

FREQUENTLY ASKED QUESTIONS – Revised Disciplinary Action Procedural Document

APTA recently revised the [Disciplinary Action Procedural Document \(“Procedural Document”\) \(BOD R03-16-02-02\)](#). Here are some answers to frequently asked questions.

What are some reasons behind modifying the Procedural Document?

One major reason why the prior ethics process existed is that it is hypothesized that a legal-judicial frame of mind persists among stakeholders and that framework has influenced the Association’s perception of what it can effectively accomplish. In this context, APTA has for over five years been examining how to modify the process to be more in line with APTA’s abilities, strengths and limitations.

To that end, modifications to the Procedural Document were adopted by the Board of Directors. Changes were made in response to duplication issues as APTA members disciplined by the licensing board would be subject to discipline under the ethics process, often many months after the licensing board action ended. To address this issue, the process was revised to allow for actions other than punitive for cases that did not involve license revocation or a serious crime. In addition, in light of a lack of subpoena power and immunity and challenges with investigating written complaints, the process was revised to better allow for referring cases, when appropriate, to third parties that have subpoena power, immunity and are better equipped legally to handle. Modifications were not made to how APTA handles serious crime and license revocation cases.

How did APTA come to have a Procedural Document and process ethics cases?

Historically speaking, from at least 1955, when the Judicial Committee first met and chapters accepted written complaints, the profession was not as well-regulated as it is today. In 1972 the Procedural Document was officially adopted by the Board of Directors. It was not until 1977 that physical therapists were licensed in all states. Accordingly, the Procedural Document and ethics prosecution predated licensure in all states. Lack of regulation may account for APTA’s early motivation to attempt to investigate ethics violations.

Today, states have licensing boards and language in state practice acts that allow for discipline for an ethics violation. In this context, the profession has evolved and [State Licensing Board Disciplinary Agencies](#), Federal and State court systems, the Medicare fraud hotline, the US Department of Health & Human Services, and a state’s Insurance Commissioner, etc., have disciplinary authority over practitioners and these agencies have subpoena power and some type of immunity to offset liability. Such agencies can take away someone’s license, issue sanctions, monitor probation with practice restrictions, impose fines, issue an injunction to prohibit and stop behavior, impose jail time, etc. APTA is a private corporation, actions taken are confidential, and the Association’s authority is limited to membership removal and/or sending an admonishing letter.

These FAQs contain general information and are not intended to provide legal advice or guidance.

What is hoped to be accomplished by revising the Procedural Document?

One major goal is to better align the Procedural Document with APTA's capabilities. As APTA was challenged to task Chapters and the Association with investigating an allegation of an ethics violation absent subpoena power, immunity and training, among other limitations, modifications were made to allow APTA to act punitively or not and refer cases or not, when appropriate. More options were created on how to process a case.

A second goal of revising the Procedural Document is to refocus on ethics education. Ethics education may better serve to facilitate a practitioner's ability to make wise ethical decisions. To that end, the process now includes language specifically recognizing ethics education.

In sum, the modified process reflects an evolution and modernization of the process to better fit with what APTA and other agencies can best accomplish. Since the process has not been examined since early inception, it is of great value for the Association to examine, reflect upon and make modifications to how it has structured the ethics process.

Technically speaking, how has the judicial function of the Chapter been modified?

Under the prior Procedural Document, written complaints were sent to Chapter Presidents and, if charges were issued, state Chapter Ethics Committees ("CECs") conducted investigations and made recommendations regarding discipline. In Chapters that had no active cases the CECs sat idle, sometimes for years. And as discussed in these FAQs, processing an ethics case posed many challenges for Chapters. The current Procedural Document does not mandate CECs. Matters are first handled at the Association level. In limited cases, under Section 6(b) of the Procedural Document, investigations may be directed back to Chapters to be carried out by an ad hoc Ethics Panel, consisting of at least three members. Section 1 of the Procedural Document sets forth the Chapter's adjudication, confidentiality and educational functions.

How does the educational function of the Chapter differ?

The previous Procedural Document did not speak to the Chapter providing ethics education. Certainly many Chapters provide ethics education, and the revised Procedural Document reinforces this function by adding language to the Procedural Document.

What are the types of discipline that APTA can impose?

Section 7 of the Procedural Document provides that APTA can issue a reprimand, suspension or expulsion.

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Will there be a quiz on how to process a case under the revised Procedural Document – I’m still a bit confused?

For many years the EJC provided education to Chapters on how to process cases under the Procedural Document with the hope that FAQs, training tapes, group meetings, etc. would provide sufficient direction regarding how to process a case. Learned from these efforts is that the process is complex, and while having a general background on the Procedural Document can be helpful, during a live case Chapters benefit with one-on-one training rather than referring to training tapes, etc. Accordingly, when a Chapter has a question, particularly when they are faced with a case, the Association is available to walk them through managing the situation. Please feel free to contact APTA at EJC@APTA.org at any time if you have questions.

What resources does APTA make available regarding complaints and disputes?

APTA provides resources via the web site and many are set forth on the [Resolving Disputes or Complaints](#) web page. This resource page provides a decision tree on how to resolve a matter and includes contact information for [State Licensing Board Disciplinary Agencies](#), the Better Business Bureau, Medicare fraud hotline, the US Department of Health & Human Services, the Insurance Commissioner and moveforwardpt.com. Moreover, information is available on [securing legal counsel](#). In addition, Chapters may provide additional state based resources on Chapter websites.

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