

South Dakota Dental Association Policy on Professional Discipline

1. Introduction. The *American Dental Association Principles of Ethics and Code of Professional Conduct* shall govern the professional conduct of all members of the South Dakota Dental Association.

A member may be disciplined by the Ethics Committee of this Association in accordance with this Association's Policy on Professional Discipline for:

1. having been found guilty of a felony;
2. having been found guilty of violating the Dental Practice Act of a state, District of Columbia, territory, dependency or country;
3. having been discharged or dismissed from practicing dentistry with one of the federal dental services under dishonorable circumstances, or
4. violating the provisions of this policy, the *Bylaws of the South Dakota Dental Association*, or the *American Dental Association Principles of Ethics and Code of Professional Conduct*.

2. Sanctions. A member may be placed under a sanction of letter of counsel, probation, censure, suspension or expulsion of membership, or any combination, for any of the offenses enumerated previously.

3. Proceedings. The Ethics Committee may consider only those charges submitted to the Committee through a written statement containing supporting evidence and signed by one or more members of this Association. Before a disciplinary sanction is invoked against a member, the following procedures shall be followed by the Ethics Committee:

- a. **Hearing:** The accused member shall be entitled to a hearing before the Ethics Committee at which he/she shall be given the opportunity to present his/her defense to all charges brought against him/her.
- b. **Notice:** The accused member shall be notified in writing of the charges brought against him/her and of the time and place of the hearing, such notice to be sent by registered letter addressed to his/her last known address and mailed not less than twenty-one (21) days prior to the date set for the hearing. The Board of Directors of the constituent society of the accused member shall be notified in writing of the charges brought against the accused member.
- c. **Charges:** The written charges shall include an officially certified copy of the alleged conviction or determination of guilt, or a specification of the Bylaws or ethical provisions alleged to have been violated, as the case may be, and a description of the conduct alleged to constitute each violation.

d. Decision: Every decision which shall result in a letter of counsel, probation, censure, suspension or expulsion shall be reduced to writing and shall specify the charges made against the member, the facts which substantiate any or all of the charges, the verdict rendered and the sanction imposed. A notice shall be mailed to the accused member informing the member of their right of appeal. Within ten (10) days of the date on which the decision is rendered, a copy thereof shall be sent by registered mail to the last known address of each of the following parties: the accused member, the Executive Director of this Association, the chairperson of the Council on Ethics, Bylaws and Judicial Affairs of the American Dental Association and the Executive Director of the American Dental Association.

4. Appeals. An accused member under sanction of a letter of counsel, probation, censure, suspension or expulsion for (1) having been found guilty of a felony, (2) having been found guilty of violating the Dental Practice Act of a state, the District of Columbia, territory, dependency or country, (3) having been discharged or dismissed from practicing dentistry with one of the federal dental services under dishonorable circumstances, or (4) violating provisions of this policy, the *Bylaws of the South Dakota Dental Association*, or the *ADA Principles of Ethics and Code of Professional Conduct*, shall have the right to appeal a decision of the Ethics Committee to the Executive Committee of the Board of Trustees of this Association by filing an appeal in affidavit form with the Executive Director of this Association. Such an accused member, or the component society concerned, shall have the right to appeal from a decision of the Executive Committee of the Board of Trustees of this Association to the Council on Ethics, Bylaws and Judicial Affairs of the American Dental Association, by filing an appeal in affidavit form with the Council on Ethics, Bylaws and Judicial Affairs of the American Dental Association. An appeal from any decision shall not be valid unless notice of the appeal is filed within thirty (30) days and the supporting brief is filed within ninety (90) days after such decision has been rendered. No decision shall become final while an appeal therefrom is pending or until the thirty (30) day period for filing notice of appeal has elapsed. The following procedure shall be used in processing appeals:

a. Hearing on Appeal: The accused member of the society (or societies) concerned shall be entitled to a hearing on an appeal, provided that such appeal is taken in accordance with, and satisfies the requirements of Section 4 of this policy.

b. Notice: The association receiving an appeal shall notify the society (or societies) concerned and the accused member of the time and place of the hearing, such notice to be sent by registered letter to the last known address of the parties to the appeal and mailed not less than thirty (30) days prior to date set for the hearing.

c. Briefs: Every party to an appeal shall be entitled to submit a brief in support of his/her or its position. The party initiating the appeal shall submit his/her or its brief to the Executive Director of this Association or the chairperson of the Council on Ethics, Bylaws and Judicial Affairs of the American Dental Association, as

the case may be, within ninety (90) days of the date upon which the decision appealed was rendered.

d. Record of Disciplinary Proceedings: Upon notice of an appeal, the society which preferred charges Ethics Committee shall furnish to the body which has received the appeal and to the accused member a transcript of, or an officially certified copy of, the minutes of the hearing accorded the accused member. The transcript or minutes shall be accompanied by certified copies of any affidavit or other documents submitted as evidence to support the charges against the accused member or submitted by the accused member as part of his/her defense.

e. Appeals Jurisdiction: The Executive Committee of the Board of Trustees shall be required to review the decision appealed to determine whether the evidence against the accused member supports that decision or warrants the penalty imposed. The appeal association shall not be required to consider additional evidence unless there is a clear showing that either party to the appeal will be unreasonably harmed by failure to consider the additional evidence.

f. Decision on Appeals: Every decision on appeal shall be reduced to writing and shall state clearly the conclusion of the appeal association and the reasons for reaching that conclusion. The Executive Committee of the Board of Trustees shall have the discretion (1) to uphold the decision against the accused member; (2) to reverse the decision and thereby exonerate the accused member; (3) to deny an appeal which fails to satisfy the requirements of Section 4 of this policy; (4) to refer the case back to the Ethics Committee for new proceedings, if the rights of the accused member under applicable provisions of this policy were not accorded the member; or (5) to refer the case back to the Ethics Committee with a recommendation to mete out a lesser penalty.

Within ten (10) days of the date on which a decision on appeal is rendered, a copy thereof shall be sent by registered mail to the last known address of each of the following parties: the accused member, the Secretary-Treasurer of the component society of which he/she is a member, the Executive Director of this Association, the chairperson of the Council on Ethics, Bylaws and Judicial Affairs of the American Dental Association, and the Executive Director of the American Dental Association.