



DISCIPLINARY ACTION POLICY

I. Introduction. A member of the American Academy of Neurology (“AAN”) may be subject to discipline by the AAN if the member’s conduct conflicts with the professional standards and ethical principles of the AAN, including violations of the AAN’s *Code of Professional Conduct* or the *Qualifications and Guidelines for the Physician Expert Witness*. The AAN Board of Directors adopted this Disciplinary Action Policy to govern all disciplinary procedures and actions. When this policy uses the word “including” to refer to specific examples, the word should be understood to mean “including but not limited to.”

II. Grievance Committee. The Grievance Committee administers the following “Grievance Procedure” to provide for a fair and reasonable determination of whether a complaint submitted against an AAN member establishes a sufficient basis for further review by the Fair Hearing Panel Committee. The Grievance Committee consists of five persons, which includes the chair, all appointed by the AAN’s President. The Grievance Committee must include at least two fellows of the AAN. The term of appointment is two years, which may be renewed. 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. A quorum of three is required to conduct business. All five members of the Grievance Committee are voting members.

III. Grievance Procedure.

A) The Grievance Committee may receive allegations against AAN members from all sources. Complaints must: i) be in writing and signed by the complainant; ii) describe the conduct in question with reasonable particularity, including how the AAN member allegedly violated the AAN *Code of Professional Conduct* or the *Qualifications and Guidelines for the Physician Expert Witness*; and iii) include any supporting documentation.

B) Allegations concerning expert witness testimony have a time of filing limitation of two years from the date the testimony was given or the date of the disposition of the case, whichever is later. Allegations concerning independent medical examinations have a time of filing limitation of two years from date of receipt of letter from the independent medical examiner. A complaint relating to expert witness testimony may be submitted only after final resolution of litigation in which an AAN member has provided expert testimony.

C) The complainant is responsible for the costs associated with making the complaint, including costs of obtaining, copying, and mailing records or scans, but excluding costs associated with Grievance Committee meetings. The Grievance Committee may, but is not required to, review additional information beyond the information submitted by the complainant.

D) The Committee will review the allegations to determine if there is a sufficient basis, including supporting information, that indicates the member's conduct may have conflicted with the standards and principles of the AAN, and therefore warrants further review by the Fair Hearing Panel Committee. If the Grievance Committee finds the complaint lacks a sufficient basis for further AAN consideration, the matter will be dismissed, and the complainant will be notified of this dismissal. No explanation or description of the Grievance Committee's deliberations will be provided in the dismissal letter to preserve the confidentiality of the process. If the Grievance Committee determines that the complaint provides a sufficient basis for further AAN review the Committee will forward the complaint, along with all evidence considered, to the chair of the Fair Hearing Panel Committee.

III. Fair Hearing Panel Committee. The Fair Hearing Panel Committee administers the following "Fair Hearing Procedure" to provide for a fair and reasonable determination of the issues set forth in the complaint forwarded by the Grievance Committee, and to determine if disciplinary action is warranted, taking into consideration all the relevant and available facts and circumstances. The Fair Hearing Panel is a standing committee of the AAN consisting of three persons, which includes the chair, plus one or more alternates, all appointed by the AAN's President. The Fair Hearing Panel must include at least two fellows of the AAN. The term of appointment is two years, which may be renewed. Panel members whose terms have expired will continue to fulfill existing responsibilities to a case or cases under consideration but will thereafter retire from the Panel. All three members of the Fair Hearing Panel Committee are voting members.

IV. Fair Hearing Procedure.

A) Upon receipt from the Grievance Committee of the complaint against the respondent, the chair of the Fair Hearing Panel Committee will provide a copy of that complaint along with all evidence considered by the Grievance Committee to the respondent, give notice that respondent may submit a written response within 45 days after receipt of the complaint and provide the respondent with a copy of this *Disciplinary Action Policy*.

B) The Fair Hearing Panel will consider the complaint forwarded from the Grievance Committee. The Panel may, but is not required to, review additional information beyond the information submitted by the complainant and the Grievance Committee. When the respondent files a written response to the complaint, the chair of the Fair Hearing Panel will send the complaint, all evidence considered by the Grievance Committee, and the written response from the respondent to the Fair Hearing Panel. The Panel will meet either in person, by video conference, or by telephone within 45 days after receipt of the information to determine whether to further consider the complaint. The Panel, at its discretion, may request that the chair invite an expert in the field to which the case pertains, as a non-voting member. During any further consideration of the complaint, the Panel may invite the respondent to submit additional information to the Panel.

C) If the Fair Hearing Panel dismisses the complaint, the respondent will be promptly notified. If the Panel decides to further consider the complaint, the respondent will be notified of the respondent's right to a hearing.

D) After receipt of the notice, the respondent will have 30 days in which to request a hearing and/or to submit additional written information in response to the complaint. If the respondent does not request a hearing, the Fair Hearing Panel may, after considering any evidence submitted to it, enter a decision on the complaint.

E) If the respondent requests a hearing, the Fair Hearing Panel will receive copies of any additional evidentiary material and witness lists not less than 14 days prior to the hearing. The Panel will decide whether it will call any witnesses, and the chair will provide the respondent with a list of witnesses, if any, expected to testify at the hearing on behalf of the AAN, along with a summary of their expected testimony prepared by the Panel. Similarly, the respondent will provide the chair with a list of witnesses, if any, expected to testify on behalf of the respondent, along with a summary of their expected testimony.

F) Unsolicited communication outside of the disciplinary proceedings between the respondent and the Fair Hearing Panel members, Fair Hearing Panel witnesses, or any complainant, is prohibited and may result in disciplinary action.

G) The chair will notify the Fair Hearing Panel members and the respondent of the date, place, and time of the hearing. The hearing will be held no sooner 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. At the request of any party for a good cause, the chair may postpone the date of the hearing for a reasonable period but reserves the right to deny postponement. The right to a hearing may be forfeited if the respondent fails to appear without good cause.

H) The respondent will have the following rights at the hearing:

- i. To be represented by an attorney, or any other person of the respondent's choice.
- ii. To request a copy of the record of the proceedings at the respondent's cost.
- iii. To be present at the hearing when evidence is presented to the Fair Hearing Panel.
- iv. To submit evidence.
- v. To call, examine and cross-examine witnesses.
- vi. To submit a written statement within five working days of the close of the hearing.
- vii. To receive a written decision of the Fair Hearing Panel that includes the reasons supporting the decision.

I) The Fair Hearing Panel will first hear evidence in support of the complaint and then hear evidence against the complaint. The Federal Rules of Evidence and other formal rules of evidence will 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 will be subject to examination by the Panel.

J) The chair, after consulting with the Fair Hearing Panel members and the respondent, will determine if observers may attend the hearing. The complainant will not be invited to attend the hearing unless the chair and the respondent agree on the terms of an invitation. Observers will not be permitted to participate in the hearing.

K) The Fair Hearing Panel will issue a written decision 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 the right to file a post-hearing statement. The decision of the Panel will state whether 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. The recommended disciplinary action may be designed to correct a specific violation found by the Panel. The disciplinary action may, in the judgment of the Panel, recommend reprimand, suspension from membership in the AAN for a period of time, or expulsion from the AAN. “Reprimand” means that the respondent will be advised in writing of a finding of misconduct and that such conduct should be changed. A reprimand detailing how the respondent’s conduct conflicted with the standards of the AAN and an admonition to correct such behavior may take the form of a private letter to respondent or a public notice in an AAN publication. “Suspension” means that the respondent will be advised in writing that the respondent’s privileges as a member of the AAN have been temporarily suspended for a defined period of time and the conditions necessary for reinstatement. “Expulsion” means that the respondent will be informed in writing that membership in the AAN is terminated, with or without the option to reapply for membership under certain specified conditions. A respondent’s suspension or expulsion from the AAN will be made known to the AAN’s general membership and will be reported to the National Practitioner Data Bank. The chair will send a copy of the recommended decision to the president and to the respondent together with the notice of the respondent’s right to appeal the decision to the AAN’s Executive Committee. If the decision is not appealed, the Fair Hearing Panel findings and recommended disciplinary action will then be referred to the Executive Committee for final action. The Executive Committee will conduct its review and issue its decision within 120 days from the date the recommendation is submitted by the Fair Hearing Panel Committee. The president and AAN staff will take appropriate steps to implement the decision of the Executive Committee, which will be final.

V. Appeal Process.

A) A respondent may appeal a disciplinary recommendation within thirty days of receipt of the Fair Hearing Panel Committee’s recommended decision by filing a written request with the president for a hearing before the Executive Committee. The recommendation of the Fair Hearing Panel will not be enforced in any way, pending the respondent’s appeal. Any Executive Committee member who has served as fact-finder, investigator, complainant, or in any other capacity in this or any other disciplinary proceeding involving the respondent will not participate in the appeal hearing. The respondent will have thirty days from the date of the request for an appeal hearing to file written arguments with the president of the AAN. The Fair Hearing Panel will have thirty days to reply to the respondent’s arguments. A thirty-day extension for filing written arguments may be granted by the president for good cause shown by any of the parties.

B) When all written arguments have been filed with the president, the president will provide copies to all members of the Executive Committee and will request the Executive Committee to schedule an appeal hearing no later than 120 days from the date of the president’s request. The Executive Committee will set the date for the appeals hearing and the president will notify the respondent, the complainant, and the Fair

Hearing Panel. Thereafter, the date of said hearing will not be postponed except for the most serious reasons in the judgment of the president.

C) The president or the president's designee will chair the appeals hearing. The president will establish in advance of the hearing a time limit for arguments at the appeals hearing. Each side shall have an equal amount of time. The respondent will first present arguments in opposition to the decision of the Fair 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*. When the respondent's argument is completed, a representative of the Fair Hearing Panel will argue in support of the decision rendered by the Panel. Thereafter, the respondent will be allowed to reply. At the completion of the appeals hearing, the Executive Committee will deliberate in Executive Session. The Executive Committee will thereupon prepare a written document setting forth their decision and its reasoning. This document will be filed with the president who will provide copies of the decision to the respondent and the Fair Hearing Panel. The president and AAN staff will take appropriate steps to implement the decision of the Executive Committee, which shall be final.

VI. Letter of Concern. In some circumstances, the Grievance Committee, the Fair Hearing Panel Committee, or the Executive Committee, as applicable, may have concerns with the alleged behavior described in the complaint, yet, at its discretion, may decide it does not merit further AAN review or disciplinary action. In these instances, at the applicable committee's sole discretion, the committee may write a Letter of Concern to the complainant, respondent, or both, detailing its concerns. This Letter of Concern is not an official professional compliance action and, as such, is deemed confidential. The AAN may send a notice to the opposing party (either complainant or respondent) that a Letter of Concern has been sent but will not include its specific contents and will request that the opposing party not make the existence of this Letter of Concern public.

VII. Medical Licensure Actions and Convictions. If the AAN is made aware, via any source, that an AAN member has been: A) reprimanded, censored, or otherwise disciplined by, or been subject to a corrective action agreement or plan, termination, suspension, restriction, or non-renewal due to disciplinary violations with any licensing or certifying board; or B) convicted of a felony, gross misdemeanor, misdemeanor (other than a minor traffic violation), or other similar offense, the AAN will forward the information gathered to the Fair Hearing Panel Committee for review and consideration of disciplinary action in accordance with the above Fair Hearing Procedure.

VIII. Confidentiality. All material concerned with these matters must 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. Matters concerning allegations of research misconduct must be held strictly confidential to the extent the confidentiality and disclosure requirements of 42 C.F.R. 93.108 apply; the AAN may be required to disclose the identity of respondents and complainants to the Office of Research Integrity ("ORI") pursuant to an ORI review of research misconduct proceedings and HHS administrative hearings concerning research misconduct must be open to the public.

IX. Committee Member Obligations. Participation in the activities of the Grievance Committee, Fair Hearing Panel, or Executive Committee by members with any real or potential conflict of interest is prohibited. This prohibition includes any individuals who are in direct economic competition with the respondent.

X. HIPAA Compliance. All material submitted must follow HIPAA guidelines for de-identifying patient information. Any complaint, response, or supporting material submitted that does not conform to the required format will be returned to the submitting party.

XI. Resignation. If a respondent resigns from the AAN pursuant to Minnesota Statute § 317A.409, any disciplinary proceedings against the former respondent will be suspended. However, if the former respondent successfully reapplies for membership, the disciplinary proceedings will be reinstated unless dismissed by the Board of Directors.

XII. Construction. This policy is to be construed according to the law of the State of Minnesota, without regard to the residence of the respondent or location of the hearing or related meetings.

History of Disciplinary Action Policy:

Initial versions were approved by the Executive Board in February 1992, May 1994, and February 1997. The Executive Committee approved significant revisions on July 2, 2002 (Policy 2002-35), and additional updates have been approved on June 26, 2004 (Board of Directors, Policy 2004-14), November 6, 2008 (AANPA Executive Committee, AANPA Policy 2008-12), May 8, 2009 (AANPA Executive Committee, AANPA Policy 2009-10), January 28, 2010 (Grievance Committee), February 18, 2010 (AANPA Executive Committee, AANPA Policy 2010-01), May 6, 2011 (AAN Board of Directors), August 26, 2015 (AAN Board of Directors), and March 18, 2021 (AAN Board of Directors).