

American Psychiatric Association

INFORMATION

ABOUT THE ETHICS PROCESS

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INTRODUCTION

The American Psychiatric Association recognizes that psychiatrists are responsible for providing competent and ethical care for their patients. Therefore, when complaints are received about members who may have behaved unethically, those complaints are taken seriously. Considerable financial resources and volunteer time of APA members are dedicated to insure that complaints against APA members are thoroughly and fairly investigated, and that members found in violation of established ethical principles are appropriately sanctioned. The efforts of the APA to monitor the professional behavior of its members rely heavily upon reports from patients and other individuals who may have experienced or observed specific incidents of unethical behavior. We recognize, however, that reporting can be difficult for many reasons. The following information has been prepared to assist individuals who believe that they may have been treated unethically by an APA member and who may wish to file an ethics complaint.

APA PROCEDURES

Preliminary Consideration: The “Procedures for Handling Complaints of Unethical Conduct” were developed to create a process that fairly and respectfully addresses the concerns and rights of both the complainant and the accused psychiatrist (respondent). The procedures are general guidelines recommended by APA. However, variations in the interpretation and implementation of the approved procedures are to be found among APA’s local affiliates, the district branches.

If you believe that you may have been treated unethically by a psychiatrist who is a member of the APA and/or you think that you may want to file a complaint against that psychiatrist, contact your local APA district branch. (The addresses and telephone numbers of all district branches are attached to this pamphlet.) Ask to speak with someone regarding a possible ethics complaint, and your call will be directed to a designated individual in the local organization who will talk with you.

There is a statute of limitations on charges of unethical conduct. Complaints must be filed with the APA district branch within 10 years of the alleged conduct. (In the case of a minor patient, the 10 years will not begin until the patient reaches the age of majority.) The final decision to file a complaint is yours. To assist you in that decision, you may request that the APA or the district branch send you a copy of the *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*. This booklet contains statements of accepted ethical standards for the practice of psychiatry, as well as the approved “Procedures for Handling Complaints of Unethical Conduct.” (This document is available on the APA website: http://www.psych.org/apa_members/ethics.cfm)

Please note that filing an ethics complaint with the APA does not have any immediate or direct effect upon the physician’s license to practice medicine. Unless state laws dictate otherwise, APA procedures provide for forwarding information about complaints to licensing boards only after a final decision is reached, and then only if

there is a sanction of suspension or expulsion. The final decision may take many months, so if you think the licensing board should be notified earlier, you may do so.

Filing a Complaint: Some district branches may provide forms for your use in filing ethics complaints. However, most will require a letter from you that includes a brief summary of the events leading to your complaint and the dates of your contact with the psychiatrist in question. Be sure to include your name, address, and telephone number so that the ethics committee will know how to reach you for follow-up of your complaint. Your complaint should be addressed to the president of the district branch in which the psychiatrist in question holds membership or to the American Psychiatric Association in Arlington, VA.

Participation in the Prehearing Investigation: Usually, after a district branch receives a written complaint alleging unethical conduct, the chairperson or another member of the ethics committee will contact you to further discuss your complaint. The ethics committee will then evaluate all available information and decide whether the complaint constitutes a potential ethics violation.

If the local ethics committee determines, for whatever reasons, that your complaint does not involve questions of unethical behavior, then the case is closed and you will be notified regarding that action. If you wish, you may ask for a review of that decision by writing to the Secretary, American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209, no later than 60 days of receipt of the district branch letter.

In 2003, the APA developed an Educational Option for use by the district branch in cases involving complaints that may constitute minor violations of the *Principles of Medical Ethics* and other appropriate circumstances. If, during its preliminary consideration, the local district branch determines that it will use this Option instead of the Enforcement Option, you will be notified and will be permitted the opportunity to address the district branch. If the district branch decides to use this option, it will not make a determination as to whether the member acted unethically, and no sanction will be imposed. However, the member may be required by the district branch to participate in an educational hearing and/or to undertake education related to the ethical issues raised by your complaint. Further detailed information about the Educational Option is included in the "Procedures for Handling Complaints of Unethical Conduct."

However, regardless of which option is used, if the decision is that an ethical violation may have occurred, an investigation will be opened, and both you and the accused member will be notified in writing of that fact. The accused member will receive a copy of your letter of complaint and will respond to your accusations either in writing or in person with one or more members of the ethics committee. In addition, the ethics committee may ask to review any other relevant evidence such as records of your psychiatric treatment, copies of billing and insurance claims, legal documents, etc. If the ethics committee is proceeding under the Enforcement Option, it then decides whether a hearing is warranted. If the possibility exists that the member psychiatrist might be sanctioned on the basis of your complaint, he or she will be given the option of a hearing in which all the charges and evidence in the case will be presented either to the ethics committee or to an ethics panel. You have a right to be present at the hearing and to testify about the psychiatrist. The psychiatrist will then have an opportunity to respond to your complaint.

Participation in the Hearing: Confronting a psychiatrist whom you believe to have mistreated you can be difficult. In the neutral setting of a hearing, however, most complainants are able to do so. Nevertheless, if you feel that participation in the hearing process will be harmful to you, discuss your concerns with the chairperson of the ethics committee. You have the option of requesting that the chairperson excuse you from the proceedings, and under exceptional circumstances, you may be excused.

Ethics committee members are sensitive to the fact that a hearing may well be the most difficult part of the process for you and will usually take a number of steps to minimize the stressful aspects of the proceedings. The chair of the hearing will prevent the use, either by the accused psychiatrist or the psychiatrist's attorney, of unnecessary information about you. In an effort to insure that you have support available, you may be encouraged to have an advocate, friend, or even an attorney present while you testify.

Although attendance at hearings varies somewhat among the APA district branches, people present might include the accused member, you as the complainant, members of the ethics committee, possibly an attorney who represents the accused member, your own advocate, friend, or attorney, an attorney representing the district branch, witnesses either on your behalf or that of the accused member, and administrative staff of the district branch. Most district branches will make every effort to schedule a time and place for the hearing that will be reasonably convenient for you. Given the often complicated schedules of the various people involved in the hearing process, this may not always be entirely possible. District branch committees attempt, when possible, to balance committee membership in terms of ratio of female to male members. You will be informed in advance of the hearing regarding the names of the people who will attend.

At the hearing you will be asked to present your complaint to members of the ethics committee. Following your presentation, members of the ethics committee, possibly the district branch attorney, the accused member, and/or the accused member's attorney will have an opportunity to question you regarding your testimony. Although we recognize that this cross-examination may be difficult for the complainant, it is an important aspect of creating a fair opportunity for the accused member to defend himself or herself. Following your testimony and cross-examination, you may be allowed to hear the accused member's testimony, although this practice will vary among the district branches. However, you will not be able to cross-examine the accused member. That is done by the members of the Hearing Panel.

Waiting for a Decision: In all cases that use the procedures of the Enforcement Option, you will be notified of the final decision of the district branch and the APA. However, a number of months may elapse between the time of the hearing and the date you are notified regarding the final decision on your complaint. During that time, a number of necessary reviews and decisions are being completed, and you may receive little or no information regarding the status of your complaint.

The first of the necessary procedural steps is the evaluation by the local ethics committee of all available evidence along with a presentation of the committee's findings and recommendations to the executive council of the district branch. The council then forwards the district branch recommendations to the APA Ethics Committee for review. Following that review, the district branch notifies the accused member. The member has the right to appeal an adverse decision. If the decision is to expel a member, and it is upheld on appeal, then that action must receive approval by the APA Board of Trustees. Finally, after the completion of all the foregoing procedural steps, you will be notified regarding the conclusive findings in the case and any recommended sanctions against the accused member.

When lengthy delays are unavoidable, the waiting period may seem frustrating for you. However, this extended time may be necessary to insure the most comprehensive and fair review possible of the evidence in your case. During this period, you are welcome to call the chair of the local ethics committee who can be of help in understanding the processing of the complaint.

Possible Outcomes or Sanctions Against Accused Psychiatrists: In all cases using the procedures of the Enforcement Option, after the completion of the investigation, the district branch ethics committee or panel will render a decision: that the accused member did not act unethically; that the case should be concluded without a finding; or that the accused member acted unethically.

If the accused psychiatrist is found to have been in violation of *The Principles of Medical Ethics*, one of three sanctions may be determined: reprimand, suspension, or expulsion from the APA.

Complainants & The Ethics Complaint Process: Confrontation can be emotionally taxing under the best of circumstances. Filing an ethics complaint may be stressful if your complaint revolves around highly sensitive and personal issues. Personal information that may seem exaggerated or even distorted may be revealed about you to the psychiatrists and attorneys involved in the ethics proceedings and review process. We do protect the confidentiality of the ethics proceedings to the fullest extent possible.

While some aspects of participation in ethics proceedings as a complainant may be unavoidably difficult, the process has reportedly been helpful and healing for many complainants. Knowing that you may have made a valuable contribution to society and to the medical profession can be both satisfying and empowering.

Options for Help and Support: It is important that you have someone with whom to discuss your responses to this process. For some, especially those who may have been sexually exploited by a psychiatrist, it may be difficult to seek further treatment. Although this is understandable, the issues that initially brought you to therapy may not have been resolved by your contact with an unethical psychiatrist. Moreover, unethical treatment may have created additional problems for you. Ethical and competent psychotherapy with another therapist may facilitate your healing process.

In addition to psychotherapy, it may be appropriate for you to consider the possible usefulness of contacting a support group and/or seeking the support of family and friends during the ethics process. Finally, you might inquire whether the district branch could appoint a psychiatrist who will serve as an ombudsperson to answer your questions and assist you through the proceedings.