____

Suspension: _____

Expulsion: _____

Other actions modifying above: _____

Signed _____ Date _____

Address _____

Office _____



American Psychiatric Association

1700 Eighteenth Street, N.W., Washington, D.C. 20009 • Telephone: (202) 797-4900

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December 18, 1978

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TO ALL THOSE USING THE "PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY"

An Administrative Law Judge of the Federal Trade Commission has ruled that the American Medical Association's "Principles of Medical Ethics" and interpretative opinions (Judicial Council's Opinions and Reports) are in violation of Section 5 of the FTC Act, insofar as they relate to physician advertising and solicitation, and to the "contract" practice of medicine.(1)

The AMA vigorously disputes these conclusions and intends to appeal the decision. In the meantime, the American Psychiatric Association will not enforce any ethical principles regarding physician advertising and solicitation or the contract practice of medicine.

Sincerely yours,

Melvin Sabshin, M.D.
Medical Director

(1) According to the opinion, the AMA defines contract practice as follows: "Contract practice as applied to medicine means the practice of medicine under an agreement between a physician or a group of physicians, as principals or agents, and a corporation, organization, political subdivision or individual, whereby partial or full medical services are provided for a group or class of individuals on the basis of a free schedule, or for a salary or for a fixed rate per capita."

John C. Nemiah, M.D., *Editor*
American Journal of Psychiatry

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Medical Director

Jay B. Cutler, J.D.
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Director of Government Relations

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