

PROCEDURAL GUIDELINES OF THE PROFESSIONAL CONDUCT COMMITTEE OF THE AMERICAN ASSOCIATION OF NEUROLOGICAL SURGEONS

A) Initiation of Charges

1. Any charges of professional misconduct received by the American Association of Neurological Surgeons (“Association” or “AANS”) from one or more of its members (“Complainant”) against another member or members (“Respondent”) will be referred to the Association’s legal counsel, who will review them for compliance with the AANS Bylaws (“Bylaws”) and these Guidelines. Any purported charges which are not in compliance with the Bylaws, or which could not be the basis for disciplinary action by the Association if proven, or which involve testimony or other matters at issue in pending litigation or administrative proceeding, will be returned to the Complainant.
2. With respect to all remaining charges, the Complainant will be contacted to determine whether there are any further documents or exhibits that he or she would like to submit to the AANS Professional Conduct Committee (“Committee”) in support of the charges and, where appropriate, to ensure that the submission of charges complies with these Guidelines. The Complainant also will be required to sign a Confidentiality Agreement.
3. Charges must be submitted in writing with an identification of the sections of the AANS Code of Ethics (“Code”) and/or AANS Rules for Neurosurgical Medical/Legal Expert Opinion Services (“Rules”) that the Complainant contends were violated with a description of how the Respondent violated each such section of the Code or Rules.
4. Testimony of prospective witnesses should be summarized and submitted in written form, and transcripts of their testimony produced, if germane to the charges. Video deposition or court testimony may be submitted, but must be accompanied by complete written transcripts in order to be considered. Medical records may be submitted to the extent relevant to the charges. It is the Complainant’s responsibility to collect and present all evidence which he or she wishes the Committee to consider in support of the charges.
5. The Respondent will be furnished a full set of documents which are submitted by the Complainant. The Respondent will then have thirty (30) days to prepare and submit to the Association’s legal counsel a written response to the charges.

6. To the extent not previously submitted by the Complainant, the Respondent may submit whatever additional material he or she believes is appropriate in accordance with Section A-4 of these Guidelines. It is the Respondent's responsibility to collect and present all evidence which he or she wishes the Committee to consider in opposition to the charges.
7. The Complainant will be furnished a full set of documents which are submitted by the Respondent. Before proceeding to further consider the case, the Committee may request and require from the Complainant or Respondent any additional supporting evidence it finds necessary in connection with the preliminary evaluation under Section B or for purposes of a hearing under Section C. Notwithstanding the foregoing, the Committee does not undertake responsibility for procuring or facilitating the procurement of evidence for either side.
8. Unless a patient waiver is submitted in a form acceptable to the Committee's legal counsel, patient names must be redacted or otherwise depersonalized in all written materials to be considered by the Committee.

B) Preliminary Evaluation by the Committee

1. The Committee will review the written submissions made by both sides and reach a decision on whether or not a prima facie case has been presented, justifying a hearing. The parties will then be notified in writing of the Committee's prima facie decision.
2. If after reviewing the documents submitted by both sides, the Committee decides that a prima facie case has been established, and that a hearing is therefore warranted, the hearing will be conducted in accordance with Section C of these Guidelines, with all parties bearing their own expenses.
3. If the decision is that a prima facie case has not been established, and that a hearing is therefore not warranted, the Complainant will have the right within fifteen (15) days of receipt of the notice of the Committee's decision, or no later than thirty (30) days from sending notice to the Complainant or his or her legal counsel of record, to demand a hearing nonetheless, and will be responsible for paying all the AANS' costs in conducting that hearing if the ultimate decision by the Association is the same or substantially similar to the decision which the Committee reached before the hearing. The AANS' assessable costs will be determined by the Committee after the decision is finalized by the Association, and may include, but are not limited to, the AANS' costs of its legal counsel preparing for and

attending the hearing, the court reporter's expenses, and the Committee Members' expenses incurred exclusively by attending the hearing.

4. If the Committee decides that a prima facie case has not been established such that the charges should be dismissed without a hearing and the Complainant does not demand a hearing, that decision will be presented to the AANS Board of Directors ("Board of Directors") as the Committee's final recommendations pursuant to Section D of these Guidelines. If the Board of Directors disagrees with the Committee's prima facie decision and decides that a hearing is warranted, the matter will be remanded to the Committee for a full hearing, with all parties bearing their own expenses.
5. It is the responsibility of the Complainant and Respondent to inform the Committee without delay of any pending litigation or administrative proceeding which may involve testimony or other matters that relate to the charges. Upon learning of any such litigation or administrative proceeding, the Committee has the discretion to stay the case and place the charges in abeyance or to dismiss the charges without prejudice subject to re-filing upon final resolution of the litigation or administrative proceeding.

C) Procedure for Conducting a Hearing

1. A hearing date will be set at least thirty (30) days in advance. Any three members of the Committee shall constitute a quorum for purposes of conducting a hearing, and only Committee members who attend the full hearing may participate in the deliberations and decision. A court reporter will transcribe the proceedings. Both the Complainant and Respondent may be represented by legal counsel at the hearing, at their own expense.
2. The hearing date set by the Committee shall not be subject to change for the convenience of either the Complainant or the Respondent. If the Respondent declines or fails to appear at a duly scheduled hearing, the Committee may still proceed, and shall consider the previously submitted material furnished by the Respondent. If the Complainant declines or fails to appear or to present and explain the charges, the hearing may be cancelled or terminated at the discretion of the Committee and the case recommended for dismissal by the Board of Directors.
3. Additional material supporting or opposing the charges may be submitted to the Association's legal counsel by either party up to three (3) weeks prior to the scheduled hearing. Any material received after that date will not be considered by the Committee. No new

matters, evidence, or witnesses may be introduced in the hearing by either the Complainant or the Respondent if they have not been previously disclosed and produced in accordance with these Guidelines.

4. The hearing will be conducted by the Chairman or Acting Chairman of the Committee ("Chairman"), with assistance by the Association's legal counsel. Witnesses in addition to the Complainant and Respondent may be allowed to attend or testify at the Chairman's discretion provided such witnesses are identified in writing no later than three (3) weeks prior to the scheduled hearing. The Complainant, Respondent and all other witnesses will be sworn in and required to testify under oath. The Committee may arrange for a special neurosurgical consultant to be present at the hearing and to assist the Committee in its deliberations, but will not have the right to vote.
5. The Complainant will be provided thirty (30) minutes to present his or her charges and supporting evidence, after which the Respondent will be provided thirty (30) minutes to respond to the charges. The strict rules of evidence will not be applicable. Witnesses may be questioned for up to ten (10) minutes by the opposing party to clarify their testimony, but argument or extensive cross-examination will not be permitted. Committee members and the Committee consultant, if any, may question the Complainant and/or Respondent and any non-party witnesses regarding the evidence and their testimony.
6. The Chairman shall have the authority to impose reasonable reciprocal modifications on the time available for both direct testimony and witness questioning based upon the circumstances of each case. The Chairman shall maintain order during the hearing, including permissible questioning and testimony. If one of the parties is disruptive during the proceedings, the Chairman may suspend the hearing and the Committee convene in executive session to determine the disposition of the charges.
7. At the conclusion of the hearing the Committee shall convene in private (with the presence of the Association's legal counsel and/or Committee consultant if the Committee so elects) and shall determine by majority vote of those members of the Committee who attended the hearing, which of the following alternative findings provided in Article II, Section 4 of the Bylaws shall be adopted:
 - (a) That the charges are not sustained such that no further action be taken and the case dismissed; or
 - (b) That the charges are sustained and the accused be

- (i) Censured;
- (ii) Suspended for a definite time; or
- (iii) Expelled

The Committee need not reach a final decision immediately, but may wait until it has the opportunity to review the transcript of the proceedings.

- 8. The Committee members are admonished that they not discuss the merits of the case with any party (other than Committee members, the Association's legal counsel and/or the Committee consultant) prior to the formal hearing, and may only consider evidence or testimony introduced in conjunction with the hearing, although they may rely upon their own expertise and experience as neurosurgeons in evaluating the testimony of witnesses or issues raised.
- 9. If the Committee is informed of any pending litigation or administrative proceeding which involve testimony or other matters that relate to the charges during the course of the hearing, the Committee has the discretion to proceed with the hearing and place its decision in abeyance until final resolution of such litigation or administrative proceeding.

D) Final Approval of Decision

- 1. The decision of the Committee shall be reduced to writing in a formal report ("Report") and forwarded to the Board of Directors, the Complainant, and the Respondent. Committee members dissenting from the majority Committee recommendation may submit a differing minority recommendation in the Report. The Respondent will be advised in writing of the date of the Board of Directors meeting, at which the recommendation of the Committee will be considered.
- 2. The Respondent may submit to the Association's legal counsel a written statement to be considered by the Board of Directors no later than forty-five (45) days prior to the meeting. The Respondent shall have an opportunity to appear at the Board of Directors meeting with or without legal counsel and make any statement he or she desires before actions are taken on the Committee recommendation. The Chairman shall also make a statement and explain and define the findings of the Committee. There shall be no examination of witnesses or introduction of further evidence before the Board of Directors. The Complainant may not submit additional materials for consideration by the Board of Directors after the Committee hearing or attend the Board of Directors meeting.

3. At the conclusion of the meeting, the Board of Directors shall, by secret ballot, determine what action it will take on the recommendation of the Committee.
4. In accordance with Article II, Section 4 of the Bylaws, the Board of Directors may accept or reject the Committee recommendation as its final decision, and may increase or decrease any penalty recommendation, or dismiss the case.
5. The Board of Directors shall also consider, and either approve, reject, or modify any assessment of costs made against a Complainant pursuant to Section B-3 of these Guidelines. Once approved by the Board of Directors, any such assessment of costs against a member shall be considered a special dues assessment imposed pursuant to Article III A of the Bylaws.

E) Right to Appeal

1. In the event that the final action by the Board of Directors includes the censure, suspension, or expulsion of a member, that member shall have the right to appeal that decision to the Association's general membership ("General Membership") pursuant to Article II, Section 4 of the Bylaws by submitting a notice of intent to appeal to the Association's legal counsel. Such notice must be in writing and must be received by the Association's legal counsel within thirty (30) days of the receipt of the Board of Directors' decision by the appealing member, or no later than forty-five (45) days from sending notice to the member or his or her legal counsel of record, or it shall be deemed untimely.
2. Voting on the appeal shall be by secret ballot, in accordance with Article XV of the Bylaws, to determine whether or not to sustain the action of the Board of Directors. Upon receipt of a timely notice of intent to appeal, the Association's legal counsel shall set a timetable and guidelines for the submission of a written statement of appeal of no more than fifteen (15) pages. The President of the AANS shall then be given the opportunity to submit a written response of no more than fifteen (15) pages to explain and define the findings of the Board of Directors and of the Committee. No new matters or evidence will be permitted in the statement of appeal or response.
3. The statement of appeal and response shall be sent to the General Membership not less than thirty (30) days prior to the next scheduled Annual Business Meeting. At such time, the General Membership also shall be provided access to an electronic link to a ballot on their MyAANS account. Ballots must be cast not more than fifteen (15) days following the Annual Business Meeting.

4. An affirmative vote of at least a majority of the General Membership casting ballots shall sustain the action of the Board of Directors. If the vote to sustain the Board of Director's action receives less than a majority of the votes cast, the charges shall be deemed dismissed. The decision of the General Membership voting on the appeal shall be final.