



American Clinical Neurophysiology Society
CODE OF MEMBER CONDUCT
February 2020

The American Clinical Neurophysiology Society (ACNS) Code of Member Conduct, which includes the Disciplinary Action Policy set forth below, applies to ACNS and its members and is enforceable solely by ACNS. The primary purpose is to support ACNS's mission, which can be accomplished only if ACNS has integrity in the scientific and medical communities and with the general public and is viewed as a credible, objective and unbiased force whose statements, activities and relationship are beyond reproach.

Violations of this Code of Member Conduct may lead to actions by ACNS as detailed in the Disciplinary Action Policy.

A. Rules of Ethics

a. Member Conduct

i. Compliance with Applicable Rules.

Members shall at all times comply with stated rules, policies and other requirements of ACNS, including all provisions of its bylaws and regulations. Members shall also comply with applicable requirements under federal and state laws and regulations relating to such member's status as a physician and/or researcher, and applicable rules and requirements of the following bodies to which the member is subject ("a governing body"):

1. Healthcare entities and their governing bodies and committees which conduct professional review activities;
2. Boards of medical examiners and comparable bodies with responsibility for licensing and/or regulating physicians;
3. Other self-regulatory organizations and professional societies governing the professional activities of members; and/or
4. Government bodies or agencies administering or enforcing applicable federal or state laws and regulations.

ii. Discipline by Governing Bodies.

Any of the following actions by a governing body:

1. Censure or reprimand;
2. Suspension or involuntary termination of a license, approval or membership;
3. Suspension, probation or revocation of privileges; and/or
4. Any type of prosecution, fine or other enforcement action.

b. Commercial and Other Relationships Affecting Objectivity.

A member's actions for or on behalf of ACNS should not be affected by an economic interest in, commitment to, or benefit from commercial enterprises, or otherwise by any other family or other relationship or interest that could affect such member's actions and, in connection therewith, reasonably cause such member to take into consideration interests other than those of ACNS.

c. Relationship with the Press and Public

No member shall, when dealing with the press or otherwise in making a public statement, use the imprimatur of ACNS in a manner which would give rise to the impression that the member is an official spokesperson of ACNS or that ACNS has endorsed any product, service, person or idea. No member may use ACNS name or logo in any manner without the prior written consent of ACNS.

B. Disclosure of Interests

ACNS requires disclosure of certain information from the following individuals: leaders, faculty of programs or events sponsored by ACNS, participants of committees or other member forums, author manuscripts submitted for any ACNS publication. The specifics for disclosure of interests are in the following ACNS documents:

- a. Council Conflict of Interest Disclosure Policy; and
- b. CME Disclosure and Resolution of Conflicts of Interest Policy for staff, planners and faculty of CME activities sponsored by ACNS and applicable educational partners.

Underlying this Code of Member Conduct is the principle that, in many cases, disclosure of all relevant relationships and interests will of itself suffice to protect the integrity of ACNS and its interests. In such cases, once such interests are fully disclosed to ACNS and other relevant parties, they will generally be able to evaluate and adjust for any possible influence of the disclosed interests. A reasonable test for determining whether disclosure is necessary in a particular instance is whether the relationship, interest or circumstance in question, if made known to a member, director or officer of ACNS or to the general public, would be likely to cause embarrassment for ACNS and/or the individual involved or give rise to a question about the motivation, purpose or interest underlying any action taken or not taken for or on behalf of ACNS.

C. Conduct at Meetings

At the beginning of each meeting of ACNS Council, the chair of ACNS Council (the "ACNS Chair") (or designee who is leading the meeting) will review the requirements of this Code of Member Conduct. In the event that at any time a meeting participant abstains from discussing or voting on a particular matter on account of a disclosed relationship, interest or circumstance described herein, such notice of his or her abstention shall be placed in the official record or minutes of the proceedings.

D. Authority and Action Beyond Disclosure

Some conflict situations may require action beyond mere disclosure. In such cases, ACNS Chair or ACNS Council shall have the authority to determine whether a particular affiliation requires a member to abstain from voting on or participating in an ACNS action or whether, in addition, additional action is required, including, without limitation, resignation from an ACNS office or other position, or divestiture of the interest which gives rise to the conflict. For instance, a director may be called upon to resign his or her position if he or she wished to be involved in an organization which has purposes which is inherently opposed to those of ACNS. As an additional example, if the conflict situation involves a violation of this Code of Member Conduct, the enforcement and disciplinary procedures under the Disciplinary Action Policy are available, in addition to such other possible remedies as may be provided by the Bylaws of ACNS, applicable corporate law, and even court action if circumstances warrant. For example, the disciplinary and enforcement procedures set forth in the Disciplinary Action Policy may be invoked to discipline any member whose interest violates the interest disclosure requirements set forth above. As another example, committee and task force chairs may be subject to removal if a conflict of interest is deemed sufficiently serious or if circumstances otherwise require. As for ACNS officers and directors themselves, they continue to be subject, in addition to the requirements of this Code of Conduct, to basic responsibilities and legal constraints arising out of the fiduciary nature of their relationships with ACNS.

E. Other Relevant ACNS Policies

Members are also expected to comply with other ACNS policies including, but not limited to ACNS Meeting Safety & Responsibility Policy. Any violation of any such other policy by a member shall be deemed a violation of this Code of Member Conduct.

DISCIPLINARY ACTION POLICY

A. Introduction

A member of ACNS may be subject to discipline if the member's conduct conflicts with the Code of Member Conduct or other standards and principles of ACNS. Without limiting the generality of this, the following may be considered as conduct for which disciplinary action may be justified:

- a. Conviction of any crime relating to or arising out of the practice of medicine or research, including acts involving moral turpitude;
- b. Limitation or termination of any right associated with the practice of medicine or research, including the imposition of any requirement for surveillance, supervision, or review, by reason of violation of a medical practice act, statute or governmental regulation, or disciplinary action by any medical licensing authority;
- c. Unlawful financial dealings related to the practice of medicine or research, including but not limited to, fee splitting or the payment or acceptance of kickbacks;
- d. Conduct that is in violation of this Code of Member Conduct; and/or
- e. The use of false or deliberately misleading advertisements, testimonials, or other instruments of misinformation related to the practice of medicine or research.

B. Definitions

- a. Complaint: a written charge submitted by a Complainant, alleging that a member of ACNS engaged in conduct that violates this Code of Member Conduct, including, without limitation, Section A thereof and Section A, above, of this Disciplinary Action Policy.
- b. Complainant: the person who brings a Complaint against a member of ACNS hereunder. The Complainant does not have to be a member of ACNS.
- c. Grievance Committee: a committee composed of five ACNS members that receives and evaluates Complaints hereunder and, as appropriate, investigates, conducts hearings and makes determinations with respect to same as provided hereunder. The Grievance Committee shall be composed of members of the Rules Committee and the Executive Committee of ACNS, as appointed by ACNS President.
- d. Appeals Panel: a committee of three (3) former members of ACNS Council charged with evaluating a formal complaint. Members will be selected based on reverse chronological order based on the timing of the termination of their service on ACNS Council with allowance for availability and exclusion of members with a conflict of interest.
- e. Respondent: a member against whom a Complaint has been submitted.

C. Grievance Committee/Procedure for Investigation and Hearing

- a. The Grievance Committee shall receive and be responsible for the administration of all Complaints, which must be in writing and signed by the Complainant. The Grievance Committee shall initially review each Complaint to ascertain whether it (1) contains insufficient information upon which to base an investigation and/or corresponding determination; (2) would be better suited for consideration by another body (i.e., a health care entity or governing body or committee thereof, a governmental or quasi-governmental administrative body, a board of medical examiners or comparable body, or another self-regulatory organization) which conducts peer review activities and has jurisdiction over such matter; or (3) is patently frivolous or inconsequential. In the event of the Grievance Committee ascertains that the Complaint falls within any of the above three standards, the Complaint shall be dismissed by written notice from the Grievance Committee to the Complainant. The Grievance Committee shall also report such dismissal to ACNS Council.
- b. If the Grievance Committee ascertains that the Complaint is not within any of the three standards described in sub. a., above, the Grievance Committee shall then investigate the facts and/or circumstances to whatever extent it deems necessary or appropriate in order to evaluate the information provided by the Complainant and the allegation(s) of the Complaint. Respondent shall be notified in writing at the beginning of such investigation of the following: (i) the allegation(s); (ii) those provisions of the Code of Member Conduct which, if true, would be violated thereby; (iii) the sanctions to be imposed in the event of a violation; and (iv) the opportunity to request a hearing on the Complaint before the Grievance Committee

prior to the time a determination is made with respect to the Complaint. . An investigation may consist of such actions as the Grievance Committee shall determine are necessary or appropriate in order to determine the veracity of the allegation(s) in the complaint and may, include, among other things, one or more informal interviews with the Respondent, the Complainant and any witnesses or others relevant or potentially relevant to the allegations in the Complaint.

- c. If the respondent requests a hearing, the Grievance Committee shall cause such hearing to occur not later than forty-five (45) days' after the date of such request and the Respondent shall be given at least thirty (30) days' prior written notice of the date, time and location (if applicable) of the hearing. The Grievance Committee shall, in its sole discretion, determine whether such hearing shall be conducted by telephone or other electronic means or in-person and the Grievance Committee may, in its sole discretion, establish such procedures and rules as it may determine to be necessary or appropriate for the conduct of such hearing, including those pertaining to privacy, in which event the Grievance Committee shall notify the Respondent of same together with the above-described hearing notice.

D. Recommendation/Determination Procedure

- a. Upon completion of the investigation and hearing (if one is conducted) with respect to the Complaint, the Grievance Committee shall not later than fifteen (15) days thereafter recommend to ACNS Council a determination with respect to the Complaint, and, as applicable, any recommended sanctions pursuant to Section D, below, with respect to the Complaint. Such recommendation shall be in writing and shall include a statement setting forth the basis for, and the rationale supporting, such recommendation.
- b. ACNS Council shall, not later than thirty (30) days after its receipt of the recommendation from the Grievance Committee, make a determination with respect to the Complaint by accepting, rejecting or modifying such recommendation based solely on the record provided by the Grievance Committee. If such determination is that there is no violation of the Code of Member Conduct, the Complaint shall be dismissed, and the Grievance Committee shall cause notice of same to be delivered to the Complainant and the Respondent. The Grievance Committee may recommend to ACNS Council, or ACNS Council may determine on its own initiative, that the fact of the dismissal of the Complaint (and, in appropriate cases, the reasons for the dismissal) be maintained as confidential or disclosed in ACNS Newsletter and website and/or otherwise publicized, and the nature, extent and manner of such disclosure and other publicity.

If ACNS Council makes a determination that there has been a violation of this Code of Member Conduct, ACNS Council shall deliver written notice of such determination and the imposition of any corresponding sanction, to the Respondent and the Complainant. The Grievance Committee may recommend to ACNS Council, or ACNS Council may determine on its own initiative, that the fact of the determination be maintained as confidential or disclosed in ACNS Newsletter and website and/or otherwise publicized, and the nature, extent and manner of such disclosure and other publicity after the appeal procedure under Section F.d. has been exhausted or the time period for same has expired;

E. Sanctions

- a. Any of the following sanctions may be recommended by the Grievance Committee and/or imposed upon the Respondent if ACNS Council makes a determination that the Respondent has violated the Code of Member Conduct or this Disciplinary Action Policy; provided, however, that the sanction applied must reasonably relate to the nature and severity of the violation:
 - i. Reprimand of the Respondent;
 - ii. Suspension of membership of the Respondent from ACNS for a designated period, up to five (5) years, including participation in committees of ACNS, participation in ACNS activities (including meetings and courses) as a sponsor, exhibitor or presenter;
 - iii. Termination of membership of the Respondent (which may be designated as permanent), with reinstatement thereafter possible only by action of ACNS Executive Committee. Respondents who are suspended are deprived of all benefits and incidents of membership during the period of suspension. Respondents whose membership is terminated may not reapply for membership in any class unless otherwise permitted by ACNS Executive Committee;

- b. If a determination resulting in a sanction which has not been reversed pursuant to Section F.d., below, after the appeal procedure thereunder has been exhausted or the time period for same has expired, ACNS Council may, if it determines that circumstances warrant, authorize the Grievance Committee to communicate the determination and transfer a summary or the entire record of the proceeding on the Complaint to any governmental or administrative, licensing or self-regulatory body with jurisdiction over the regulation of the conduct or activities of the Respondent or otherwise in a proceeding or inquiry that relates to the subject matter of the Complaint or that otherwise involves the Respondent.

F. Appeal

- a. A Respondent may, within thirty (30) days of receipt of notice of a determination described in Section D.b., above, may submit a written request for an appeal of such determination to the Grievance Committee in writing a request for an appeal. In such event, the Appeals Panel shall conduct and complete the appeal within ninety (90) days after receipt of the request for an appeal. The purpose of the appeal shall be to conduct an objective review of the original Complaint, the investigation and recommendation of the Grievance Committee, and the determination of ACNS Council, but not, however, the sanction imposed.
- b. The Respondent and ACNS Council may submit a written statement to the Appeals Panel for its consideration in connection with the appeal; provided however, that any such statements must be received by the Appeals Board not later than such date as may be determined by the Appeals Panel therefor.
- c. The appeal shall be limited to a review of the Grievance Committee and ACNS Council's application of the Code of Member Conduct and this Disciplinary Action Policy to the facts established in the investigation of the Complaint and, as applicable, to confirm material compliance with the procedures set forth in this Disciplinary Action Policy. An appeal may not take into consideration any matters not included as part of the record of the Grievance Committee's investigation and ACNS Council's determination. The appeal may consist only of a review by the Appeals Panel of the entire record of the proceeding on the Complaint and any written statements submitted by the Respondent and ACNS Council.
- d. The Appeals Panel shall, not later than the end of the ninety (90) day period described in Section F.a., above, either sustain or reverse the determination of ACNS Council with respect to the Complaint by means of a written decision transmitted to the Respondent and ACNS Council. Such decision shall not address the sanction imposed by ACNS Council. The decision of the Appeals Panel may include a statement of the basis and/or rationale for such decision. Such decision shall be binding upon ACNS Council, the Respondent, the Grievance Committee and all other persons.

G. Resignation

- a. If the Respondent resigns from ACNS at any time during the pendency of a Complaint, the Complaint shall be dismissed without any further action by the Grievance Committee, ACNS Council, or the Appeals Panel; as applicable and the record thereof shall be considered confidential. except that:
 - i. ACNS Council may authorize the Grievance Committee to communicate to ACNS members and others the fact and date of resignation, the name and address of the Respondent, and the fact that a Complaint was pending at the time of the resignation. Such communications shall not disclose the nature of the Complaint unless ACNS Council determines that circumstances warrant such disclosure.
 - ii. ACNS Council may authorize the Grievance Committee to communicate the fact and date of resignation, the fact that the Complaint was pending at the time of such resignation and the nature of such Complaint to any governmental or administrative, licensing or self-regulatory body with jurisdiction over the regulation of the conduct or activities of the Respondent or otherwise in a proceeding or inquiry relating to the subject matter of the Complaint or that otherwise involves the Respondent.