



AMERICAN ASSOCIATION OF
ORTHOPAEDIC SURGEONS

Professional Compliance
Program

POLICY FOR NON-STANDARDS OF PROFESSIONALISM REVIEW

1. Purpose

The purpose of the Policy for Non-Standards of Professionalism Review ("Policy") is to establish a process for the American Association of Orthopaedic Surgeons ("AAOS") to review and address the membership status of Fellows and Members with professional or personal matters that may be inconsistent with the requirements of the AAOS Bylaws or policies ("Non-Standards of Professionalism (Non-SOP) matters").

Actions based on non-SOP matters are considered professional compliance matters under the Professional Compliance Program Article 3 ("PCP Article") of the Association Bylaws and will be administered in accordance with these procedures established by the Board of Directors and as amended from time to time. Non-SOP matters may include, but are not limited to, state medical licensure actions, limitations on license to dispense narcotics, felony conviction or entry of a plea of guilty or no contest to felony count(s), or failure to comply with other Association requirements.

2. Professional Compliance Program

The Professional Compliance Program (as defined in the PCP Article) provides a process by which the AAOS educates members on their obligation to engage in professional conduct. This Policy is designed to supplement the PCP Article and to create a process that is transparent, expeditious, and equitable to review conduct that falls outside of the Professional Compliance Program grievance process. The Board of Directors shall make the final determination for all non-SOP actions. No appeal of non-SOP determinations is permitted.

3. Levels of Non-SOP Compliance Actions

The Board of Directors may reprimand, censure, suspend or expel any member by a two-thirds (2/3rds vote) of the Board members present and voting. The definition of these actions shall be as stated herein and, with reference to non-SOP matters, the number of SOP violations are not applicable.

- a. A "Reprimand" shall be a written sanction, reprimanding the Fellow or Member, with no loss of the benefits of Fellowship or Membership for the finding of a violation of one, and only one, Standard of Professionalism. Such reprimand shall be made as part of the membership file of the Fellow or Member. A Reprimand shall be communicated to the Grievant and Respondent. While considered an official professional compliance action, a Reprimand will not be published in any AAOS publication, and will not be made available to counsel, unless required by an officially issued subpoena.
- b. A "Censure" shall be a written sanction, censuring the Fellow or Member, with no loss of Fellowship or Membership for the finding of a violation of one or more Standards of Professionalism. Such censure shall be made a part of the membership file of the Fellow or Member. A Fellow or Member

who has been censured by the Board of Directors may apply for Association or Academy volunteer opportunities; however, the Board of Directors reserves the right to consider the professional compliance action in making any committee or volunteer appointments. A Censure is considered an official professional compliance action, is not confidential, and will be published in one or more AAOS publications, and will be made available upon request to Fellows, Members, or counsel.

- c. A “Suspension” shall be a written sanction, causing the Fellow or Member to lose the benefits of Fellowship or Membership for a period of time as determined by the Board of Directors, after which the individual may be reinstated upon the request of the individual, provided he or she pays all past dues, fees or special assessments owing upon reinstatement. Suspension shall be for such term as the Board determines is necessary to ensure modification of behavior. Notwithstanding the foregoing, a Fellow or Member who has successfully reinstated into Fellowship or Membership may apply for Association or Academy volunteer opportunities; however, the Board of Directors reserves the right to consider the professional compliance action in making any committee or volunteer appointments. A Suspension is an official professional compliance action, is not confidential, and will be published in one or more AAOS publications.
- d. An “Expulsion” shall be a written sanction, causing the Fellow or Member to be removed from the rolls of the Association. An expelled Fellow or Member shall not be entitled to any of the benefits of Fellowship or Membership. The Association shall accept a reapplication for Fellowship or Membership from an expelled Fellow or Member provided he or she meets all requirements to apply to become a Fellow or Member. An Expulsion is an official professional compliance action, is not confidential, and will be published in one or more AAOS publications.

4. Grounds for Non-SOP Compliance Actions

A Fellow or Member may face a professional compliance action for any one or more of the following reasons:

- a. Any limitation or restrictions of any right associated with the practice of medicine by any state or Canadian province, including the revocation, suspension, restriction of a medical license or the voluntary surrender of a license while under investigation.
- b. Any limitation on license to dispense narcotics.
- c. Conviction of any felony, or the entry of a plea of guilty or no contest to a felony charge.
- d. Failure to comply with the requirements and standards for active Fellowship or Membership contained in the Articles of Incorporation, Bylaws of the Association, Rules and Regulations or Policies of the Association.

5. Non-SOP Compliance Review Process

- a. The Association shall gather publicly available information about any Fellow or Member (“Respondent”) against whom action has been taken by the licensing board of any state or Canadian province; or who has been convicted of a felony, or plead guilty or no contest to a felony; or who has had their license to dispense narcotics limited; or who is alleged to have failed to comply with the

requirements and standards for Active Fellowship or Membership contained in the Association Articles of Incorporation, Bylaws, Rules and Regulations or Policies.

Any Fellow or Member who no longer maintains a full, unrestricted and unlimited license to practice medicine or who has pled guilty or no contest to a felony is obligated to notify the Association by contacting the AAOS Office of General Counsel within thirty (30) days of such action.

- b. The Association shall notify such Respondent that the matter will be considered by the Board of Directors at least ninety (90) days prior to the date of the meeting of the Board of Directors at which it will be considered. The Respondent shall have the opportunity to submit a written statement and supporting materials for consideration by the Judiciary Committee; any such written statement and supporting materials shall be filed with the AAOS Office of General Counsel within thirty (30) days from the date of notification.
- c. The Judiciary Committee shall consider all relevant materials and prepare recommendations to the Board of Directors for any professional compliance action to be taken regarding the Respondent. In developing recommendations, the Judiciary Committee may consider the “Guiding Principles Regarding AAOS Non-SOP Professional Compliance Actions” as provided herein.
- d. Any professional compliance action regarding a Respondent taken pursuant to this Policy shall require a two-thirds (2/3rds) vote of the members of the Board of Directors present and voting. The decision of the Board of Directors shall become effective immediately. The Association shall notify the Respondent within thirty (30) days of the decision of the Board of Directors. The decision of the Board of Directors shall be final.
- e. This Section shall not apply to AAOS Fellows or Members whose medical license in any one or more states or Canadian province has lapsed, so long as such Fellow or Member maintains a full, unrestricted license in the state(s) in which he or she is actively practicing.

6. Guiding Principles for Evaluation of Non-SOP Matters

In April 2012, the Board of Directors adopted the “Guiding Principles Regarding AAOS Non-SOP Professional Compliance Actions” to supplement the requirements of the PCP Article. As a professional organization, AAOS has a fundamental responsibility to hold its Fellows and Members accountable to its professional standards.

AAOS also strives to be fair and consistent in its professional compliance process and recognizes that non-SOP issues often require a degree of latitude not otherwise available under the SOP grievance process. In developing recommendations and making final determinations on non-SOP professional compliance matters, the Judiciary Committee and the Board of Directors should be guided by the following:

- a. Any disciplinary action by a state medical licensing board (whether time-limited or permanent) shall be considered to limit or restrict any right associated with the practice of medicine in accordance with the PCP Article and this Policy for Non-SOP Review, and thus is subject to consideration under the Professional Compliance Program. This is the case even if the orthopaedic surgeon’s practice is not limited.
- b. Each case will be considered individually in a fair and impartial manner according to the defined processes of the Professional Compliance Program.

- c. AAOS shall endeavor to make consistent decisions over time in non-SOP matters with similar facts.
- d. AAOS may exercise discretion and judgment in the severity (level and duration) of the sanctions imposed, based on the seriousness of the violation(s) and mitigating or aggravating circumstances.
- e. In its review of non-SOP matters, AAOS will first consider public and patient safety and may also consider the effect of the violation on the reputation of medicine and the orthopaedic specialty.
- f. In sanctioning a Fellow or Member involved in state medical licensure actions, AAOS may consider whether such actions have been taken as a result of the individual's reckless disregard for the truth, intent to deceive, or altering records as well as other unethical and unprofessional conduct.
- g. In sanctioning a Fellow or Member involved in state medical licensure actions, AAOS may consider letters of reprimand or censure issued by state medical licensing boards.
- h. In sanctioning a Fellow or Member involved in state medical licensure actions, AAOS will generally not second-guess decisions made by state medical licensing boards or courts.
- i. In sanctioning a Fellow or Member involved in state medical licensure actions where the Fellow or Member holds medical licenses in two or more states, AAOS will generally consider the medical license only in the state or states where the Fellow or Member is currently in practice.
- j. In sanctioning Fellows or Members whose medical licenses are not full, unrestricted and unlimited due to alcohol and/or substance abuse and who are involved in treatment, AAOS may consider:
 - i. Whether the Fellow or Member self-reported the violation to AAOS or the state medical licensing board;
 - ii. Whether the Fellow or Member has accepted responsibility for his or her actions;
 - iii. Whether there is a physician health program or state medical licensing board overseeing the Fellow or Member in treatment, and the extent to which there is active monitoring by the program or board of the Fellow or Member's practice;
 - iv. Whether the Fellow or Member involved in a treatment program is compliant with all treatment protocols, or has any restrictions or limitations on his/her ability to practice medicine while involved with the program;
 - v. Whether AAOS professional compliance action will have a positive or adverse impact on the Fellow or Member's treatment and recovery;
 - vi. Whether the Fellow or Member has a history of previous treatments and/or disciplinary actions; and

- vii. Other information AAOS deems relevant.
- k. Generally, AAOS will expel a Fellow or Member convicted of a felony or pleading no contest to a felony.
- l. Generally, AAOS will expel a Fellow or Member following a finding by a government agency or institution that he or she committed scientific or research fraud, absent mitigating circumstances.
- m. AAOS may consider a Fellow or Member's failure to cooperate with AAOS' non-SOP review process.

7. Non-SOP Matters Involving Expert Witness Opinion or Testimony

If a Fellow or Member, who is the subject of a non-SOP matter, advises AAOS of issues related to expert witness opinion or testimony given by another AAOS Fellow or Member in connection with a state medical board action, he/she shall have the right to file a grievance against the expert witness, under the Professional Compliance Program Grievance Procedures, within 180 days of so notifying the AAOS.

- a. Upon receipt of a timely Grievance Report, the non-SOP matter will be held in abeyance pending a final determination of the grievance.
- b. Upon conclusion of the grievance, the non-SOP matter shall be reviewed by AAOS, which may, in its sole discretion, take into consideration any official professional compliance action taken in connection with the grievance.
- c. If no grievance is filed within 180 days, AAOS will proceed with review of the non-SOP matter.