

# American Psychoanalytic Association Principles and Standards of Ethics for Psychoanalysts

## Preamble:

Psychoanalysis is a method of treating children, adolescents and adults with emotional and mental disorders that attempts to reduce suffering and disability and enhance growth and autonomy. While the psychoanalytic relationship is predicated on respecting human dignity, it necessarily involves a power differential between psychoanalyst, patient and, particularly in the case of children, the family that, if ignored, trivialized or misused, can compromise or derail treatment and inflict significant damage on both parties to treatment.\* Constant self examination and reflection by the psychoanalyst and liberal use of formal consultation are obvious safeguards for the patient, as well as the treating psychoanalyst.

No code of ethics can be encyclopedic in providing answers to all ethical questions that may arise in the practice of the profession of psychoanalysis. Sound judgment and integrity of character are indispensable in applying ethical principles to particular situations and individuals. The major goal of this code is to facilitate the psychoanalyst's best efforts in all areas of analytic work and to encourage early and full discussion of ethical questions with colleagues and members of local and national ethics committees. These revised Principles presuppose a psychoanalyst's life-long commitment to act ethically and to encourage similar ethical behavior in colleagues and students. It is expected that over time all psychoanalysts will enrich and add cumulatively to the guidance provided by the Principles with their own experience and values, and that the Principles will evolve, based on the profession's insights and experience.

## General Principles of Ethics for Psychoanalysts

### Introduction:

The American Psychoanalytic Association has adopted the following Principles of Ethics and associated Standards to guide members in their professional conduct toward their patients and, in the case of minors, toward their parent(s) or guardian(s) as well as supervisees, students, colleagues and the public. These Principles and Standards substantially revise and update the ethical principles contained in the previous Principles of Ethics published by the American Psychoanalytic Association in December 1975, and revised in 1983. The revisions take account of evolving moral sensibilities and observed deficiencies in the earlier codes. As ethical standards change, behaviors that were acceptable in the past may no longer be considered ethical. In this regard, however, these evolving standards should not be used to punish individuals retroactively. These revised principles emphasize constraints on behaviors that are likely to misuse the power differential of the transference-countertransference relationship to the detriment of patients and, in the case of minors, their parent (s) or guardian (s) as well.

The new code seeks to identify the parameters of the high standard of care expected of psychoanalysts in treatment, teaching, and research. By specifying standards of expected

conduct, the code is intended to inform all psychoanalysts in considering and arriving at ethical courses of action and to alert members and candidates to departures from the wide range of acceptable practices. When doubts about the ethics of a psychoanalyst's conduct arise, early intervention is encouraged. Experience indicates that when ethical violations are thought to have occurred, prompt consultation and mediation tend to serve the best interests of all parties concerned. When indicated, procedures for filing, investigating and resolving complaints of unethical conduct are addressed in the Provisions for Implementation of the Principles and Standards of Ethics for Psychoanalysts.

There are times when ethical principles conflict, making a choice of action difficult. In ordering ethical obligations, one's duty is to the patient directly, or indirectly through supervision or consultation with the treating psychoanalyst. In the case of patients who are minors there are also ethical obligations to parent(s) or guardian(s) which change as the patient becomes older and more mature. Thereafter, ethical obligations are to the profession, to students and colleagues, and to society. The ethical practice of psychoanalysis requires the psychoanalyst to be familiar with these Principles and Standards; to conduct regular self-examination; to seek consultation promptly when ethical questions arise; and to reach just sanctions when judging the actions of a colleague.

### **Guiding General Principles:**

I. Professional Competence. The psychoanalyst is committed to provide competent professional service. The psychoanalyst should continually strive to improve his or her knowledge and practical skills. Illnesses and personal problems that significantly impair the psychoanalyst's performance of professional responsibilities should be acknowledged and addressed in appropriate fashion as soon as recognized.

II. Respect for Persons. The psychoanalyst is expected to treat patients and their families, students and colleagues with respect and care. Discrimination on the basis of age, disability, ethnicity, gender, race, religion, sexual orientation or socioeconomic status is ethically unacceptable.

III. Mutuality and Informed Consent. The treatment relationship between the patient and the psychoanalyst is founded upon trust and informed mutual agreement or consent. At the outset of treatment, the patient should be made aware of the nature of psychoanalysis and relevant alternative therapies. The psychoanalyst should make agreements pertaining to scheduling, fees, and other rules and obligations of treatment tactfully and humanely, with adequate regard for the realistic and therapeutic aspects of the relationship. Promises made should be honored.

When the patient is a minor these same general principles pertain but the patient's age and stage of development should guide how specific arrangements will be handled and with whom.

IV. Confidentiality. Confidentiality of the patient's communications is a basic patient's right and an essential condition for effective psychoanalytic treatment and research. A psychoanalyst must take all measures necessary to not reveal present or former patient confidences without permission, nor discuss the particularities observed or inferred about patients outside consultative, educational or scientific contexts. If a psychoanalyst uses case material in exchanges with colleagues for consultative, educational or scientific purposes, the identity of the patient must be sufficiently disguised to prevent identification of the individual, or the patient's

authorization must be obtained after frank discussion of the purpose(s) of the presentation, other options, the probable risks and benefits to the patient, and the patient's right to refuse or withdraw consent.

V. Truthfulness. The psychoanalytic treatment relationship is founded on thoroughgoing truthfulness. The psychoanalyst should deal honestly and forthrightly with patients, patient's families in the case of those who are minors, students, and colleagues. Being aware of the ambiguities and complexities of human relationships and communications, the psychoanalyst should engage in an active process of self-monitoring in pursuit of truthful therapeutic and professional exchanges.

VI. Avoidance of Exploitation. In light of the vulnerability of patients and the inequality of the psychoanalyst-analysand dyad, the psychoanalyst should scrupulously avoid any and all forms of exploitation of patients and their families, current or former, and limit, as much as possible the role of self-interest and personal desires. Sexual relations between psychoanalyst and patient or family member, current or former, are potentially harmful to both parties, and unethical. Financial dealings other than reimbursement for therapy are unethical.

VII. Scientific Responsibility. The psychoanalyst is expected to be committed to advancing scientific knowledge and to the education of colleagues and students. Psychoanalytic research should conform to generally accepted scientific principles and research integrity and should be based on a thorough knowledge of relevant scientific literature. Every precaution should be taken in research with human subjects, and in using clinical material, to respect the patient's rights especially the right to confidentiality, and to minimize potentially harmful effects.

VIII. Protection of the Public and the Profession. The psychoanalyst should strive to protect the patients of colleagues and persons seeking treatment from psychoanalysts observed to be deficient in competence or known to be engaged in behavior with the potential of affecting such patients adversely. S/he should urge such colleagues to seek help. Information about unethical or impaired conduct by any member of the profession should be reported to the appropriate committee at local or national levels.

IX. Social Responsibility. A psychoanalyst should comply with the law and with social policies that serve the interests of patients and the public. The Principles recognize that there are times when conscientious refusal to obey a law or policy constitutes the most ethical action. If a third-party or patient or in the case of minor patients, the parent(s) or guardian(s) demands actions contrary to ethical principles or scientific knowledge, the psychoanalyst should refuse. A psychoanalyst is encouraged to contribute a portion of his or her time and talents to activities that serve the interests of patients and the public good.

X. Personal Integrity. The psychoanalyst should be thoughtful, considerate, and fair in all professional relationships, uphold the dignity and honor of the profession, and accept its self-imposed disciplines. He or she should accord members of allied professions the respect due their competence.

## **Standards Applicable to the Principles of Ethics for Psychoanalysts**

The American Psychoanalytic Association is aware of the complicated nature of the psychoanalyst-patient relationship and the conflicting expectations of therapists and patients in contemporary society. In addition, the Association recognizes that this complexity is increased when the patient is a minor and parent(s) and guardian(s) are a natural, if changing, part of the therapeutic picture. The following ethical standards are offered as a more specific and practical guide for putting into practice the Guiding Principles. The Standards represent practices that psychoanalysts have found over time to be generally conducive to morally appropriate professional conduct. A discussion of situation-dependent guidelines and dilemmas will be presented in a separate document, a Casebook on Ethics.

## **I. Competence**

1. Psychoanalysts are expected to work within the range of their professional competence and to refuse to assume responsibilities for which they are untrained.
2. Psychoanalysts should strive to keep up to date with changes in theories and techniques and to make appropriate use of professional consultations both psychoanalytic and in allied psychotherapeutic fields such as psychopharmacology.
3. Psychoanalysts should seek to avoid making claims in public presentations that exceed the scope of their competence.
4. Psychoanalysts should take steps to correct any impairment in his or her analyzing capacities and do whatever is necessary to protect patients from such impairment.

## **II. Respect for Persons and Nondiscrimination**

1. Psychoanalysts should try to eliminate from their work the effects of biases based on age, disability, ethnicity, gender, race, religion, sexual orientation or socioeconomic status.
2. The psychoanalyst should refuse to observe organizational policies that discriminate with regard to age, disability, ethnicity, gender, race, religion, sexual orientation, or socioeconomic status.

## **III. Mutuality and Informed Consent**

1. Psychoanalytic treatment exists by virtue of an informed choice leading to a mutually accepted agreement between a psychoanalyst and a patient or the parent(s) or guardian(s) of a minor patient.
2. It is not ethical for a psychoanalyst to take advantage of the power of the transference relationship to aggressively solicit patients, students or supervisees into treatment or to prompt testimonials from current or former patients. Neither is it ethical to take such advantage in relation to parent(s) or guardian(s) of current or former minor patients.
3. It is unethical for a psychoanalyst to use his/her position of power in analytic organization, professional status or special relationship with a potential patient or parent or guardian of a

minor patient to coerce or manipulate the person into treatment.

4. Careful attention should be given to the process of referral to avoid conflicts of interest with other patients and colleagues. Referrals between members of the same family, including spouses, and significant others, should be especially scrutinized and disclosure should be made to patients about the relationship in the initial stages of the referral so that preferable alternatives may be considered.

5. All aspects of the treatment contract which are applicable should be discussed with the patient during the initial consultation process. The psychoanalyst's policy of charging for missed sessions should be understood in advance of such a charge. The applications of this policy to third party payment for services should be discussed and agreed upon by the patient. In the case of patients who are minors, these matters should be discussed early on with the parent(s) or guardian(s) as well as with the patient as age and capability dictate.

6. A reduced fee does not limit any of the ethical responsibilities of the treating psychoanalyst.

7. The psychoanalyst should not unilaterally discontinue treating a patient without adequate notification discussion with the patient and, if a minor, with the parent (s) or guardian (s) and an offer of referral for further treatment. Consultation should be considered.

#### **IV. Confidentiality**

1. All information about the specifics of a patient's life is confidential, including the name of the patient and the fact of treatment. The psychoanalyst should resist disclosing confidential information to the full extent permitted by law. Furthermore, it is ethical, though not required, for a psychoanalyst to refuse legal, civil or administrative demands for such confidential information even in the face of the patient's informed consent and accept instead the legal consequences of such a refusal.[\[1\]](#)

2. The psychoanalyst should never share confidential information about a patient with nonclinical third-parties (e.g., insurance companies) without the patient's or, in the case of a minor patient, the parent's or guardian's informed consent. For the purpose of claims review or utilization management, it is not a violation of confidentiality for a psychoanalyst to disclose confidential information to a consultant psychoanalyst, provided the consultant is also bound by the confidentiality standards of these Principles and the informed consent of the patient or parent or guardian of a minor patient has first been obtained. If a third-party payer or a patient or parent or guardian of a minor patient demands that the psychoanalyst act contrary to these Principles, it is ethical for the psychoanalyst to refuse such demands, even with the patient's or, in the case of a minor patient, the parent's or guardian's informed consent.[\[2\]](#)

3. The psychoanalyst of a minor patient must seek to preserve the patient's confidentiality, while keeping parents or guardians informed of the course of treatment in ways appropriate to the age and stage of development of the patient, the clinical situation and these Principles.

4. The psychoanalyst should take particular care that patient records and other documents are handled so as to protect patient confidentiality (*rv. 06-08*).

5. It is not a violation of confidentiality for a psychoanalyst to disclose confidential information

about a patient in a formal consultation or supervision in which the consultant or supervisor is also bound by the confidentiality requirements of these Principles. On seeking consultation, the psychoanalyst should first ascertain that the consultant or supervisor is aware of and accepts the requirements of the Confidentiality standard.

6. If the psychoanalyst uses confidential case material in clinical presentations or in scientific or educational exchanges with colleagues, either the case material must be disguised sufficiently to prevent identification of the patient, or the patient's informed consent must first be obtained. If the latter, the psychoanalyst should discuss the purpose(s) of such presentations, the possible risks and benefits to the patient's treatment and the patient's right to withhold or withdraw consent. In the case of a minor patient, parent(s) or guardian(s) should be consulted and, depending on the age and developmental stage, the matter may be discussed with the patient as well.

7. Supervisors, peer consultants and participants in clinical and educational exchanges have an ethical duty to maintain the confidentiality of patient information conveyed for purposes of consultative or case presentations or scientific discussions.

8. Candidate psychoanalysts-in-training are strongly urged to consider obtaining the patient's informed consent before beginning treatment, pertaining to disclosures of confidential information in groups or written reports required by the candidate's training. Where the patient is a minor, the candidate is strongly urged to consider obtaining informed consent from the parent(s) or guardian(s); age and stage of development will assist the candidate in determining if the patient should also be informed.

## **V. Truthfulness**

1. Candidate psychoanalysts-in-training are strongly urged to inform psychoanalytic training patients and prospective psychoanalytic training patients that they are in training and supervised. Where the patient is a minor, the parent(s) or guardian(s) should also be informed. If asked, candidate psychoanalysts-in-training should not deny that they are being supervised as a requirement of their training.

2. The psychoanalyst should speak candidly with prospective patients or the parent(s) or guardian(s) if the patient is a minor about the benefits and burdens of psychoanalytic treatment.

3. The psychoanalyst should avoid misleading patients or parents or guardians of minor patients or the public with statements that are knowingly false, deceptive or misleading.

## **VI. Avoiding Exploitation**

1. Sexual relationships involving any kind of sexual activity between the psychoanalyst and a current or former patient, or a parent or guardian of a current or former patient, or any member of the patient's immediate family whether initiated by the patient, the parent or guardian or family member or by the treating psychoanalyst, are unethical. Physical touching is not ordinarily regarded as a technique of value in psychoanalytic treatment. If touching occurs, whether of the patient by the psychoanalyst or the psychoanalyst by the patient, such an event should alert the psychoanalyst to the potential for misunderstanding of the event by the patient or the

psychoanalyst, and consequent harm to the future course of treatment and consultation should be considered. Consultation should be considered if there is concern about the future course of treatment.

With children before the age of puberty touching between the patient and the psychoanalyst is likely to occur as in helping or during a patient's exuberant play. Also, a disruptive or out of control child may need to be restrained. The psychoanalyst needs to be alert to the multiple meanings for both parties of such touching. Keeping parent(s) or guardian(s) informed when this occurs may be useful. Consultation should be considered if the touching causes the psychoanalyst concern.

2. Marriage between a psychoanalyst and a current or former patient, or between a psychoanalyst and the parent or guardian of a patient or former patient is unethical, notwithstanding the absence of a complaint from the spouse and the legal rights of the parties.

3. It is not ethical for a psychoanalyst to engage in financial dealings with a patient, or in the case of a minor patient, the parent(s) or guardian(s) beyond reimbursement for treatment; or to use information shared by a patient or parent(s) or guardian(s) for the psychoanalyst's financial gain.

4. It is not ethical for a psychoanalyst to solicit financial contributions from a current or former patient or the parent/guardian of a current or former patient for any purpose; nor should a psychoanalyst give the names of current or former patients or their parents/guardians for purposes of financial solicitation by others.

5. If a patient or parent or guardian of a minor patient brings up the idea of a financial gift to a psychoanalytic organization or cause during treatment, it should be handled psychoanalytically and, if necessary, the patient should be informed that his or her confidentiality might be breached by the treating psychoanalyst's obligation to recuse him/herself from involvement in decisions governing use of the gift. If a gift is given nevertheless, the psychoanalyst is ethically obliged to refrain from any decision regarding its use by the recipient organization or cause.

6. If a current or former patient or the parent/guardian of a current or former patient, gives an unsolicited financial gift, or establishes a trust or foundation or other entity for the benefit of his/her psychoanalyst, or for the benefit of the professional or scientific work of said psychoanalyst, or for the benefit of the psychoanalyst's family, or the gift is placed under the control of the psychoanalyst, even if not directly beneficial to the psychoanalyst or his/her family, it is not ethical for the psychoanalyst to accept any financial benefit or to control its disposition.

7. It is ethical for a psychoanalyst to accept a bequest from the estate of a former patient, provided that it is promptly donated to an organization or cause from which the psychoanalyst or his/her family do not personally benefit and over which the psychoanalyst has no direct control.

8. It is unethical for a psychoanalyst to use his or her professional status, special relationship, or position of power in an analytic organization to solicit gifts or funds, sexual favors, special relationships, or other tangible benefit from patients, the parent(s) or guardian(s) of minor patients, members of the patient's immediate family, psychoanalysts-in-training or supervisees. Sexual relationships between current supervisors and supervisees are unethical.

9. Concurrent supervision of candidates by the spouse, significant other or other relative of their analysts should be avoided whenever possible in the interest of maintaining the independence and objectivity of both the supervisory and analytic processes.

## **VII. Scientific Responsibility**

1. The psychoanalyst should take every precaution in using clinical material to respect the patient's rights and to minimize the impact of its use on the patient's privacy and dignity. In the case of minor patients the impact on parent(s) or guardian(s) needs to be considered. Particular care should be exercised in using material from a patient who is still undergoing treatment.

2. It is unethical for a psychoanalyst to make public presentations or submit for publication in scientific journals falsified material that does not refer to actual observations drawn from the clinical situation. Such clinical material must be disguised sufficiently to protect identification of the patient.

3. The psychoanalyst should exercise caution in disguising patient material to avoid misleading colleagues as to the source and significance of his or her scientific conclusions.

## **VIII. Safeguarding the Public and the Profession**

1. The psychoanalyst should seek consultation when, in the course of treating a patient, the work becomes continuously confusing or seriously disturbing to either the psychoanalyst or the patient, or both. On occasion in the treatment of a minor, the relationship between the psychoanalyst and parental figure may cause sustained disturbance or confusion for the psychoanalyst. In such a situation consultation is indicated.

2. A psychoanalyst who undergoes a serious illness and extended convalescence, or whose analyzing capacities are impaired, must consult with a colleague and/or medical specialist to clarify the significance of his or her condition for continuing to work.

3. A request by a patient, a parent/guardian of a minor patient, or a colleague that the psychoanalyst seek consultation should receive respectful and reflective consideration.

4. If a psychoanalyst is officially notified by a representative of an institute or society that a possible impairment of his/her clinical judgment or analyzing ability exists, the psychoanalyst must consult with no less than two colleagues, one of whom may be a non-analyst medical specialist, each acceptable to the notifying body. If impairment is found, remedial measures be followed by the psychoanalyst in order to protect patients from harm and to prevent degradation of the standards of care in the profession.

5. It is ethical for a psychoanalyst to consult with the patient of a colleague without giving notice to the colleague, if the consultation has been requested by the patient.

6. It is ethical for a psychoanalyst to intervene on behalf of a colleague's patient if he or she has evidence from a direct or indirect consultation with the colleague's patient or from supervision of the colleague's work with the patient that the colleague may be conducting him/herself



unethically toward the patient or may be so impaired as to threaten the patient's welfare.

7. It is ethical for a psychoanalyst to accept for treatment the current patient of a colleague if consultation with a third colleague indicates that it is in the best interest of the patient to do so.

8. In the event that a credible threat of imminent bodily harm to a third party by a patient becomes evident, the psychoanalyst should take reasonable appropriate steps to protect the third-party from bodily harm, and may breach patient confidentiality if necessary only to the extent necessary to prevent imminent harm from occurring. The same applies to a credible threat of suicide.

9. In the case of a minor where the psychoanalyst is concerned that a credible threat of serious self injury or suicide is imminent, the psychoanalyst should take appropriate steps. This would include the notification of parent(s) or guardian(s) even if a breach of confidentiality is required. Under these circumstances, any breach of confidentiality should be restricted to the minimum necessary to prevent harm of the minor child.

10. When a psychoanalyst becomes convinced that abuse is occurring the psychoanalyst may report adult or child abuse of a patient or by a patient to the appropriate governmental agency in keeping with local laws. Should the patient be a minor, informing parent(s) or guardian(s) needs to be considered. In these circumstances, confidentiality may be breached to the minimum extent necessary. However, in keeping with General Principle IX, a psychoanalyst may also refuse to comply with local reporting laws if that psychoanalyst believes that to do so would seriously undermine the treatment or damage the patient. Given the complexities of these matters, a psychoanalyst who is concerned that abuse of an adult or child is occurring is encouraged to continue to explore the situation and to consider utilizing consultation to determine what course of action would be most helpful.[\[3\]](#)

11. Local psychoanalytic societies and institutes have an obligation to promote the competence of their members and to initiate confidential inquiries in response to ethics complaints.

## **IX. Social Responsibility**

1. The psychoanalyst should make use of all legal, civil, and administrative means to safeguard patients' rights to confidentiality, to ensure the protection of patient treatment records from third party access, and to utilize any other ethical measures to ensure and maintain the privacy essential to the conduct of psychoanalytic treatment.

2. The psychoanalyst is urged to support laws and social policies that promote the best interests of patients and the ethical practice of psychoanalysis.

3. The psychoanalyst is encouraged to contribute his or her time and talents, if necessary without monetary compensation, to consultative and educational activities intended to improve public welfare and enhance the quality of life for the mentally ill and economically deprived members of the community.

## **X. Integrity**

1. Psychoanalysts and candidate psychoanalysts-in-training should be familiar with the Principles of Ethics and Standards, other applicable professional ethics codes, and their application to psychoanalysis.
2. Psychoanalysts should strive to be aware of their own beliefs, values, needs and limitations and to monitor how these personal interests impact their work.
3. Psychoanalysts should cooperate with ethics investigations and proceedings conducted in accordance with the Provision for Implementation of the Principles and Standards of Ethics for Psychoanalysts. Failure to cooperate is itself an ethics violation.

## **Provisions for Implementation of the Principles of Ethics and Standards for Psychoanalysts**

### **I. Committee on Ethics: There shall be a joint standing Committee on Ethics of the Board on Professional Standards and the Executive Council.**

A. Composition and Appointment. The Committee on Ethics ("Committee") shall consist of seven members appointed jointly by the President of the Association ("President") and the Chair of the Board on Professional Standards ("Board Chair"). At least one of the seven members shall be a child analyst. Each member shall serve a staggered five year term; members will be appointed each year to replace members whose term has expired.

The President and Board Chair will jointly designate one member to act as chair of the Committee for a term of two years and, in the event of a vacancy on the Committee, will jointly appoint members to complete the unexpired term of the incumbent member. The President and the Board Chair will jointly appoint a substitute to replace any Committee member who recuses him/herself from a case or who is unable to serve for any other reason. In the event that the case involves a patient who is a minor the President and the Board Chair will assure that a child analyst will serve on the Committee. On completion of the disposition of such a case, the recused, or otherwise unavailable member shall resume his/her seat on the Committee.

B. Duties. The Committee on Ethics shall:

- (1) Respond to communications regarding the "Principles and Standards of Ethics for Psychoanalysts" ("Principles") and the "Provisions for Implementation of the Principles of Ethics for Psychoanalysts" ("Provisions") and issue advisory opinions regarding the application of the "Principles" to particular conduct.
- (2) Recommend to the Board on Professional Standards and the Executive Council appropriate additions or modifications to the "Principles" and "Provisions."
- (3) Pursuant to procedures hereinafter described, review decisions of Affiliated Societies, Study Groups, Accredited and Provisionally Accredited Training Institutes (hereinafter, collectively, "local groups") with regard to complaints alleging that a member of the Association has breached the "Principles." Such review shall enable the Committee to (a) make a decision on the basis of the local group's investigation and decision, regarding the psychoanalyst's membership status in

the Association; and (b) where appropriate, make recommendations to local groups regarding their handling and disposition of such matters.

(4) Complaints against colleagues who have no local membership will be heard by an ad hoc committee appointed by the Association President and the Chairman of the Board. Upon completion of this adjudication, the decision can be reviewed by the Ethics Committee of the American and/or appealed according to the usual procedures.

## **II. Association Procedures in Regard to Questions of Unethical Conduct**

### **A. Advisory Opinions.**

(1) Requests for advisory opinions will be referred to the Chair, Committee on Ethics for response. Copies of responses will be sent to the President and the Board Chair.

(2) The Committee will prepare summaries of any such advisory opinions rendered. Summaries will be distributed to the membership after approval by the Executive Committee or by the Board on Professional Standards and the Executive Council on referral from the Executive Committee.

### **B. Adjudication.**

(1) A complaint alleging breach of the "Principles" by a member of the Association must be made directly to a local group.

(2) If a complaint alleging breach of the "Principles" is addressed to the Association, it shall be referred to the charged member's local group for investigation.

(3) The Association may also refer to a member's local group publicly available information about the member, including information about malpractice findings, adverse membership actions by professional societies, and loss or restriction of license, and request that the local group initiate an ethics investigation on the basis of such information.

## **III. Adjudication at the Local Level**

A. Committee on Ethics of Local Group. Each local group shall have a Committee on Ethics for dealing with complaints of unethical conduct.

### **B. Informal Proceedings and Resolution.**

(1) Each local group shall consider establishing mechanisms to enable it to determine whether to proceed pursuant to formal procedures outlined in Section III below, or to address the issues through more informal, nonadversarial proceedings which can facilitate the efficient resolution of the complaint in a manner that is educational and corrective to the member.

(2) The local group's procedures should include a description of any such informal mechanisms for resolution of which the complainant may take advantage and of any early, informal procedures by which the local group may decide to resolve the complaint through alternative,

informal means, rather than through formal procedures.

C. Initial Response to Potential Complaint. The local group should furnish any potential complainant copies of the group's procedures for dealing with complaints of unethical conduct, and of the Association's "Principles" and "Provisions."

The complainant should also be informed that such complaint must identify the charged member; must be in writing and be signed by the complainant; must clearly describe the facts and circumstances surrounding the charge of unethical conduct, citing, if possible, the applicable principle(s) of ethics alleged to have been breached; and must be accompanied by a signed statement agreeing to the use of the local group's and the Association's procedures, asking that action be taken and authorizing the distribution of the complaint and other materials submitted by the complainant in connection with the investigation.

D. Notification of Accused Member. The local group shall then notify the charged member of the complaint, providing copies of the complaint and other materials submitted by the complainant, the group's procedures for handling ethics complaints, and the Association's "Provisions."

E. Determination of Whether Complaint Merits Investigation. The local group shall determine whether the complaint merits investigation under the ethical standards established by the "Principles," and whether it might also constitute a violation of the rules of the charged members' professional licensing board. If it does not, the complainant and the charged member shall be so informed in writing. Since the adjudication was not completed, the Committee on Ethics can not accept a request for review nor can the Association consider an appeal. If the complaint is determined to merit further investigation, the charged member shall be informed in writing and notified of the right to a hearing, and that during the investigation and hearing, the rights set out in Section (F) below shall apply. If the complaint also appears to represent violations of the charged member's licensing board rules, the local group may choose to refer the complaint to that agency for investigation and adjudication, at the completion of which the local group will determine appropriate disposition of the case, applying the rights set out in Section (F) below.

F. Procedures of Local Group. The local group's procedures for handling complaints of unethical conduct must assure fair process and provide the charged member with the following:

- (1) the opportunity to be notified of, and to address, the charges;
- (2) the right to be represented by legal counsel;
- (3) the right to a hearing, including the right to call, examine and cross-examine witnesses, or reasonable alternatives thereto;
- (4) notice of not less than 30 days of the date, place, and time of the hearing, the witnesses expected to testify thereat; and the member's procedural rights at the hearing;
- (5) the right to submit a written statement at the end of any hearing;
- (6) the right to have a record made of the hearing proceedings and to have a copy of the record

upon payment of reasonable charges; and

(7) that relevant evidence will not be excluded from any hearings solely on the grounds that it would not be admissible in a court of law'

(8) the right to receive (a) the written final decision or recommendation of the ethics committee or other hearing body, including a statement of the basis therefore, and (b) if the hearing body makes a recommendation to its local group or other body of the local group, a written final decision of the group, including a statement of the basis for the decision.

G. Decision of Local Group. In any case in which formal procedures have been followed, after full and fair consideration of the complaint and all the evidence introduced at the hearing, the local group shall arrive at a determination as to the appropriate disposition of the case. In addition to any other disposition, the local group's procedures may enable it to (1) conclude that unethical conduct may have occurred but recommend that no formal finding be made and no sanction imposed pending completion of remedial action recommended and agreed to by the charged member; or (2) dismiss the charges with prejudice, accompanying the dismissal with a letter of admonition, expressing the sense that there may be questions about the member's practices or judgment and putting the member on notice that further education, consultation and/or supervision may be indicated as well as possible sanctions.

H. Notification of Charged Member and of American Psychoanalytic Association. After arriving at a decision, the local group shall advise the charged member, and the complainant of the action taken by the local group. If the decision of the local group is to censure, suspend or expel the charged analyst, the local group shall also notify, the President of the Association, the Chair of the Board on Professional Standards and the chair of the Committee on Ethics.

I. Local Appeal Process. Each local group is strongly urged to establish a procedure for a local appeal of procedures used for investigation and/or the final local adjudication.

#### **IV. Review of Decision of Local Group and Action by Association**

A. Purpose of Review. The Association shall review a local group's investigation and decision in order (1) to determine whether action by the Association is appropriate, and (2) where appropriate, to make recommendations to local groups regarding their handling and disposition of the case.

B. Circumstances of Review. The Association shall review an investigation and decision by a local group under the following circumstances:

(1.) Automatic Review. If a member of the Association has been censured, suspended, or expelled by a local group, or if his/her faculty status in an accredited Institute has been suspended or terminated as a result of adjudication of complaints of unethical conduct, a review of the case shall be promptly undertaken.

(2.) Requested Review. If the disposition of a case is other than censure, suspension or expulsion by a local group, or suspension or termination of a member's faculty status in an accredited Institute, the Association shall undertake a review of the case if formal request for such review is made to the President of the Association, by the member(s) charged, the complainant, or the

local group, within 60 days after notification of the group's decision.

(a) Each such request by a complainant or charged member shall include the reasons for dissatisfaction with the action taken at the local level.

(b) Each such request by the charged member also shall include adequate information regarding the charge, and his/her defense.

(c) Each such request by a local group shall include identification of the charges and the persons involved, a description of all attempts by the group to resolve the matter, and the reason for referral to the Association.

(3) The Committee on Ethics of the American Psychoanalytic Association will not review any decision of a local group regarding a member if the Committee has already reviewed a decision regarding the same complaint or a complaint based on substantially the same facts about the member. This would have particular relevance to those societies and institutes that do not have joint ethics committees.

#### C. Process of Review.

(1) The initial review of the investigation and decision of a local group shall be conducted by the Association's Committee on Ethics, which may confer with the President and legal counsel of the Association.

(2) The Committee on Ethics will request all records of the investigation from the local group and will review the procedures used by the local group, its interpretation and application of the Association's "Principles" and its decision regarding the conduct complained of and any sanction imposed.

(3) In the course of its review, the Committee on Ethics may, but shall not be required to, request written briefs from complainant or counsel for complainant, charged member or counsel for the charged member, and the local group or counsel for the local group. Any brief received from the complainant or the local group shall be provided to the charged member, who shall be given at least 30 days to respond. Personal appearance before the Committee by the complainant, charged member, or local group representatives may be requested.

(4) The Committee on Ethics shall prepare a written summary of the case, including its decision and the basis of its decision.

#### D. Outcome of Ethics Committee Review.

(1) On the basis of its review of the investigation and decision of the local group, the Committee, by majority vote with no more than two members dissenting or abstaining, shall decide what action the Association should take with regard to the complaint filed against the charged member. While based on the information gathered by the local group, the decision of the Committee on Ethics may differ from the decision arrived at by the local group. The Committee on Ethics shall vote for one of the following measures:

(a) Exoneration. The charged member is cleared from blame as the evidence established no

unethical conduct by the member.

(b) Dismissal of Complaint Without Prejudice. This disposition permits new proceedings with respect to the same charge at a later date; i.e., when a determination on the merits cannot be made because of insufficient reliable evidence or other procedural defects.

(c) Dismissal of Complaint With Prejudice. The complaint is dismissed without any finding of unethical conduct; proceedings with regard to the same complaint may not be reinstated.

Where appropriate, such a dismissal may be accompanied by a letter of admonition, expressing the sense of the Association that there may be questions about the appropriateness of the conduct of the charged member and putting the member on notice that further education, consultation and/or supervision may be indicated.

(d) Censure.

(e) Suspension from the Association. Such suspension shall be for a stipulated period, not to exceed three years from date of suspension.

(f) Separation from the Rolls. A new application for membership in the Association shall not be entertained in less than five years from date of separation.

(g) Permanent Expulsion from the Association.

(2) On the basis of its review, the Committee may also decide to consult with the local group regarding its procedures in investigating the complaint of unethical conduct, its interpretation of the Association's "Principles" and its decision regarding the conduct complained of and sanction imposed. However, the Committee and the Association may not otherwise reverse or modify the decision of the local group.

#### E. Procedure Following Committee on Ethics

(1) The Committee on Ethics shall forward a summary of the case, including a statement of the basis of its decision, to the President of the Association. The President shall notify the charged member, the complainant, and the local group of the decision and shall provide the charged member with a copy of the summary.

(2) If the decision of the Committee on Ethics has been to exonerate the charged member, to dismiss the complaint with or without prejudice, or to censure the charged member, the charged member also shall be advised that such decisions of the Committee are final, and unappealable.

(3) If the decision of the Committee on Ethics has been to suspend, separate from the rolls, or expel the charged member, the decision is not final unless it has been ratified by the Executive Council pursuant to the procedures set out in Section IV(E)(4), below. When the President notifies the charged member of such a decision, the President also shall notify the member that he/she must indicate in writing within 30 days from the date of mailing of the notice, that he/she either accepts the decision or that he/she wishes to appeal it. Unless written notification from the charged member is received within the specified time, the right to appeal shall have been

forfeited.

(4) Executive Council Ratification or Appeal. Following notification of all parties as set out above, the Chair of the Committee on Ethics shall present the case and its conclusions to the Executive Council sitting in Executive Session.

(a) When Appeal Not Requested. When the charged member has not requested an appeal, The Executive Council shall decide whether or not to ratify the decision of the Committee on Ethics.

(i) If the Executive Council by majority vote, decides to ratify the decision of the Committee on Ethics, the decision will be final. The Executive Council may prepare its own written decision of the case or adopt the conclusions of the Committee on Ethics as the decision of the Association.

(ii) If the Council fails to ratify the decision of the Committee on Ethics, the Council may refer the matter back to the Committee on Ethics for further deliberation and may specify questions or concerns it has about the matter.

(iii) If the Executive Council refers the matter back to the Committee on Ethics, the Committee shall reconsider its decision, following procedures set forth in Sections IV(C), (D) and (E). The President shall notify all concerned parties of the Council's decision, provide the charged member with current status of the matter and remind the member of his/her right to appeal as set out in IV(E)(3). If the charged member does not exercise the right to appeal, the matter will again be presented for Executive Council consideration as set out herein.

(iv) On the Executive Council's ratification of the decision of the Committee on Ethics, whether at initial or subsequent presentations, the charged member, complainant and local group shall be notified of its decision. The charged member shall be provided a copy of the final decision.

(b) When Appeal Requested; Executive Council Ratification. If the charged member exercises his/her right to appeal the decision of the Committee on Ethics, the President and Board Chair shall jointly appoint an Executive Council Ethics Appeals Committee consisting of five members, including at least two Councilors-at-Large, and at least one Executive Councilor. The remaining two members shall be former members of the Committee on Ethics. If the case involves a minor patient the Appeals Committee must include a child analyst. The appointment and composition of the Ethics Appeals Committee shall be confirmed by a majority vote of the Executive Council. This Committee is empowered to act on behalf of the Executive Council in adjudicating the charged member's appeal, and its decision shall be final. The Committee shall review the record of the proceedings to ascertain that proper procedures have been followed. If it deems further fact finding is required, it shall refer the matter to the Committee on Ethics for the necessary further investigation and deliberation. On completion of its further review of the matter, the Committee on Ethics shall report its decision on reconsideration of the matter to the Ethics Appeals Committee. A majority vote of this Committee shall be required to reach a final disposition of the matter. This Committee's final disposition shall be reported to Council and its report shall be considered an action by Council without further debate or vote by Council.

## **V. Confidentiality and Disclosure**

All information and records pertaining to a charge of unethical conduct against a member, its investigation and any decision rendered shall be kept confidential except as set forth herein.



Disclosure is authorized in the following instances:

A. Information may be disclosed to those members, staff and non-member consultants who need the information to assure the effective administration of these procedures.

B. A decision relating to a charge of unethical conduct, which has been reviewed and ratified by the Executive Council:

(1) shall be reported with identification of the member, to the Meeting of Members in the Secretary's report of the Minutes of the Executive Council and in such written Minutes, circulated by mail to the membership of the Association if the decision has resulted in the suspension, separation from the rolls, or expulsion of the member from the Association;

(2) shall be reported to the membership of the Association as noted in V(B)(1) above if the decision has resulted in the censure of the member, with the identification of the member included only at the discretion of the Executive Council; and

(3) shall be reported, to the membership of the Association as noted above, if the decision has been to dismiss the charges or exonerate the member, with the identification of the member only on his/her written request.

C. The Committee on Ethics may, at its discretion, report decisions or disclose other matters brought before it to other components of the Association, provided the identity of the parties involved is not revealed.

D. The Committee on Ethics shall provide information concerning a charge of unethical conduct, including the name of the charged member, to the Association's Membership Committee and the Board's Certification Committee when either of these committees consider an application from a member who has been sanctioned for unethical conduct. This information should also be supplied to the Appointments Committee chairs of the Board and Council.

E. The Committee on Ethics may disclose a decision concerning a charge of unethical conduct to other appropriate ethical bodies or, when required by law, to appropriate governmental or other entities.

F. The Executive Council may report an ethics complaint or a decision finding that a member has acted unethically to any licensing authority, professional society or other entity or person if it considers such disclosure appropriate to protect the public.

## **VI. Resignation**

The Association shall not be required to accept a resignation from a member against whom a charge of unethical conduct is pending. An offer of resignation, whether or not it is accepted by the Association, shall not require the termination of an investigation of unethical conduct, nor prevent the rendering or disclosure of a decision on such a charge.

## **VII. Indemnification**

As a condition of membership in the Association, each member agrees to cooperate with the work of the Committee on Ethics, on request, and to release, hold harmless and indemnify the Association, its officers, agents and members of the Committee on Ethics from any and all claims:

A. arising out of the institution and processing of investigations of unethical conduct in respect to said member, and the imposition and disclosure of sanctions as a result of such proceedings; and

B. with respect to any third party action or proceeding brought against such member based upon, relying on, arising from or with reference to the Principle of Ethics and Standards of the Association or any ethical proceeding conducted by the Association involving such member.

January 2005

June 2005

January 2007

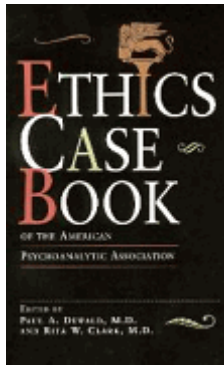
June 2008

\* When the patient is a child or adolescent (a minor) the parent(s) or guardian(s) play a significant role in the treatment. In these situations the functions of such a role changes with age, stage of development, diagnosis, as well as growth of capacity within the patient. How the psychoanalyst relates to the patient and family will reflect such changes. These shifts need to be dealt with in direct and open ways with all concerned. The potential power differential and transference-countertransference between psychoanalyst, patient and parenting figures (or other important family members) can be significant. If not recognized or mishandled such issues can interfere with the treatment and disrupt it.

[1] Refusal of such demands for confidential information, while ethical, may have serious consequences for the patient, e.g., loss of benefits, loss of a job opportunity, etc., which may cause the patient to take some legal action against the member. The fact that refusal is ethical is unlikely to protect the psychoanalyst in those circumstances, unless the member has made his or her position clear both at the onset and throughout treatment. Even with these clarifications a degree of exposure may remain.

[2] The caveat expressed in footnote 1 is applicable. Again, the psychoanalyst may refuse the patient's demand that he or she act contrary to the Principles. While this may protect a member against accusations of unethical conduct, it is unlikely to protect a psychoanalyst against legal allegations of substandard conduct.

[3] A refusal to comply with local reporting laws may be in the patient's best interest; however, the psychoanalyst must recognize that his/her action may result in exposure to prosecution by the government or a civil action based on these laws.



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