



## AZPTA ETHICS COMMITTEE PROTOCOL

Establishing and maintaining an Ethics Committee is a responsibility of the AzPTA. The Bylaws of the APTA obligate each Chapter to:

*“Investigate any complaints of violations of ethical principals made against any member in its jurisdiction in accordance with the Association’s procedural document on disciplinary action.”* APTA Bylaws, Article V, Section 1.E(8).

The APTA Board of Directors has adopted the **Procedural Document on Disciplinary Action** (Procedural Document), under which each Chapter is expected to create a “Chapter Ethics Committee” (CEC or Committee) for the purpose of investigating ethical complaints (against members assigned to the Chapter). Authority to adopt ethical principles of standards lies with the APTA House of Delegates, which has adopted (i) the APTA **Code of Ethics**, for members who are physical therapists, and (ii) the APTA **Standards of Ethical Conduct for the Physical Therapist Assistant**, for members who are physical therapist assistants. The APTA’s Judicial Committee has responsibility for interpreting the Association’s ethical principles and standards, and it has issued a **Guide for Professional Conduct** and a **Guide for the Conduct of the Affiliate Member**, which interpret the **Code** and the **Standards**, respectively.

Under the Procedural Document a Chapter President may initiate an ethics proceeding on the basis on (a) a written complaint alleging unethical behavior by a member or (b) reliable publicly available information indicating that a member has acted unethically (e.g., licensing action by a state agency or criminal prosecution). The Chapter President initiates a proceeding by sending to the member a notice of charges, which **must** describe the member’s alleged or apparent unethical behavior and specify the provisions of the **Code** or **Standards** that such behavior would violate. (The notice may cite relevant portions of the appropriate **Guide**, but a member can be punished only for a violation of the **Code** or **Standards**.) APTA’s legal department has prepared form letters to guide the President in preparing a notice of charges.

The notice of charges refers the case to the CEC, which is responsible for appointing an investigator reviewing the evidence gathered, and deciding whether to dismiss the charges or to recommend to the APTA Judicial Committee that it impose one of the four forms of disciplinary action (reprimand, probation, suspension, or expulsion). A CEC does **not** have authority to impose disciplinary action--that step is reserved for the APTA Judicial Committee, subject to appeal to the APTA Board of Directors.

### Establishment of CEC

As noted, the Procedural Document contemplates that each Chapter will establish a CEC, and the majority of Chapters have done so. A Chapter should establish a CEC in accordance with its own bylaws, which should indicate who has the authority to do so (e.g., the Chapter’s Board of Directors or President). The Procedural Document imposes only one restriction on the composition of the CEC. That is, the Chapter President may not be a member of the CEC, as the President may not participate in the processing of a case after he/she refers it to the CEC. In addition, the Procedural Document contemplates that a CEC will have a Chair. Obviously, a CEC must have at least two members, and as a practical matter it surely should have at least three. (An odd number of members is probably desirable, because it reduces the likelihood of deadlock.) The Chapter bylaws or the particular document establishing the CEC should specify items such as the number of members of the CEC, how they are placed in office (e.g., appointment by the President or by the Board), the ineligibility of the President to serve, qualifications (if any are desired), the length of the term, and the method for filling vacancies. (The APTA’s Model Bylaws for Chapters (Board of Directors 03-92-29-100) recommend against including

provisions for a Chapter Ethics Committee in the Chapter's bylaws, so that changes in the committee may be made as needed without the need for a bylaw amendment.)

An individual need not have any special qualifications (other than being a member of the Chapter) in order to serve on the CEC. Questions of conflict of interest are handled on a case-by-case basis. For example, in one case a CEC member recused herself because she knew the respondent well, had a bad opinion of him, and believed that she would be unable to be impartial. Similarly, if a respondent were a business partner of one of the CEC members, that member undoubtedly should recuse himself/herself.

### **Impact of CEC on Membership**

The CEC does not have any very obvious role in increasing membership. Because being a respondent is an inherently unpleasant experience, the CEC's function is perhaps inevitably more likely to have a negative than a positive effect on membership.

The CEC's overriding obligation is to be fair, to both the respondent and the complainant (if any). The fact that every respondent is a member of the Association simply underscores the importance of the CEC's being scrupulously fair (and courteous) in all its dealings. The CEC faces the difficult task of balancing the need to be careful and thorough--which tends to prolong the process--against the typical respondent's desire to complete the process reasonable quickly.

The Chapter President must be aware that the decision whether to initiate an ethics proceeding is the **single most crucial part** of the APTA process. An unwise decision to issue a notice of charges can be extremely unfair to the respondent as well as unnecessarily burdensome to the CEC (and to the Judicial Committee and APTA staff). The Procedural Document does not obligate the Chapter President to refer every complaint to the CEC. Rather, the President must consider carefully what the complaint (fairly interpreted) actually claims, whether the alleged behavior would violate an ethical principle, and whether the matter is suitable for APTA's process. For example, a "garden variety" claim of professional malpractice does not raise an ethical issue, and a claim of copyright infringement is not one the APTA process is capable of resolving (even if it raises ethical issues). The decision whether to start a proceeding often raises difficult questions of interpretation and judgment. The CEC Chair has a role at this stage because the Chapter President must "consult" with the CEC Chair before issuing a notice of charges. Of course, the Chapter President always may consult with APTA's legal department.

### **Professional Role of CEC**

Maintaining and promoting ethical principles and standards of conduct for members is the second function of the Association listed in its Bylaws. The investigation of ethical complaints against members by the CEC is one way in which APTA attempts to carry out this function. APTA is a voluntary organization without the legal power of licensing agencies (and courts) to enforce standards of behavior. However, the Association's disciplinary process does represent a commitment of a public nature to hold its members to the ethical principles and standards of the profession.

### **Other Activities of CEC**

As far as the Association is concerned, the processing of ethics cases referred by the Chapter President is the only function of a CEC, and a Chapter should be slow to assign other functions to the body. In particular, a CEC has no authority over "practice issues" whatsoever except to the extent that a respondent is charged with having committed a violation of the Association's ethical principles or standards. A CEC does not have any responsibility for developing (or enforcing) so-called standards of practice--if the Chapter intends to develop such standards, the CEC as such should not be involved, and the CEC should understand that a violation of such standards is not a violation of the **Code of Ethics** absent some independent ground (e.g., the violation is also a violation of state law).