



Approved: Board of Directors - 9/10/82  
Revised: 10/31/87 to conform to Bylaw amendment

Revised: Board of Directors – 12/3/05

Revised: Board of Directors – 3/4/06

Revised: Board of Directors – 8/5/07

Revised: Board of Directors – 3/6/10

Revised: Board of Directors – 11/5/11

Re: Article IV, Sections 7 and 8

## **JUDICIAL PANEL - DISCIPLINARY PROCEDURES**

### **A. Initiation of Complaint**

1. Disciplinary action may be initiated by any member of the Academy or by the Ethics Committee. A complaint by a member may be submitted to the Executive Director of the Academy. Such charges may be made against any class of member. All charges shall be in writing and shall specify the basis for the complaint, including, where applicable, the provision of the Academy Bylaws or Ethics Code that has allegedly been violated or other conduct justifying disciplinary action.

### **B. Procedure for Processing Complaint**

1. The Executive Director shall forward copies of the charge to the President, the Secretary-Treasurer, the Chair of the Ethics Committee, and legal counsel. If the Chair of the Ethics Committee and the Secretary-Treasurer, after consultation with the President, the Executive Director, and legal counsel, determine that a charge is not in compliance with the bylaws or guidelines, could not be the basis for disciplinary action by the Academy if proven, or involves testimony in pending litigation, the complaint will be rejected and returned to the Complainant with a statement of the reasons for such decision. With respect to any remaining portion of the complaint, the Executive Director, Secretary-Treasurer, or Chair of the Ethics Committee will contact the Complainant to determine whether there are any further documents or exhibits that he/she would like to submit in support of the complaint. A copy of the Academy Bylaws and these Procedures will be sent to the Complainant. Testimony of prospective witnesses should be summarized and submitted in written form, or transcripts of their testimony produced, if germane to the complaint. It is the Complainant's responsibility to collect and present all evidence that he/she wishes the Academy to consider in support of the complaint. Complainant will be advised that the Academy's disciplinary proceedings are confidential until the final disposition of the complaint is rendered, at which time the decision will be published in the manner set forth in the Academy's Administrative Regulations on Disciplinary Action. The Complainant will also be advised that the Academy will send the complaint with

all accompanying materials, including the complainant's identity, to the subject of the complaint ("the Respondent"). In addition, the Academy will inform the complainant that s/he has the right to withdraw the complaint. If the complainant decides to withdraw the complaint, the Ethics Committee may exercise its discretion to initiate a complaint against the respondent and will keep the original complainant's identity anonymous; provided that the Ethics Committee will not initiate a complaint if doing so without identifying the original complainant would likely violate the respondent's due process rights."

2. The Respondent will be notified that a complaint has been lodged against him or her along with the basis for the complaint, as well as the confidential nature of the proceedings. The Respondent will be furnished with a full set of the documents and other materials submitted by the Complainant, including the complaint and any supporting evidence. The Respondent will then have thirty (30) days to prepare and submit whatever written responses, documents, and/or exhibits he/she believes are appropriate.
3. The Respondent shall be furnished with a copy of these Procedures informing the physician of his/her rights throughout this process.
4. The Executive Director will forward copies of all of the documents submitted by the Complainant and the Respondent to the President, the Secretary-Treasurer, and the Chair of the Ethics Committee.

### **C. Preliminary Evaluation**

1. The Ethics Committee shall review the written submissions made by both sides and make a preliminary finding as to whether or not a prima facie case has been asserted—i.e., whether the allegations, if proven to be true, would constitute a violation of the Academy's Bylaws, Principles of Professional Conduct, or Code of Ethics, or other conduct justifying disciplinary action. No member of the Ethics Committee may be an economic competitor of the Respondent or otherwise have a conflict of interest.
2. If the Ethics Committee decides that a prima facie case has not been established and that further review is not justified, the case will be dismissed and the Complainant and the Respondent will be notified of the Committee's decision.
3. If the Ethics Committee decides, after reviewing the documents submitted by both sides, that a prima facie case has been established, the Committee will refer the matter to a Judicial Panel appointed by the President-Elect for further consideration.
4. The Judicial Panel, including the Chair, shall consist of five Fellows in good standing from geographically diverse regions. No member of the Board of Directors or Ethics Committee of the Academy may serve on the Judicial Panel. The members shall be appointed to serve for a term of four years and

until their successors shall have been appointed and assumed office. At the initial appointment of the Judicial Panel, the terms shall be appropriately staggered to ensure that the terms of two members will expire each year. No member of the Judicial Panel may be an economic competitor of the Respondent or otherwise have a conflict of interest. In the event that one or more member(s) of Judicial Panel must recuse themselves from serving, the Chair or (if the Chair has recused him or herself) the Chair's designee shall determine if there are enough remaining members to adequately investigate the case. If the Chair determines that more members are required to adequately perform the Panel's duties, the President will appoint the number of additional members requested by the Chair (not to exceed the number of recused members). The non-recused members of the Panel along with replacement member(s) appointed by the President would then review the case.

5. The Judicial Panel shall review and evaluate the charge(s) and may request the Executive Director of the Academy to coordinate an investigation of the circumstances of the charge(s). After such preliminary consideration, the Judicial Panel may by a majority vote dismiss the charge(s), and such action shall be final. If the Judicial Panel decides that disciplinary action may be warranted, the Academy shall provide Respondent with prompt notice of the Judicial Panel's proposed decision and the reasons for that decision. The notice shall also state that the Respondent has the right to request a hearing within thirty (30) days of receipt of the notice and shall provide a summary of the Respondent's rights in the hearing in accordance with these procedures. The notice will also inform the Respondent that he or she must bear his or her own expenses of attending the hearing. Hearings before the Judicial Panel may be held during the annual meeting of the Academy or at such other time and place as the Judicial Panel may, in its discretion, determine.
6. If Respondent fails to request a hearing in a timely manner, he/she shall be deemed to have waived the right to be present, and the hearing shall proceed without the Respondent pursuant to the procedures set forth in Section D below, modified accordingly by the chair of the Judicial Panel, in consultation with legal counsel, to reflect Respondent's absence.

#### **D. Procedures for Judicial Panel Hearing/Decision**

1. At least thirty days and not more than six months prior to the formal hearing on the charge(s), the Chair of the Judicial Panel shall deliver to the Respondent by registered or certified mail a description of the charge(s) and all relevant supporting information, notice of the time and place of the hearing, and notice that he or she may appear at the hearing in person and accompanied by counsel or such other representative(s) as he or she may deem appropriate to present such information as he or she may deem appropriate regarding the charge(s). The notice will again include a copy of these Procedures. It will also include a list of witnesses (if any) expected to testify against the Respondent.

2. Prior to the hearing, the Respondent may prepare and submit a written statement regarding any matter relating to the charge(s). Legal counsel may assist the Respondent in preparing such a written statement. The Respondent may also submit any other information on his or her own behalf for consideration by the Judicial Panel.
3. At the hearing before the Judicial Panel, the Chair of the Judicial Panel shall present the original charge(s) and all substantiating information. The Respondent and/or his counsel or other representative(s) shall have an opportunity to be heard, to rebut the information presented by the Chair, to present and examine witnesses, to introduce written evidence, to cross-examine or challenge any witness presented against him or her, and to present such information on the Respondent's behalf as the member deems proper to refute the charge(s).
4. A record shall be kept of that part of the hearing during which information is presented and the Respondent appears. The mechanism of recordation shall be established by the Judicial Panel and may be accomplished by the use of a court reporter, electronic recording unit, detailed transcription, or by the taking of adequate minutes. The Respondent will be entitled to obtain a copy of the record of the hearing at his or her own expense.
5. The hearing need not be conducted according to the rules of law relating to the examination of witnesses or the presentation of evidence. All information determined by the Chair to be related to the charge(s) shall be admissible at the hearing, whether or not such information would be admissible in a court of law. The Chair shall have the authority to impose reasonable limitations on the time available for both direct testimony and cross examination. The hearing shall be closed to all except members of the Judicial Panel, Respondent, witnesses, legal counsel, and the court reporter (if any). The purpose of the hearing shall be to assemble as much information as practicable regarding all material aspects of the charge(s), and the Judicial Panel shall be entitled to take into account any such information.
6. If Respondent fails without good cause to appear and proceed at a hearing before the Judicial Panel he/she shall be deemed to have waived his right to such hearing and to have accepted the decision of the Panel. The Judicial Panel may, for good cause, postpone a previously scheduled hearing. The Judicial Panel may, without special notice, recess the hearing and reconvene for the convenience of the participants, for the purpose of obtaining new or additional information, or for consultation.
7. Upon conclusion of the presentation of oral and written information, the hearing before the Judicial Panel shall be closed. The Respondent may submit a written statement at the close of the hearing. The Panel (with the presence of Academy legal counsel), in closed session, either immediately following the

hearing, or at a time convenient to its members, shall conduct its deliberations and determine whether to recommend disciplinary action to the Board of Directors of the Academy.

**E. Board Review/Decision**

1. Within thirty days after the hearing of the Judicial Panel, the Judicial Panel shall deliver its proposed written decision regarding the disposition of the charge(s) to the Executive Director or Secretary-Treasurer, who shall forward the written decision to the Board of Directors and, by registered or certified mail, to the Respondent and the Complainant. If the decision of the Judicial Panel is to exonerate the Respondent, the action of the Judicial Panel shall be final. If the Judicial Panel decides that disciplinary action is warranted, the Judicial Panel shall recommend to the Board of Directors the form of disciplinary action from the options set forth in the Academy's Administrative Regulations on Disciplinary Action, and final action on the charge(s) shall be taken by the Board of Directors at a regularly- or specially-scheduled meeting.
2. At least thirty days prior to the meeting of the Board of Directors at which the charge(s) and recommendations of the Judicial Panel will be considered, the Secretary-Treasurer shall notify the Respondent by registered or certified mail of the time and place of the meeting and shall inform the Respondent that he or she may appear at the meeting in person, accompanied by counsel or other representative(s), to present objections to the recommendations of the Judicial Panel and/or to present additional information relating to the charge(s).
3. At the Board meeting, the Chair of the Judicial Panel shall present to the Board of Directors the recommendation of the Judicial Panel and all information relied upon by the Judicial Panel in formulating its recommendation. The Respondent and/or his or her counsel or other representative shall have the opportunity to be heard, to rebut the information presented by the Chair of the Judicial Panel; provided, however, that no new evidence or witnesses may be presented to or considered by the Board. The Board may set reasonable limitations on the length of the oral presentations.
4. A record shall be kept of that part of the hearing during which information is presented and the Respondent appears. The mechanism of recordation shall be established by the Board of Directors, and may be accomplished by the use of a court reporter, electronic recording unit, detailed transcription, or by the taking of adequate minutes.
5. Upon conclusion of the presentation of oral and written information, the hearing before the Board of Directors shall be closed. The Board, in executive session, either immediately following the hearing, or at a time as soon as possible thereafter shall conduct its deliberations and determine whether to discipline the Respondent. The Board of Directors may accept, reject or modify the recommendation of the Judicial Panel, and an affirmative vote of at least two-thirds of the members of the Board of Directors present at the hearing shall be

required to approve any disciplinary action. The Board's decision must be based on a reasonable belief that the action is warranted by the facts presented in the documents and the Judicial Panel hearing. The action of the Board of Directors shall be final, and written notice of the action of the Board shall be delivered by registered or certified mail to the Respondent and the

Complainant within thirty days after the hearing before the Board, including a statement of the reasons for such decision.

The Board of Directors of the American Academy of Dermatology may, upon its determination that disciplinary action against a member is warranted, impose disciplinary action in one of the following forms:

1. Admonition or censure, a firm reprimand in the form of a written notification, warning or serious rebuke, indicating the Academy's condemnation of the member's action as wrong.
2. Probation, a punitive action for a stated period of time, during which the member:
  - a. Loses the right to hold office and, except in unusual circumstances approved in advance by the Board of Directors, to participate in Academy programs as a faculty member, presenter, or scientific exhibit contributor,
  - b. Retains other privileges and obligations of membership,
  - c. Is observed by the Academy for continuing eligibility for membership, and
  - d. May be reconsidered by the Board of Directors periodically and at the end of the probationary period.
3. Suspension, a severe punitive action for a stated or indefinite period of time, during which:
  - a. The member's name is removed from the roster and mailing list of the Academy.
  - b. The member's eligibility for Academy insurance programs is canceled.
  - c. The member's membership certificate shall be returned to the Academy.
  - d. The member must pay visitor's registration fees when attending Academy meetings.
  - e. The member loses the right to hold office and, except in unusual circumstances approved in advance by the Board of Directors, to participate in Academy programs as a faculty member, presenter, or scientific exhibit contributor.

- f. The member is excused from paying annual dues.

At the end of a stated period of suspension or at such other time as the Board of Directors may determine, and upon payment by the member of dues deferred and accrued during the period of suspension, the member shall again assume full privileges and obligations of members.

- 4. Termination. Certificate of membership and all other indicia of membership previously issued to the member by the American Academy of Dermatology shall be forthwith returned to the American Academy of Dermatology. The physician shall not hold himself out to be, or represent in any way that he is, a member of the American Academy of Dermatology.
- 5. Immediate Action. Each Academy member has an affirmative obligation to promptly inform the Academy's Executive Director or Secretary-Treasurer if any medical licensing authority revokes, suspends, or otherwise restricts the medical practice license of such member or takes any other disciplinary action against the member, the member voluntarily surrenders his or her medical license while a proposed disciplinary action by any medical licensing authority is pending against such member, or the member is indicted or convicted of a felony. If any such action is taken, the Academy membership of the individual in question shall be automatically terminated or suspended, or otherwise restricted, or the Academy may take other disciplinary action against the member, in accordance with the provisions set forth below. Failure to promptly report an adverse action against one's medical license or a felony conviction against the member will constitute separate grounds for disciplinary action.
  - a. The Executive Director shall obtain from the appropriate governmental authorities a reasonable form of verification of the disciplinary action taken by a medical licensing authority, or surrender of license, or felony indictment/conviction<sup>1</sup>.
  - b. After obtaining the verification referred to in subparagraph (a) above, the Secretary-Treasurer shall give the member written notice setting forth the relevant facts and informing the member that his or her Academy membership will be automatically terminated or suspended, or the member will be subject to other disciplinary action, as the case may be, thirty (30) days after said notice unless the member provides, within that thirty (30)-day period, information indicating, to the satisfaction of the Secretary-Treasurer, that the information on which the membership termination or suspension, or other disciplinary action, is to be based is erroneous or that there is some other compelling reason to defer or modify the Academy's decision. In such

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<sup>1</sup> On 3/6/10 the Board approved, the term "felony indictment", in Section 5 of the Academy's disciplinary regulations, which permits the Academy to take disciplinary action based on a felony indictment against a member, to mean any type of felony charge (i.e., either by criminal complaint or grand jury indictment.)

event, the Secretary-Treasurer shall conduct such additional investigation as the Secretary-Treasurer shall deem appropriate, and following such investigation the Secretary-Treasurer may, if all information obtained so warrants, (i) issue another notice of membership termination, suspension, or other disciplinary action pursuant to this subparagraph (b), or (ii) the Secretary-Treasurer may, in his or her discretion, defer or modify the Academy's decision based on a finding that the initial information obtained by the Academy was erroneous or if compelling circumstances so warrant.

The Secretary-Treasurer's final action in such cases shall be subject to approval by the Board of Directors.

- c. If the factual basis for membership termination, suspension, or other disciplinary action, set forth in a notice pursuant to subparagraph (b), above, is not challenged (on grounds satisfactory to the Secretary-Treasurer) by the member in question within thirty (30) days after the giving of such notice, the membership in question shall be automatically terminated or suspended, or other disciplinary action will automatically take effect in accordance with subparagraph (d), subparagraph (e), or subparagraph (f), below, upon the expiration of said thirty (30)-day period.
- d. If the action taken pursuant to this paragraph (5) is based upon revocation of a medical practice license, then the action taken shall be termination of Academy membership. An individual whose membership is so terminated may not apply for readmission to the Academy less than two (2) years after the date of such termination.
- e. If action pursuant to this paragraph (5) is based upon suspension of a medical practice license, then the action taken shall be suspension of Academy membership, and that suspension of Academy membership shall extend until the end of the period for which the medical practice license is suspended. Upon the conclusion of that suspension period, the member in question shall automatically return to the membership status which he or she held prior to the suspension; provided, however, that automatic suspension of Academy membership pursuant to this subparagraph shall not preclude the Academy from taking additional disciplinary action, pursuant to other provisions of this Section, on the basis of the same actions or events giving rise to such automatic suspension.
- f. If the action taken pursuant to this paragraph (5) is based upon another type of license restriction or disciplinary action, a voluntary surrender of medical license, or an indictment or conviction of a felony, then the action taken pursuant to this shall be any of the available disciplinary actions set forth in this Section, including but not limited to termination or automatic suspension. An individual whose membership is terminated under this subparagraph may not apply for readmission to the Academy less than two (2) years after the date of such termination. If the action taken pursuant to this subparagraph is suspension of Academy membership, the suspension shall extend for

such period as the Secretary-Treasurer recommends and Board of Directors determines to be warranted by the facts and circumstances. Upon conclusion of that suspension period, the member in question shall automatically return to the membership status which he or she held prior to the suspension; provided, however, that automatic suspension of Academy membership pursuant to this subparagraph shall not preclude the Academy from taking additional disciplinary action, pursuant to other provisions of this Section, on the basis of the same actions or events giving rise to such automatic suspension.

Information concerning any of these actions may be reported to the National Practitioners Data Bank and appropriate State Boards of Medical Examiners. This information may also be reported to the American Board of Dermatology and/or local dermatologic societies if the circumstances so warrant.