



Professional Conduct Program

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This program will provide a way for SVS members to bring complaints of unprofessional conduct of any nature, including false advertising, unscrupulous business practices, substance abuse or failure to retain qualifications, in addition to fraudulent expert witness testimony.

A. Procedure for Processing Charges

Charges should be sent to:

Russell M. Pelton, JD
McGuire Woods
Suite 4100
77 W. Wacker Dr.
Chicago, IL 60601
rpelton@mcguirewoods.com

Any active member or senior member in good standing may refer charges alleging that a member is failing to maintain good professional standing or has violated the SVS Code of Ethics. Such charges may be made against any class of member, including suspended members. All charges shall be in writing and shall specify the basis therefore. Members wishing to initiate charges should send a letter to the Society's legal counsel, spelling out in detail the medical issues involved and the testimony of the vascular surgeon which they believe to have been unprofessional or unethical.

The description should refer to the specific elements of the Code of Ethics or Expert Witness Guidelines which have been violated and should cite specific pages of the relevant transcripts supporting those charges. The full text of any relevant transcript should also be submitted with the charge. In order to comply with HIPAA requirements, any medical records which have not been made public through litigation, should be depersonalized; however any records which have been admitted in evidence in a trial and which are now matters of public record need not be depersonalized.

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The Society's legal counsel will review all charges for compliance with the Society's Bylaws. Any purported charges which are not in compliance with the Society's Bylaws, or which could not be the basis for disciplinary action by SVS if proven, or which involve testimony given in or which is the subject of pending litigation, will be returned to the Complainant.

With respect to all remaining charges, the Complainant will be contacted to determine whether there are any further documents or exhibits that he or she would like to submit to the SVS Professional Conduct Committee ("the Committee") in support of the charges. Testimony of prospective witnesses should be summarized and submitted in written form, or transcripts of their testimony produced, if germane to the charges.

It is the Complainant's responsibility to collect and present all evidence which he or she wishes the Committee to consider in support of the charges. The Complainant shall de-identify all Protected Health Information, as that term is defined in the Health Insurance Portability and Accountability Act ("HIPAA"), prior to submitting such information to the Committee. Protected Health Information that has not been de-identified will be returned to the Complainant in the absence of patient consent or an exception to HIPAA's privacy regulations; however, documents or records which have been admitted into evidence in litigation or filed with any court are considered a matter of public record and need not be de-identified. Copies of all material supporting the charges will be furnished to each Committee member.

The Respondent will be furnished a full set of the documents which are furnished to the Committee members, and which constitute the charges and supporting evidence. The Respondent will then have 30 days to prepare whatever written responses and/or exhibits he or she believes are appropriate, and to submit them to the Committee. In the event the Respondent submits Protected Health Information to the Committee, said information shall be de-identified by the Respondent.

Protected Health Information that has not been de-identified will be returned to the Respondent in the absence of patient consent or an exception to HIPAA's privacy regulations, or the litigation exception stated in the preceding paragraph. A full set of copies should also be submitted to the Complainant. This process will be coordinated by the Society's legal counsel, but it is each Respondent's responsibility to collect and present all evidence which he or she wishes the Committee to consider in opposition to the charges.

B. Preliminary Evaluation by Committee

The Professional Conduct Committee will review the written submissions made by both sides and reach a tentative decision on whether or not a prima facie case has been asserted, justifying a hearing. The parties will then be notified in writing of the Committee's tentative decision.

If the Committee tentatively decides after reviewing the documents submitted by both sides that a prima facie case has been established and that a hearing is warranted, one will be conducted in accordance with Section C of these Guidelines, with all parties bearing their own expenses.

If the tentative decision of the Committee is that a prima facie case has not been established and that a hearing is not justified, the Complainant will have the right within fifteen (15) days to demand a hearing nonetheless, and will be responsible for paying all of SVS' costs in conducting that hearing if the ultimate decision is the same or substantially similar to the tentative decision which the Committee reached before the hearing. SVS' assessable costs will be determined by the Committee at the end of the hearing, and may include, but are not limited to, SVS' costs of its counsel preparing for and attending the hearing, the court reporter's charges, and the Committee members' expenses in attending the hearing.

If the Committee tentatively decides that a prima facie case has not been established and no hearing is warranted and the Complainant does not demand a hearing, that tentative decision will be presented to the Board of Directors as the Committee's final recommendation pursuant to Section D, below. If the

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Board of Directors disagrees, after reviewing the case, the case will be remanded to the Committee for a full hearing, with all parties bearing their own expenses.

C. Procedure for Conducting Hearing

No action shall be taken or recommended against any member without giving the member the opportunity for a hearing. The respondent may conduct a self-defense or shall be entitled to select counsel, and shall be allowed to obtain, through the use of certified court reporter, a transcript of the hearing of his or her case by the Professional Conduct Committee. The respondent may waive participation in the hearing.

A hearing date will be set at least 30 days in advance. A majority of the Committee members must be present, and only Committee members who attend the full hearing may participate in the deliberations and decision. A court reporter will transcribe the proceedings. The Complainant and Respondent may be represented by counsel at the hearing, at their own expense.

The hearing date set by the Committee shall not be subject to change for the convenience of either the Complainant or the Respondent. If any party declines or fails to appear at a duly scheduled hearing, the Committee may still proceed, and shall consider the previously submitted material furnished by the absent party.

All parties are advised that no new matters, evidence or witnesses may be introduced in the hearing by either the Complainant or the Respondent if they have not been previously disclosed in the documents supporting and denying the charges. The hearing will be conducted by the Chair or Acting Chair of the Committee, with assistance by the Society's legal counsel. The strict rules of evidence will not be applicable. Witnesses may be questioned regarding their testimony, but extensive cross-examination will not be permitted.

The Chair shall have the authority to impose reasonable reciprocal limitations on the time available for both direct testimony and cross examination. Attendance at the hearing shall be limited to the Committee members, the Society's legal counsel, the Complainant and Respondent and their respective counsel and witnesses, the court reporter, and other parties subject to the Chair's discretion.

At the conclusion of the hearing the Committee members shall convene in executive session (with the presence of the Society's legal counsel if they wish) and shall determine by majority vote of those members of the Committee who attended the hearing, which of the following alternative findings provided in the Bylaws shall be adopted:

(a) That the charges are not sustained, and that no further action be taken; or

(b) That the charges are sustained, and the accused be:

1. censured;
2. suspended for a definite time, or
3. expelled.

The Committee need not reach a final decision immediately, but may wait until it has had the opportunity to review the transcript of the proceedings. The Committee members are admonished that they may not discuss the merits of the case with any party prior to the formal hearing (except as provided in Section B, above), and may only consider evidence or testimony introduced in conjunction with the hearing, although they may rely upon their own expertise and professional experience in evaluating the testimony of witnesses or issues raised.

D. Final Approval of Decision

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The report and recommendations of the Committee shall be reduced to writing and forwarded to the Board of Directors, the Complainant, and the Respondent. The Respondent will be advised in writing of the date of the Board of Directors meeting at which the Report of the Committee will be heard.

At that meeting of the Board of Directors, if disciplinary action is being recommended, the respondent shall be given an opportunity to make any statement he-she desires before action is taken on the recommendations. The Chair of the Professional Conduct Committee shall also make a statement and explain the findings of the Committee, but there shall be no examination of witnesses or introduction of further evidence before the Board of Directors.

At the conclusion of the hearing, the Board of Directors shall, by secret ballot, determine what action it will take on the recommendations of the Professional Conduct Committee. Censure or suspension shall require an affirmative vote of at least two-thirds (2/3) of the voting Directors present. Expulsion shall require an affirmative vote of at least three-fourths (3/4) of the voting Directors present.

The Board shall also consider, and either approve, reject or modify, any assessment of costs made against a Complainant pursuant to Section B-3, above. Once approved by the Board, any such assessment of costs against a member shall be considered special assessment dues.

E. Appeals

In the event that the final action by the Board of Directors includes the censure, suspension or expulsion of a member, that member shall have the right to appeal that decision to the Society's membership pursuant to Article XI, Section 2 of the Bylaws. At that time, the respondent shall be given the opportunity to make any statement desired and may be represented by counsel. The President of the SVS may also make a statement and explain and define the findings of the Board of Directors and of the Professional Conduct Committee, but there shall be no examination of witnesses or introduction of further evidence before the SVS membership.

At the conclusion of the hearing, the membership shall, by secret ballot, determine whether or not it will sustain the action of the Board of Directors. An affirmative vote of at least a majority of the voting members present shall sustain the action of the Board of Directors. If a motion to sustain the Boards action receives less than a majority of the votes cast, the charges shall be deemed dismissed. Any disciplinary action taken against a member, when all internal appeals have been completed, shall be final and binding on any such member and is not subject to review in any court.

F. Resignations

Resignations shall be submitted in writing to the Secretary and are effective when accepted by the Board of Directors.

If a member resigns after commencement of an investigation, the Board of Directors may, at its discretion, delay or refuse acceptance of the resignation and proceed with the investigation. If the Board accepts the resignation, the procedures will be designated, "Resignation of member accepted while under investigation" and the investigation will terminate.