

# THE PRINCIPLES OF MEDICAL ETHICS With Annotations Especially Applicable to Psychiatry

The American Psychiatric Association

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*In 1973, the American Psychiatric Association published the first edition of the PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY. Subsequently, revisions were published as the Board of Trustees and the Assembly approved additional annotations. In July of 1980, the American Medical Association approved a new version of the Principles of Medical Ethics (the first revision since 1957) and the APA Ethics Committee<sup>1</sup> incorporated many of its annotations into the new Principles, which resulted in the 1981 edition and subsequent revisions.*

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 1984.

## 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 Association.<sup>2</sup> Psychiatrists are strongly advised to be familiar with these documents.<sup>3</sup>

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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<sup>1</sup>The committee included Herbert Klemmer, M.D., Chairperson, Miltiades Zaphropoulos, M.D., Ewald Busse, M.D., John R. Saunders, M.D., Robert McDevitt, M.D., and J. Brand Brickman, M.D. William P. Camp, M.D., and Robert A. Moore, M.D., serve as consultants to the APA Ethics Committee.

<sup>2</sup>*Opinions and Reports of the Judicial Council*. Chicago, American Medical Association, 1984.

<sup>3</sup>Chapter 8, Section 1 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

The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility not only to patients, but also to society, to other health professionals, and to self. The following Principles, adopted by the American Medical Association, are not laws, but standards of conduct which define the essentials of honorable behavior for the physician.

### SECTION 1

A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity.

### SECTION 2

A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.

### SECTION 3

A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.

### SECTION 4

A physician shall respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences within the constraints of the law.

### SECTION 5

A physician shall continue to study, apply, and advance scientific knowledge, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.

### SECTION 6

A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical services.

### SECTION 7

A physician shall recognize a responsibility to participate in activities contributing to an improved community.

## Principles with Annotations

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

### PREAMBLE

*The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility not only to patients, but also to society, to other health professionals, and to self. The following Principles, adopted by the American Medical Association, are not laws, but standards of conduct which define the essentials of honorable behavior for the physician.*<sup>4</sup>

### SECTION 1

*A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity.*

1. The patient may place his/her trust in his/her psychiatrist knowing that the psychiatrist's ethics and professional responsibilities preclude him/her 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. 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, socioeconomic status, or sexual orientation.

3. 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. 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.
4. A psychiatrist should not be a participant in a legally authorized execution.

<sup>4</sup>Statements in italics are taken directly from the American Medical Association's Principles of Medical Ethics.

### SECTION 2

*A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.*

1. The requirement that the physician conduct himself with propriety in his/her profession and in all the actions of his/her 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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. 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/her circumstances.

7. An arrangement in which a psychiatrist provides supervision or administration to other physicians or nonmedical 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 5, Annotations 2, 3, and 4.)

8. 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.

### SECTION 3

*A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.*

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 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. 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. Or, if he/she is supervising the use of acupuncture by nonmedical individuals, he/she should provide proper medical supervision. (See also Section 5, Annotations 3 and 4.)

#### SECTION 4

*A physician shall respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences within the constraints of the law.*

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 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 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. 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.

8. 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.

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.

11. 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.

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

13. Ethical considerations in medical practice preclude the psychiatric evaluation of any adult charged with criminal acts prior to access to, or availability of, legal counsel. The only exception is the rendering of care to the person for the sole purpose of medical treatment.

#### SECTION 5

*A physician shall continue to study, apply, and advance scientific knowledge, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.*

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

2. 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.

3. 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.

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. 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 6

*A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical services.*

1. 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.

2. An ethical psychiatrist may refuse to provide psychiatric treatment to a person who, in the psychiatrist's opinion, cannot be diagnosed as having a mental illness amenable to psychiatric treatment.

## SECTION 7

*A physician shall recognize a responsibility to participate in activities contributing to an improved 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 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/herself 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 permit his/her certification to be used for the involuntary treatment of any person only 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 that, without such treatment, substantial impairment is likely to occur to the person or others.

## Procedures for Handling Complaints of Unethical Conduct<sup>5</sup>

Complaints charging members of the Association with unethical behavior or practices shall be investigated, processed, and resolved in accordance with procedures approved by the Assembly and the Board.

If a complaint of unethical conduct against a member is sustained, the member shall receive a sanction ranging from admonishment to expulsion. Any decision to expel a member must be approved by a two-thirds affirmative vote of all members of the Board present and voting.<sup>6</sup>

## PROCEDURES

1. All formal complaints charging a member of the American Psychiatric Association (APA) with unethical behavior shall be made in writing, signed by the complainant, and addressed to the accused member's district branch or, if addressed to the APA, shall be referred by the APA to the accused member's district branch for investigation and decision.<sup>7</sup> If the accused member is a member-at-large of the APA, the complaint shall be referred to an ad hoc investigating committee, as provided for in paragraph 2 below.

2. If, after receiving a written complaint, the district branch determines that there are compelling reasons why it would not be the appropriate body to

<sup>5</sup>Approved by the Assembly, 1982; approved by the Board of Trustees, 1983. Implementation date, 1984.

<sup>6</sup>Chapter 10, Sections 1 and 2, By-Laws, American Psychiatric Association, 1984 revision.

<sup>7</sup>As used in these procedures, the term "investigation" is meant to include a "hearing" if, in the view of the district branch, such a hearing is necessary or desirable for resolving the charges made in the complaint.

consider the complaint, the district branch shall write to the Chair of the APA Ethics Committee requesting that it be excused, and providing a detailed explanation of the reasons for its request. If the Chair of the APA Ethics Committee determines that the district branch should not be excused, the district branch shall proceed with the complaint. If the Chair of the Ethics Committee agrees that the district branch should be excused from considering the complaint, the Chair shall then appoint three Fellows of the APA to serve as an ad hoc investigating committee to conduct the investigation and to render a decision.<sup>8</sup> When possible, these Fellows shall reside in the same Area as the accused member and in no event shall any such Fellow be a member of the APA Ethics Committee, the APA Ethics Appeals Board, or the APA Board of Trustees.

3. If the district branch finds it cannot determine that the complaint merits investigation under the ethical standards established by the Principles of Medical Ethics With Annotations Especially Applicable To Psychiatry, the district branch shall so notify the complainant, requesting additional information when appropriate. If the district branch determines that the charges do not merit investigation, it shall notify the complainant, stating the basis for the conclusion and informing the complainant that he or she may address a request for a review of this decision to the Secretary of the APA. If the Secretary determines that the complaint merits investigation, the complaint shall be referred to the Chair of the APA Ethics Committee, who will appoint an ad hoc investigating committee as provided for in paragraph 2 above. When an ad hoc investigating committee is appointed, the district branch shall be so notified by the Chair of the APA Ethics Committee.

4. If the district branch determines that a complaint merits investigation under the ethical standards established by the Principles of Medical Ethics With Annotations Especially Applicable To Psychiatry, the district branch shall advise the Secretary of the APA as well as the complainant and the accused member that it will be conducting the investigation, and that it will notify the complainant and the accused member in accordance with the provisions of paragraphs 12 and 19 below. The district branch shall also send a copy of the complaint to the accused member, along with copies of the Principles of Medical Ethics With Annotations Especially Applicable To Psychiatry and of these procedures. The accused member shall further be informed that he or she has the right to be advised by counsel and to appeal an adverse decision to the APA Appeals Board in accordance with the provisions of paragraphs 14-18 below.

5. The district branch may investigate and process complaints pursuant to procedures deemed appropriate under the circumstances so long as the investigation is comprehensive and satisfies the generally accepted tenets of fundamental fairness as applied to private voluntary membership organizations.

6. Upon completion of the investigation and any internal review and appeal procedures required by the district branch's governing documents, the district branch shall render a decision as to whether an ethics violation has occurred and, if so, what sanction is appropriate. In all cases, the district branch shall seek to reach a decision within nine months from the time that the complaint was received.

7. The four possible sanctions are as follows:
- admonishment--an informal warning;
  - reprimand--a formal censure;
  - suspension (for a period not to exceed five years);<sup>9</sup>
  - expulsion.

<sup>8</sup>Unless otherwise indicated, whenever these procedures refer to activities of a district branch, the same requirements shall apply to the ad hoc investigating committee when it performs an investigation.

<sup>9</sup>A suspended member will be required to pay dues, and will be eligible for APA benefits, except that such a member will lose his or her rights to hold office, vote, nominate candidates, propose referenda or amendments to the Constitution or By-laws, and serve on any APA committee or component. Each district branch shall decide which, if any, district branch privileges and benefits shall be denied during the period of suspension.

8. In addition to the above sanctions, a district branch may, but is not required to, impose certain conditions, such as educational or supervisory requirements, on a *suspended* member.<sup>10</sup> When such conditions are imposed, the following procedures shall apply:

- a. if the district branch imposes conditions, it shall monitor compliance;
- b. if the ad hoc investigating committee imposes conditions, the Chair of the APA Ethics Committee shall establish a means for monitoring compliance;
- c. if a member fails to satisfy the conditions, the district branch or the APA monitoring body established by the Chair of the APA Ethics Committee may decide to expel the member;
- d. if it is determined that a member should be expelled for non-compliance with conditions, the member may appeal pursuant to the provisions set forth in paragraphs 14-18 below;
- e. if a member expelled for non-compliance with conditions does not appeal, the APA Board of Trustees shall review the expulsion in accordance with the provisions of paragraph 13 below.

9. After the district branch completes its investigation and arrives at its decision, the decision and any pertinent information concerning the procedures followed or relating to the action taken shall be forwarded to the APA Ethics Committee for review in accordance with the provisions of paragraphs 10-12 below. If the Chair of the APA Ethics Committee determines that these review functions are best carried out by a subcommittee, he or she shall designate such a subcommittee (or subcommittees), which shall include at least three voting members of the APA Ethics Committee, and which shall be authorized to undertake these review functions on behalf of the full APA Ethics Committee. The review proceedings shall be undertaken expeditiously, in no instance exceeding ninety (90) days from the receipt of the district branch's report before the district branch is informed of the APA Ethics Committee's opinion, conclusion, or need for clarification of the material received. If the APA Ethics Committee fails to act within ninety (90) days, the district branch may inform the accused member in accordance with paragraph 12.

10. In all cases where the district branch renders a decision, including those where the district branch finds that an ethics violation has not occurred, the APA Ethics Committee shall review the information submitted by the district branch to assure that the complaint received a comprehensive investigation in accordance with the generally accepted tenets of fundamental fairness as applied to voluntary membership organizations. If the APA Ethics Committee concludes that these requirements were not satisfied, it shall so advise the district branch, and the district branch shall remedy the deficiencies and shall make further reports to the APA Ethics Committee until such time as the APA Ethics Committee is satisfied that these requirements have been met. If, in the view of the APA Ethics Committee, the district branch is either unwilling or unable to complete the investigation in a satisfactory manner, the Chair of the APA Ethics Committee may appoint an ad hoc investigating committee to conduct the investigation and render a decision.

11. In cases where the district branch has found that an ethics violation has occurred, the APA Ethics Committee or subcommittee, after ascertaining that the investigation was comprehensive and fair, shall consider the appropriateness of the sanction imposed. If the APA Ethics Committee or subcommittee concludes that the sanction is appropriate, it shall so notify the district branch. If the APA Ethics Committee or subcommittee concludes that the sanction should be reconsidered by the district branch, it shall provide a statement of reasons explaining the basis for its opinion, and the district branch shall reconsider the sanction. After reconsideration, the decision of the district

<sup>10</sup>Personal treatment may be recommended, but not required, and any such recommendation shall be carried out in accordance with the ethical requirements governing confidentiality as set forth in the Principles of Medical Ethics With Annotations Especially Applicable To Psychiatry. In appropriate cases, the district branch may in addition refer the psychiatrist in question to a component responsible for considering impaired, or physically or mentally ill physicians.

branch shall stand, even if the district branch decides to adhere to the original sanction, except that the sanction may be modified as provided for in paragraph 13, 16, or 18 below.

12. After the APA Ethics Committee or subcommittee completes the review process, the district branch shall notify the accused member of the decision and sanction, if any, by certified mail. If the decision is that no ethics violation has occurred, the case shall be terminated, and the district branch shall also notify the complainant of this decision by certified mail. If the decision is that an ethics violation has occurred, the accused member shall be advised that he or she has thirty days to file a written letter of appeal with the Secretary of the APA. In such circumstances, unless the complainant is requested to appear before the Ethics Appeals Board as provided for in paragraph 15 below, the complainant shall not be advised of any action until after the appeal has been completed or until the Secretary of the APA notifies the district branch that no appeal has been taken or that the procedures provided for in paragraph 13 below have been completed.

13. If, after review by the APA Ethics Committee or upon a finding of non-compliance with conditions as provided for in paragraph 8(c), the decision is to expel a member, and the member fails to appeal the decision, the APA Board of Trustees at its next meeting shall review the expulsion on the basis of a presentation by the Chair of the APA Ethics Committee and the documentary record in the case. A decision to affirm an expulsion must be by a vote of two thirds (2/3) of those Trustees present and voting. A decision to impose a lesser sanction shall be by a majority vote. If necessary, the APA Board of Trustees may request further information from the district branch before voting on the decision to expel.

14. All appeals shall be heard by the APA Ethics Appeals Board, which shall be chaired by the Secretary of the APA, and shall include the two immediate past Presidents of the APA, the immediate past Speaker of the APA Assembly, and the Chair of the APA Ethics Committee. All members of the Ethics Appeals Board, including the Chair, shall be entitled to one vote on all matters. If any of the above cannot serve, the President is authorized to appoint a replacement.

15. The accused member shall be entitled to file a written statement with the Ethics Appeals Board and/or appear before the Board alone, or accompanied by counsel. In addition, the Ethics Appeals Board may request any information from the district branch and may also request the complainant, accompanied by counsel if he or she so requests, and/or a representative of the district branch, accompanied by counsel if the district branch so requests, to attend the appeal. The APA counsel and other necessary APA staff may also attend if the Ethics Appeals Board so requests. Time limits and other procedural requirements concerning the appeal shall be established by the Ethics Appeals Board.

16. After hearing the appeal and reviewing the record, the Ethics Appeals Board may take any of the following actions:

- a. affirm the decision, including the sanction imposed by the district branch;
- b. affirm the decision, but alter the sanction imposed by the district branch;
- c. reverse the decision of the district branch and terminate the case;
- d. remand the case to the district branch with specific instructions as to what further information or action is necessary.<sup>11</sup> In cases involving a remand, the district branch shall report back directly to the Ethics Appeals Board. After the remand (or successive remands, if more than one is deemed necessary), the Ethics Appeals Board shall reach one of the decisions set forth in subsections (a), (b), or (c) above.

<sup>11</sup>Remands will be employed only in rare cases, such as when new information has been presented on appeal or when there is an indication that important information is available and has not been considered.

17. After the Ethics Appeals Board reaches a decision as set forth in paragraph 16(a), b), or (c), if the decision is anything other than to expel a member, the APA Secretary shall notify the district branch of the decision and that it is final.

18. If the decision of the Ethics Appeals Board is to expel a member, the APA Board of Trustees at its next meeting shall review the action solely on the basis of the presentation of the Secretary of the APA (or his or her designee) and the documentary record in the case. The Board of Trustees may affirm the sanction, impose a lesser sanction, or remand to the Ethics Appeals Board for further action or consideration. A decision to affirm an expulsion must be by a vote of two thirds (2/3) of those Trustees present and voting. All other actions shall be by majority vote. Members of the Board of Trustees who participated as members of the APA Ethics Appeals Board shall not vote when the Board of Trustees considers the case. Once the Board of Trustees has acted or, in a case of a remand, has approved the action taken on remand, the APA Secretary shall notify the district branch of the decision and that it is final.

19. Once a final decision is reached, the district branch shall notify the complainant and the accused member by certified mail.