



## **DISCIPLINARY ACTION POLICY**

A.) A member of the Academy may be subject to discipline if the member's conduct conflicts with the standards and principles of the Academy. Without limiting the generality of the foregoing, the following shall be considered as conduct for which disciplinary action may be justified.

1. Conviction of any crime relating to or arising out of the practice of medicine, including acts involving moral turpitude.
2. Limitation or termination of any right associated with the practice of medicine, including the imposition of any requirement for surveillance, supervision, or review, by reason of violation of a medical practice act, statute or governmental regulation, or disciplinary action by any medical licensing authority.
3. Unlawful financial dealings related to the practice of medicine, including but not limited to, fee splitting or the payment or acceptance of kickbacks.
4. Unprofessional conduct including, but not limited to, conduct that is in violation of the American Academy of Neurology's Code of Professional Conduct.
5. The use of false or deliberately misleading advertisements, testimonials, or other instruments of misinformation related to the practice of medicine.

B.) The Grievance Committee shall receive written and signed allegations against members from all sources. The Committee shall investigate such allegations to determine if there is credible evidence to support the allegation and if such evidence warrants the filing of formal charges against the member for possible disciplinary action. If its final findings fail to substantiate the allegation, the matter will be dropped.

If a member resigns from the Academy pursuant to Minnesota Statute § 317A.409 after the member is notified that the Grievance Committee has filed a complaint with the Vice President, any disciplinary proceedings against the former member will be suspended. However, if the former member successfully reapplies for membership, the disciplinary proceedings will be reinstated unless terminated by the Board of Directors.

The complainant shall be responsible for the costs associated with the filing and supporting materials of the complaint. If the Grievance Committee determines that the complaint warrants further investigation and action, the AAN shall be responsible for the costs incurred in the further review and investigation of the complaint.

The Grievance Committee may notify the member of the complaint during the Committee's investigation, if the Committee would like a response from the member concerning the allegations in the complaint.

If the Grievance Committee determines that the evidence warrants the filing of formal charges against the member, the Committee shall submit a written

complaint and the accumulated evidence describing the member's violations to the AAN Vice-President.

The Grievance Committee shall maintain all information in confidence and shall present the complaint and accumulated evidence to the Hearing Panel at the time of any hearing on the complaint.

The Grievance Committee shall consist of 3 persons appointed by the AAN's President for 2-year terms, which may be renewed. The Grievance Committee shall include two members of the Ethics, Law, and Humanities Committee and one member at large, all of whom shall be Fellows of the Academy. Committee members whose terms have expired will continue to fulfill existing responsibilities to a case or cases under consideration, but will thereafter retire from the Committee.

C.) The Vice-President shall arrange for a hearing to be held on formal written complaints issued by the Grievance Committee against any member of the Academy. The Vice-President shall preside over the hearing and faithfully administer the following "Fair Hearing Procedure" to provide for fair and objective determination of the issues set forth in the complaint. The Vice-President shall not participate in the decision of the Hearing Panel. If the Vice-President has served as fact-finder, investigator, complainant, or in any other capacity in this or in any proceeding involving the accused member, the President shall appoint from among the Fellows of the Academy a presiding officer who is not in direct economic competition with the accused member and who has not served in any capacity in any proceeding involving the accused member.

D.) Fair Hearing Procedure. Upon receipt from the Grievance Committee of a formal written complaint against a member of the AAN, the Vice-President shall provide a copy of that complaint along with all evidence provided by the Grievance Committee to the respondent member, notify the respondent that he/she may submit a written response within 60 days to the complaint and evidence provided by the Grievance Committee, and provide the respondent with a copy of this *Disciplinary Action Policy*. The notice, including all information specified, shall be sent by certified mail, return receipt requested.

The Vice-President shall ask the President to appoint a hearing panel of three members to consider the complaint from the Grievance Committee. At least two members of the panel shall be Fellows of the AAN.

When the respondent files a written response to the complaint, the Vice-President shall send the complaint, all evidence received from the Grievance Committee, and the written response from the respondent to the panel. The panel shall meet, either in person or by telephone, within 45 days after receipt of the information to determine whether to dismiss the complaint or to further consider the complaint. During any further consideration of the complaint, the panel may invite the respondent to submit additional information to the panel.

If the panel dismisses the complaint, the respondent shall be promptly notified by certified mail. If the panel decides to further consider the complaint, the respondent shall be notified of the respondent's right to a hearing.

After service of the notice, the respondent shall have 30 days in which to request a hearing or to submit additional written information in response to the complaint.

If the respondent does not request a hearing, the panel may, after considering all the evidence submitted to it, enter a final decision on the complaint.

If the respondent requests a hearing, the Panel members shall receive copies of any additional evidentiary material and witness lists not less than 7 days prior to the hearing. The panel shall decide whether it will call any witnesses, and the Vice-President shall provide the respondent with a list of witnesses, if any, expected to testify at the hearing on behalf of the Academy, along with a summary of their expected testimony. Similarly, the respondent shall provide the Vice-president with a list of witnesses, if any, expected to testify on behalf of the respondent, along with a summary of their expected testimony.

Ex Parte communication prior to the hearing between the respondent and the hearing panel members, witnesses, or any complainant, is prohibited.

The Vice-President will notify the panel members and the respondent of the date, place, and time of the hearing. The hearing shall not be held less than 30 days from the date of that notice. The respondent is responsible for all personal costs, including respondent's attorney's fees, relating to the attendance and participation in the hearing.

The Vice-President shall also notify the Grievance Committee of the date, time and place of the hearing. At least one representative of the Grievance Committee shall formally submit the complaint at the hearing.

At the request of any party for a good cause, the Vice-President may postpone the date of the hearing for a reasonable period of time.

The right to a hearing may be forfeited if the respondent fails to appear without good cause. The panel shall first hear evidence in support of the complaint and then shall hear evidence against the complaint. Formal rules of evidence shall not apply in the hearing and the panel may hear any evidence relating to the issues contained in the complaint. Any witness who gives testimony shall be subject to examination by the panel. The respondent shall have the following rights:

1. To be represented by an attorney, or any other person of the respondent's choice.
2. To have a copy of the record of the proceedings at the respondent's cost.
3. To be present when all evidence is presented to the panel.
4. To submit relevant evidence.
5. To call, examine, and cross-examine witnesses.
6. To submit a written statement within 5 working days of the close of the hearing.
7. To receive a written decision of the panel containing a statement as to the reasons supporting the decision.

The Vice-president, after consulting with the panel and the respondent, shall determine if observers may attend the hearing. The complainant will not be invited to observe the hearing unless the Vice-president, the panel, and the respondent agree on the terms of an invitation. Observers will not be permitted to participate in the hearing unless previously agreed by the Vice-president, the panel and the respondent.

The panel shall submit its decision in writing, together with the basis for its decision to the Vice-President within 10 days after the receipt of the respondent's written statement, or within 10 days of the close of the hearing if the respondent waives his right to file a post-hearing statement. The decision of the panel shall state whether or not there was credible evidence presented at the hearing that was sufficient to support the complaint in whole or in part, and if so the recommended disciplinary action to be imposed upon the member. The disciplinary action recommended may be designed to correct a specific violation found by the panel to have occurred. The disciplinary action ordered may, in the judgment of the hearing panel, provide for censure, suspension from membership in the Academy for a period of time or expulsion from the Academy. The word "censure" means that the respondent shall be advised in writing of a finding of misconduct and that such conduct should be changed. The word "suspension" means that the respondent shall be advised in writing that the respondent's privileges as a member of the Academy have been temporarily suspended, with specification of the duration of the suspension and the conditions necessary for reinstatement. "Expulsion" means that the respondent

shall be informed in writing that membership in the Academy is terminated, with or without the option to reapply for membership under certain specified conditions.

Upon receipt of the written decision of the hearing panel, the Vice-President shall send a copy of the decision to the President and to the respondent together with the notice of the respondent's right to appeal the decision to the Academy's Executive Committee. This and all other notices shall be sent by registered mail, return receipt requested. If the decision is not appealed, the matter will then be referred to the Executive Committee for final action.

A respondent may appeal an adverse disciplinary decision by filing a written request with the President for a hearing before the Executive Committee within 30 days of receipt of the adverse decision. The decision of the Hearing Panel shall not be enforced in any way, pending the respondent's appeal. The Vice-President and any Executive Committee members who have served as fact-finder, investigator, complainant, or in any other capacity in this or any proceeding involving the respondent shall not participate in any form in the appeal hearing. The respondent shall have 30 days from the date of the request for an appeals hearing to file written arguments in opposition to the decision of the Hearing Panel and the discipline recommended. The written arguments shall be filed with the Vice-President who shall provide copies to the hearing panel. The hearing panel, if appropriate, shall have 30 days to file written arguments with the Vice-President. A reasonable extension of time for filing the written

arguments may be granted by the Vice-President for good cause shown by any of the parties.

When all written arguments have been filed with the Vice-President, the Vice-President shall provide copies to all members of the Executive Committee and shall request the Executive Committee to schedule an appeals hearing at the next convenient meeting of the Executive Committee but no later than 120 days from the date of the Vice-President's request. The Executive Committee shall set the date for the appeals hearing and the Vice-President shall notify the respondent, the complainant, and the hearing panel. Thereafter, the date of said hearing shall not be postponed except for the most serious reasons in the judgment of the Vice-President.

The President or the President's designee shall chair the appeals hearing. The respondent shall first present arguments in opposition to the decision of the Hearing Panel. The arguments may relate to the evidence produced at the hearing or to the propriety of the procedure at the hearing and its compliance with this *Disciplinary Action Policy*. The President shall establish in advance of the hearing a time limit for arguments at the appeals hearing. Each side shall have an equal amount of time. When the respondent completes the argument in opposition to the decision, a representative of the hearing panel shall argue in support of the decision rendered by the Hearing Panel. Thereafter, the respondent shall be allowed to reply to the arguments. At the completion of the appeals hearing, the Executive Committee shall take the matter under advisement and shall reach a decision in Executive Session. The Executive

Committee shall thereupon prepare a written document setting forth the reason for their decision. This document shall be filed with the Vice-President who shall provide copies of the decision to the respondent, the complainant, and the hearing panel. The President shall take appropriate steps to implement the decision of the Executive Committee, which shall be final.

All material concerned with these matters shall be held strictly confidential at all times. Files will be kept secure. Public release of information on any matter will be prohibited prior to final determination of the matter, including appeal to the Executive Committee.

Participation in the activities of the Grievance Committee, Hearing Panel, or Executive Committee by members with any real or potential conflict of interest, is prohibited. This prohibition includes, but is not limited to individuals who have previously participated in any complaint or investigation process involving the respondent, and to any individuals who are in direct economic competition with the respondent.

Disciplinary actions that have been imposed, after exhaustion of all appeal processes, shall, if required, be reported to the National Practitioner Data Bank and the appropriate state licensing board(s) as prescribed by state and federal law. Such actions shall also be reported to the Academy membership. Reports to the membership shall include no more than the respondent's name, the misconduct that was committed, and the sanction.

E.) This policy is to be construed according to the law of the State of Minnesota, without regard to the residence of the respondent or situs of the hearing or related meetings.

Approved EB 02/92  
Revised EB 05/94  
Revised EB 02/97  
Revised EC 7/2/02  
Revised by Board of Directors 6/26/04