

Code of Ethics

This document is divided into the following sections:

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CODE OF ETHICS AND PROFESSIONAL CONDUCT

1. PREAMBLE

One identifiable characteristic of a profession is the dedication of its Members in performing service to humanity. In becoming a Member (as defined in the Constitution) of the Alberta Athletic Therapists Association (the “Association”), an individual assumes obligations and responsibilities to act in accordance with the ideals and standards of the Athletic Therapy profession. These ideals, standards and principles are set forth in the Constitution of the AATA (the “Constitution”), the Scope of Practice, the Policies and Procedures and the Code of Ethics.

Each Member of the Association must adhere to the highest standards of conduct in attending to the needs of participants in an activity, irrespective of the level of participation. The Association embraces the belief that the ideals, standards and principles contained in the aforementioned documents must be adhered to by each Member.

A Member who violates any of the ideals, standards and/or principles set forth in the Code of Ethics, shall be subject to disciplinary action as per the Code of Ethics Procedures.

2. BASIC PRINCIPLES

- a. Members shall act with honest and integrity.
- b. Members shall neither practice nor condone discrimination when carrying out their responsibilities and duties as practitioners of Athletic Therapy.
- c. Members shall be committed to providing competent care, which is consistent with the requirements and the limitations of the profession.
- d. Members shall not publicly discredit or lower the dignity of another Member of the Association
- e. Members shall provide only those services for which they are qualified.

- f. Members shall not misrepresent in any manner their skills, training, professional credentials, identity or services.
- g. Members shall reply promptly to any communications from the governing body of the Association.
- h. Members shall adhere to the Constitution, the Code of Ethics, the Scope of Practice, policies and other governing laws and regulations of the Association.
- i. Members charged with, or convicted of, a criminal offence may have their case reviewed by the Ethics Committee pursuant to the AATA Code of Ethics, to determine any risks that may be incurred by the public if the Member were allowed to practice unrestricted as an Athletic Therapist and/or represent the Association.

3. PROFESSIONAL MISCONDUCT

Any member who is determined to have violated the Constitution, the Code of Ethics, the Scope of Practice, policies, or other governing laws and regulations of the Association is guilty of professional misconduct.

4. RULES OF CONDUCT

Responsibilities to the Profession

- a. Members shall recognize that the self-regulation of the profession is a privilege and that each member has a continuing responsibility to merit this privilege and to support the Association.
- b. Members shall abide by the policies of the Association and support its mission.
- c. Members shall conduct themselves in a manner as to merit the respect of society, the profession and its members.
- d. Members shall report to the appropriate authority any unprofessional or unethical conduct by colleagues.
- e. Certified members shall engage in continuing education for growth and development.
- f. Members shall enter into contractual agreements only when professional integrity is maintained.
- g. Members shall treat their colleagues with dignity and as persons worthy of respect.
- h. Members shall participate in the promotion of the profession through advocacy, research and maintenance of the highest possible standards of practice.

Responsibilities to the Client

- a. Members shall recognize and disclose conflicts of interest that arise in the course of your professional duties and activities, and resolve them in the best interest of clients.
- b. Members shall respect the client's dignity, needs, values and wishes.
- c. Members may not refuse care to a client based on grounds of race, religion, ethnic or national origin, age, sex, sexual orientation, and social or health status.
- d. Members shall not exploit clients for personal advantage.
- e. Members shall recognize their limitations and, when indicated, recommend or seek additional opinions and services.
- f. Members must give clients opportunity to consent to, decline, or alter the treatment regime.
- g. Members shall practice within the scope of practice.
- h. Members shall assume full responsibility for all care they provide.
- i. Members shall maintain appropriate documentation for all clients.
- j. Member shall respect all client information as confidential. Such information shall not be communicated to any person without the consent of the client (or guardian) except when required by law.
- k. Members are responsible for all duties they delegate to personnel under their supervision.
- l. Members shall only bill for services that they personally prescribed, provided (or supervised), and were present for.
- m. Members may seek remuneration for services that are commensurate with the services provided and in compliance with applicable statutes.
- n. Members shall provide services, make referrals and seek compensation only for those services that are necessary.
- o. A member shall make him or herself aware of the policies, rules, regulations, and legislation regarding the use of ergogenic aids and banned methods for athletes under the member's care.
- p. A member shall make him or herself aware of all the sport governing rules that affect their practice and delivery of care

Responsibilities to Self

- a. Being competent and conscientious professionals.
- b. Being aware of our personal values and being able to identify when value conflicts interfere with client care.
- c. Keeping our professional commitment by integrating Athletic Therapy principles in our daily practice.

5. JURISDICTION**1. Association Members**

- a. The Association shall have jurisdiction over any Association Member for disciplinary actions during the time that they are Members of the Association, and also for acts or omissions that occurred during their membership despite the fact they may no longer be Members
- b. Any Members of the Association who becomes disqualified from being a Member or voluntarily ceases to be a Member, shall remain subject to the disciplinary jurisdiction of the Ethics Committee for acts or omissions committed while being a Member of the Association.
- c. If the ethics Committee has commenced an investigation into the conduct of the Member, the Member may not resign from the Association until the Ethics Committee has completed their investigation and rendered a decision
- d. If a Member decides to resign as a Member of the Association after any disciplinary proceeding, the Member must submit an application in writing signed by the Member stating their reasons for resignation from the Association. Additionally, the Member must provide a Statutory Declaration setting out the particulars about the Member including their Date of Birth, Date on which they received their membership, place of residence, office address, and the number of years in practice.

2. Regional vs. National Jurisdiction

- a. The AATA (the “Association”) is a recognized regional Chapter of the CATA with its own code of ethics and investigation procedures. Any Case in which the respondent (member complained of) practices in the Province of Alberta, it will be referred to the AATA ethics committee.
- b. The Association shall reserve the right to refer back any case to the CATA at its discretion. This would be the case for very complex complaints or when a potential breach of ethics occurs outside of the province of Alberta (eg. National, or International Games).

6. COMPLAINTS PROCESS

a. Member Complaint

- i. Any member of the Association who is aware of conduct that he or she considers to be in violation of the Code of Ethics shall report the incident in writing with as much specificity and documentation as possible to the

Chairperson of the Ethics Committee to determine whether a breach of the Code of Ethics has occurred

b. Criminal offence

- i. If the Ethics Committee is notified of or becomes aware of a member who has been charged with or convicted of a criminal offence, an investigation may be initiated by the Ethics Committee to determine whether a breach of the Code of Ethics has occurred.

c. Third Party Complaint

- i. Third party complaints generated from outside the Association membership must be forwarded in writing containing full particulars of the complaint to the Chairperson of the Ethics Committee. This information may be used in an investigation by the Ethics Committee to determine whether a breach of the Code of Ethics has occurred.

d. Advice and Direction

- i. Any member may request the opinion of the Chairperson of the Ethics Committee relating to the sequence of events, which might be considered to be a breach of the Code of Ethics. The request should be restricted to the events exclusive of any names, and does not constitute a formal allegation, investigation or decision.

4. LIMITATIONS

- a. A claim can only be made against a member, past or current within 2 years of the incident.

5. CONFIDENTIALITY

- a. During an investigation under these procedures, Members of the Ethics Committee, including the Chairperson of the Ethics Committee, are bound by confidentiality so that complainants will come forward without fear of reprisal and that reputations may be protected throughout. The exceptions to complete confidentiality are a disclosure, which would oblige the Association to take necessary steps to ensure the health, safety, and security of any Member, of the Association or the public or legal subpoena. In particular, the Association shall report the possible violation of any federal or provincial law to the appropriate authorities.

- b. In the Case that the respondent has been found in Breach of the Code of Ethics, and holds any dual professional designations, the Ethics committee shall report this breach to the respondent’s other professional body(ies). (e.g. Massage therapy, Acupuncture....)

CODE OF ETHICS & PROFESSIONAL CONDUCT – COMPLAINTS PROCEDURES

PART I: INTERPRETATION AND COMMITTEE STRUCTURE

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PART III: OTHER MATTERS

PART I: INTERPRETATION AND COMMITTEE STRUCTURE

1. Interpretation

B. In this document:

- a) “AATA” means the Association or the Alberta Athletic Therapists Association.
- b) “Alternative complaint resolution process” means a process to help the complainant, the Association and the investigated person settle a complaint.
- c) “Alternative Complaint Resolution Officer” or “ACR Officer” means the Alternative Complaint Resolution Officer or ACR Officer established under *Division 2*.
- d) “Annual General Meeting” means the annual general meeting of the Association held within 120 days of the fiscal year end (December 31).
- e) “Appeal Subcommittee” means an Appeal Subcommittee established under *Part I*.
- f) “Association” means the Alberta Athletic Therapists Association.
- g) “Association Policy and Procedures Manual” means the *Alberta Athletic Therapists Association Policy and Procedure Manual* posted on the Association website, www.aata.ca, as amended.

- h) “Board of Directors” means the Officers of the Board of Directors of the Association.
- i) “CATA” means the Canadian Athletic Therapists Association.
- j) “Central Region” means the cities of Red Deer and Calgary and the part of the province that is located between the cities of Red Deer and Calgary.
- k) “Certified Member” means a Member with the Association who has passed the CATA certification exam and is a registered Certified Athletic Therapist with status maintained with both the CATA and the Association.
- l) “Chair” means the person selected by the Membership to act as the Chairperson of an Ethics subcommittee.
- m) “Competence” means the combined knowledge, skills, attitudes, and judgment required to provide professional athletic therapy services.
- n) “Complaint Review Committee” means a complaints review committee established under *Part I*.
- o) “Conduct” includes an act or omission.
- p) “Conflict of interest” means there is an arrangement or relationship between the Member or a related person or related corporation and a person, where a reasonable person could conclude that the exercise of the Member’s professional expertise or judgment may conflict with or be influenced by the arrangement or relationship. A conflict of interest may be actual, potential, or perceived.
- q) “Document” includes recorded information in written, photographic, magnetic, electronic, or other form.
- r) “Ethics Chairperson” means the Ethics Chairperson established under *Part I*.
- s) “Ethics Committee” means the Ethics Committee established under *Part I*.
- t) “Ethics Complaints Director” means the Ethics Complaints Director established under *Part I*.
- u) “Ethics subcommittees” or “subcommittee” means the Investigative Subcommittee, Judicial Subcommittee, Appeal Subcommittee, Complaint Review Committee, and the Alternative Complaint Resolution Officer.
- v) “Former Member” means a person who has been but no longer is a Certified Member of the Association.

- w) “Incapacitated” means suffering from physical, mental or emotional condition or disorder, or an addiction to alcohol or drugs as defined in the Pharmacy and Drug Act or other chemicals that impairs the ability to provide professional athletic therapy services.
- x) “Investigative Subcommittee” means an investigator or Investigative Subcommittee established under *Part I*.
- y) “Investigated person” means a person with respect to whom:
 - a) a complaint has been made under *Part II*;
 - b) information has been treated as a complaint in accordance with *section 11.1*; or
 - c) a notice has been given under *section 12.1* and the proceedings with respect to the complaint, information, or notice have not been concluded.
- z) “Judicial Subcommittee” means a Judicial Committee established under *Part I*.
- aa) “North Region” means the part of the province that is located between the northern Alberta boarder and Red Deer.
- bb) “Ratified settlement” means a settlement ratified under *section 17.2*.
- cc) “Records of hearing” means the records described in *section 34.2*.
- dd) “Records of appeal hearing” means the records described in *section 42.2*.
- ee) “South Region” means the part of the province that is located south of the city of Calgary to the southern Alberta boarder.
- ff) “Special meeting” means the special meeting established under *section 14.1*.
- gg) “Unprofessional conduct” means one or more of the following whether or not it is disgraceful or dishonourable:
 - a) Holding out that a person’s Membership is not subject to conditions when it displaying a lack of knowledge or a lack of skill or judgment in the provision of professional athletic therapy services;
 - b) Contravention of the *Code of Ethics* or *Alberta Athletic Therapists Association Policy and Procedure Manual*;
 - c) Contravention of another enactment that applies to the athletic therapy profession;

- d) Representing or holding out that a person was a Certified Member with status maintained while the person's Membership was suspended or cancelled;
- e) Representing or is misrepresenting the conditions;
- f) Failure or refusal to:
 - 1. comply with an agreement that is part of a ratified settlement, or
 - 2. comply with a request of or co-operate with an Investigative Subcommittee;
- g) Contravention of an order under *Part II*; or
- h) Conducting behaviour that harms the integrity of the athletic therapy profession.

C. Ethics Chairperson

For more information, see *Committee Structure, #3-1* and *Committee Meetings and Reports, #3-2*.

D. Duties of the Ethics Chairperson

For more information, see *Committee Structure, #3-1* and *Committee Meetings and Reports, #3-2*.

E. Selection of Ethics Committee Members

For more information, see *Committee Structure, #3-1* and *Committee Meetings and Reports, #3-2*.

F. Selection of Investigative Subcommittee and Ethics Complaints Director

1. Subject to *section 5.2*, the Ethics Chairperson shall select from the nine (9) available Ethics Committee Members one (1) Member who shall act as an investigator and form the Investigative Subcommittee.
2. The investigator can request the Ethics Chairperson to assign one (1) other Ethics Committee Member to co-investigate a complaint. The Ethics Chairperson shall name one (1) of the two (2) Investigative Subcommittee Members to act as Chair of the Investigative Subcommittee.
3. The Investigative Subcommittee shall investigate a complaint to determine if there is sufficient evidence to indicate that unprofessional conduct has occurred.
4. Any Member of the Ethics Committee named to an Investigative Subcommittee who feels that he or she is in a conflict of interest or in a situation where there may be a reasonable apprehension of bias shall ask to be removed from the

complaint in question. In such a case, the Ethics Chairperson shall select another Member from the Ethics Committee to sit on the Investigative Subcommittee.

5. The Ethics Chairperson shall select from the available Ethics Committee Members one (1) Member who shall act the Ethics Complaints Director.
6. The Ethics Complaints Directors shall lead or present evidence on behalf of the Association at a formal hearing or appeal of the complaint.
7. The Ethics Complaints Director selected shall be exclusive of those Members who act on the Investigative, Judicial or Appeal subcommittees for the complaint.
8. Any Member of the Ethics Committee named as an Ethics Complaints Director who feels that he or she is in a conflict of interest or in a situation where there may be a reasonable apprehension of bias shall ask to be removed from the complaint in question. In such a case, the Ethics Chairperson shall select another Member from the Ethics Committee to sit as the Ethics Complaints Director.

G. Selection of Judicial Subcommittee

1. If the Ethics Chairperson determines that there is sufficient evidence to refer the complaint to a Judicial Subcommittee for a hearing, the Ethics Chairperson shall select from the remaining available Ethics Committee Members three (3) Members who shall act as a Judicial Subcommittee.
2. The three (3) Ethics Committee Members selected to the Judicial Subcommittee shall be exclusive of those Members who acted as the Investigative Subcommittee for the complaint.
3. The Judicial Subcommittee shall upon hearing the evidence presented decide whether unprofessional conduct has occurred. If the Judicial Subcommittee determines that unprofessional conduct has occurred, the Judicial Subcommittee may make one or more of the orders listed in *section 32.1*.
4. The Ethics Chairperson shall name one (1) of the three (3) Members to act as Chair of the Judicial Subcommittee.
5. Any Member of the Ethics Committee named to the Judicial Subcommittee who feels that he or she is in a conflict of interest or in a situation where there may be a reasonable apprehension of bias shall ask to be removed for the complaint in question. In such a case, the Ethics Chairperson shall select another Member from the Ethics Committee to sit on the Judicial Subcommittee.

H. Selection of the Appeal Subcommittee

1. Should an Appeal be initiated, the Ethics Chairperson shall select from the remaining available Ethics Committee Members three (3) Members who shall act as an Appeal Subcommittee.
2. The three (3) Ethics Committee Members selected to the Appeal Subcommittee shall be exclusive of those Members who acted in either the Investigative Subcommittee or the Judicial Subcommittee for the complaint.
3. The Ethics Committee Chairperson shall name one (1) of the three (3) Members to be the Chair of the Appeal Subcommittee
4. The Members of the Appeal Subcommittee upon hearing the evidence presented at the appeal may make one or more orders under *section 41.1*.
5. In a case where there are not enough Members of the Ethics Committee left to fill the Appeal Subcommittee, the Ethics Chairperson shall appoint a Certified Member to the Appeal Subcommittee from the following population:
 - a) past Member of the Association Board of Directors;
 - b) past Ethics Committee Chairperson; or
 - c) Certified Member with status Maintained with the Association for over three (3) years.
6. Any Member of the Ethics Committee named to the Appeal Committee who feels that he or she is in a conflict of interest or in a situation where there may be a reasonable apprehension of bias shall ask to be removed for the complaint in question. In such a case, the Ethics Chairperson shall select another Member from the Ethics Committee or population listed above, to sit on the Appeal Subcommittee.

I. Selection of Complaint Review Committee

1. The Ethics Chairperson shall select three (3) Certified Members to sit on the Complaint Review Committee.
2. The Complaints Review Committee shall upon hearing evidence make one or more of the orders under *sections 17.2* or *25.5*.
3. Vacancies on the Complaint Review Committee will be advertised in the annual Association newsletter and any Certified Member in good standing with the Association is eligible to sit on the Complaints Review Committee. All eligible Members who wish to be considered for the Complaints Review Committee shall submit their applications to the Ethics Chairperson at least thirty (30) days prior to the Annual General Meeting.
4. Eligible Members will be chosen by the Ethics Chairperson in such a way as to reflect a diversity of practice settings, region of practice, backgrounds, gender, and experience.

5. The names of the Members selected by the Ethics Chairperson shall be brought forward by the Ethics Chairperson to the Board of Directors, the Board of Directors will then present the Members selected at the Annual General Meeting for ratification by a majority vote of the voting Members present.
6. The term of office shall be three (3) years.
7. Membership on the Complaints Review Committee shall be structured so there is an approval of one (1) new Member to the Complaints Review Committee each year. This will occur at the Association's Annual General Meeting.
8. In the event that a Complaints Review Committee Member vacates his or her position on the Complaints Review Committee, the Ethics Chairperson shall, with approval of the Board of Directors, appoint a Certified Member in good standing to serve the remainder of the vacating Member's term.
9. No Complaints Review Committee Member shall participate in any complaint where he or she perceives that there may be a reasonable apprehension of bias or the presence of an actual, potential, or apparent conflict of interest. In the event that there is a reasonable apprehension of bias or the presence of an actual, potential, or apparent conflict, the Ethics Chairperson shall name another Member with status maintained to fill the Member's place in the complaints review proceeding until the proceeding's conclusion.
10. Complaints Review Committee Members shall remain on the Complaints Review Committee until the conclusion of the complaint review proceeding in which they are involved regardless of the expiration of their term.
11. No Member of the Complaints Review Committee can sit on an Investigative Subcommittee, Judicial Subcommittee, or Appeals Subcommittee.
12. No Member of the Complaints Review Committee can sit on any other Provincial Committee.
13. No Member of the Complaints Review Committee can sit on a National Committee with the exception of the CATA Ethics Committee.
14. The Ethics Committee Chairperson shall name one (1) of the three (3) Members to be the Chair of the Complaints Review Committee.

PART II: COMPLAINTS PROCEDURES

DIVISION 1: COMPLAINTS PROCESS

J. Making a Complaint

1. A person who makes a complaint to the Association regarding a Certified Member or a former Member must do so in writing to the Ethics Chairperson and must sign and date the written complaint.
2. A complaint under *section 9.1* is not affected by the person whom the complaint is made ceasing to be a regulated Member before the proceedings with respect to the complaint are completed.
3. Despite *section 9.2*, a complaint cannot be made about a former Member if two (2) years have elapsed since the person became a former Member.
4. If information or a notice of non-compliance is treated as a complaint under *section 11.1* and acted on under *section 10.2*, the information or notice of non-compliance is deemed to be a complaint.
5. A complaint must be lodged within two (2) years from the date on which the act or event, for which the complaint is based upon took place.

K. Acting on a Complaint

1. Within thirty (30) days after being given a complaint or treating information as a complaint, the Ethics Chairperson must give notice to the complainant of the action taken with respect to it.
2. The Ethics Chairperson:
 - a) may encourage the complainant and the investigated person to communicate with each other and resolve the complaint;
 - b) may, with the consent of the complainant and the investigated person, attempt to resolve the complaint;
 - c) may make a referral to an alternative complaint resolution process under *Division 2*;
 - d) may appoint an Investigative Subcommittee to conduct an investigation;
 - e) if satisfied the complaint is trivial or vexatious, may dismiss the complaint; and
 - f) if satisfied that there is insufficient or no evidence of unprofessional conduct, may dismiss the complaint.
3. If the Ethics Chairperson dismisses the complaint, the Ethics Chairperson must, within thirty (30) days, give notice to the complainant of the dismissal and the right to apply for review by the Complaint Review Committee as in *section 25.1*.

L. Aware of Unprofessional Conduct

1. Despite receiving a complaint under *section 9.1*, but subject to *section 9.3*, if the Ethics Chairperson has reasonable grounds to believe that the conduct of a Certified Member or former Member constitutes unprofessional conduct, is given notice under *section 12.1*, is given information orally, or is aware of non-compliance with an order under *Part 2*, the Ethics Chairperson may treat the information, notice, or non-compliance as a complaint and act on it under *section 10.2*.

M. Termination by Employer

1. If the employment of a Certified Member is terminated or suspended or the Certified Member resigns because of conduct, that in the opinion of the employer is unprofessional, the employer must give notice of that conduct to the Ethics Chairperson.
2. On being given notice under *subsection 12.1*, the Ethics Chairperson must:
 - a) treat the employer as a complainant;
 - b) despite not receiving a complaint under *section 9.1*, treat the notice as a complaint in accordance with *section 11.1*; and
 - c) notify the employer and the Certified Member accordingly.
3. For purposes of this section, “employment” includes being engaged to provide professional athletic therapy services on a full-time or part-time basis as a paid or unpaid employee, consultant, contractor, or volunteer.

N. Joiner of Related Matters

1. If the Ethics Chairperson receives a complaint:
 - a) and the complaint is against more than one person;
 - b) and the complaint is a result of, or occurred out of, the same event or act;the Ethics Chairperson may order that all of the individuals whom the complaint relates to, be joined together so that the investigation and hearing of each individual may proceed together.
2. All complaints proceeding pursuant to *subsection 13.1* will be to the extent possible:
 - a) conducted pursuant to the procedures and processes set out in this document; and
 - b) will adhere to the “doctrine of fairness”.

3. Any orders or decision that results from an investigation or hearing of a group shall be issued separately to each investigated person and shall be reflective of the evidence and the culpability of investigated person whom the order is directed to, and not the group as a whole.
4. An appeal of any order or decision that that was rendered out of a group investigation or hearing must be made by the person whom the order is directed to and must be made pursuant to *Division 5*. An appeal by a group will not be heard.

O. Interim Suspension

- a) If a complaint that is reported is particularly serious in nature, and the Ethics Chairperson feels the investigated person is a danger to the public, the Ethics Chairperson shall convene a special meeting of the Board of Directors, which shall include three (3) Ethics Committee Members and the investigated person and/or their counsel or agent.
- b) The Ethics Chairperson shall provide the investigated person in writing with the particulars of the complaint and the date, time, and place of the special meeting.
- c) Service shall be by personal service, courier, fax, or registered mail.
- d) The special meeting shall be conducted in person.
- e) If the Board of Directors and the three (3) Ethics Committee Members unanimously agree that the investigated person is a danger to the public, the investigated person will be temporarily suspended prior to an investigation and hearing.
- f) Cases of immediate suspension include:
 - (a) allegations of sexual abuse or harassment of clients and/or staff;
 - (b) gross misconduct causing bodily harm;
 - (c) sex offences;
 - (d) violent criminal acts;
 - (e) a developing physical or psychological disorder that renders the investigated person incapacitated as diagnosed by a medical professional; and
 - (f) any other action that would risk the safety of the general public.
- g) The Ethics Chairperson, must within five (5) days of the conclusion of the special meeting provide the investigated person with a written decision of the Board of Directors and the Ethics Committee Members. The written decision should describe the findings of

the Board of Directors and the Ethics Committee Members and state any order made under *subsection 14.5*.

- h) Any interim suspension order issued under *subsection 14.5* shall remain in place until completion of the proceedings under *Part II*. In the event that there has been an interim suspension order issued, the Association shall be required to complete a formal investigation and hearing under *Part II* within forty five (45) days after the date of service of the written decision.
- i) The Ethics Chairperson, on written request of the investigated person, may extend the period referred to in *subsection 14.8* for one or more additional periods.
- j) In cases of an interim suspension for *subsection 14.6 (e)*, reinstatement will be considered by the Ethics Committee and Board of Directors upon receiving confirmation from a medical professional that the investigated person is fit to provide professional services as an athletic therapist.

DIVISION 2: ALTERNATIVE COMPLAINT RESOLUTION

P. Process

- a) The Ethics Chairperson may, with the agreement of the complainant and the investigated person, refer the complainant and the investigated person to an alternative complaint resolution process at any time before the commencement of a hearing by a Judicial Subcommittee.
- b) If the Ethics Chairperson makes a referral under *subsection 15.1*, the Ethics Chairperson shall select one (1) of the nine (9) Members of the Ethics Committee to act as the Alternative Complaint Resolution Officer (“ACR Officer”).
- c) The ACR Officer selected cannot have been a Member of the Investigative Subcommittee or Judicial Subcommittee selected to investigate or hear the complaint.
- d) The role of the ACR Officer is to participate in or conduct the alternative complainant resolution process with a view to resolving the complaint in a manner that is acceptable to the complainant and the investigated person.
- e) The ACR Officer who conducts an alternative complaint resolution process must be impartial and must act impartially.
- f) The method or process used in the alternative complainant resolution process shall be determined by the ACR Officer selected.
- g) The ACR Officer who conducts an alternative complaint resolution process may assist in settling a complaint, but if:

1. in the opinion of the ACR Officer a settlement is not likely to occur; or
 2. the Complaint Review Committee does not ratify the settlement under *section 17.2*, the ACR Officer must notify the Ethics Chairperson.
- h)* If during the alternative complaint resolution process information is introduced that causes the ACR Officer conducting the alternative complaint resolution process to believe that the matter is substantially different from the original complaint, the ACR Officer must notify the Ethics Chairperson and the Ethics Chairperson must decide whether the alternative complaint resolution process may continue or whether the matter must continue under *subsection 15.9*.
- i)* On being notified under *subsection 15.7* or *subsection 17.7 (b)* or on deciding under *subsection 15.8* to process a matter under this subsection, the Ethics Chairperson must:
1. if an investigation has not been commenced, commence an investigation under *Division 3*;
 2. if an investigation has been commenced, but no report from the Investigative Subcommittee has been made, refer the complaint back to the Investigative Subcommittee, if available, or appoint another Investigative Subcommittee to complete the investigation regarding the complaint and make a report;
 3. dismiss the complaint; or
 4. in all other cases, refer the matter to a Judicial Subcommittee for a hearing.

Q. Evidence

- a)* An ACR Officer who conducts an alternative complaint resolution process must keep any records relating to the process separate from the Ethics Committee records except for a ratified settlement.
- b)* Any document prepared or generated for the purpose of an alternative complaint resolution process belongs to the person who prepared or generated the document.
- c)* Except for information described in *section 15.8* or that is part of a ratified settlement, any communication and evidence arising from anything said, evidence of anything said, or evidence of an admission or communication made in the course of an alternative complaint resolution process is confidential and not admissible in any proceeding under this document or any other document or enactment that applies to the profession of athletic therapy:
 1. without the written consent of the investigated person and the complainant; and

2. in the case of written evidence, without the written consent of the person who prepared the written evidence, the investigated person, and the complainant.

R. Settlement

- a) If the complainant and the investigated person agree in writing to a proposed settlement of a complaint in an alternative complaint resolution process, the ACR Officer conducting the alternative complaint resolution process must report the settlement to the Complaint Review Committee.
- b) The Complaint Review Committee may, on reviewing a proposed settlement of a complaint referred to it under *subsection 17.1*:
 - a) ratify the settlement;
 - b) with the consent of the complainant and the investigated person, amend the settlement and then ratify the settlement; or
 - c) refuse to ratify the settlement.
- c) The Complaint Review Committee must notify the Ethics Chairperson of its actions under *subsection 17.2*.
- d) On being aware that a ratified settlement is not complied with, the Ethics Chairperson may:
 - a) treat it as information and act on it under *section 10.2*; or
 - b) treat it as a complaint and refer it to a Judicial Subcommittee for a hearing.
- e) If the Ethics Chairperson makes a referral under *subsection 17.4(b)*, the information is deemed to be a complaint and the Ethics Chairperson must notify the complainant and the investigated person.
- f) The Ethics Committee must retain a copy of the ratified settlement and must release information related to the complaint, investigated person, and ratified settlement as required by this document, the Association Policy and Procedures Manual or any other enactment that applies to the profession of athletic therapy and:
 - a) may publish, in accordance with this document and the *Alberta Athletic Therapists Association Policy and Procedure Manual*, information respecting the complaint and a ratified settlement; and
 - b) may reveal the identity of the investigated person or the complainant, or both if it is authorized to do so by the ratified settlement.

- g) Subject to *subsections 17.4* and *17.6*, if a ratified settlement:
- i. relates to all matters complained of or that arose during the alternative complaint resolution process, no further proceedings under this document may be taken with respect to those matters; or
 - ii. relates to only part of the matters complained of or that arose during the alternative complaint resolution process, the ACR Officer who conducted the alternative complaint resolution process must notify the Ethics Chairperson of the matters that do not form part of the ratified settlement and the Ethics Chairperson must act on it under *section 15.9*.

DIVISION 3: INVESTIGATION

S. Notice of Investigation

1. If an investigation is to be conducted under *Division 3*, the Ethics Chairperson shall notify the investigated person that he or she is the subject of an investigation by the Ethics Committee.
2. The notice shall include the name, fax number, and address of the investigator or Chair of the Investigative Subcommittee selected to investigate the complaint, and shall include a complete summary of the allegations.
3. The Ethics Chairperson will also notify the complainant that an investigation has been initiated and provide the complainant with the name, fax number, and address of the investigator or Chair of the Investigative Subcommittee selected to investigate the complaint.

T. Investigation Scope

1. An Investigative Subcommittee selected by the Ethics Chairperson shall investigate a complaint.
2. In the course of an investigation under *subsection 19.1*, an Investigative Subcommittee may investigate matters related to the conduct of the investigated person that could give rise to a finding of unprofessional conduct.

U. Investigation Powers

- a) The Ethics Chairperson shall forward all materials relevant to the complaint to the Members of the Investigative Subcommittee.
- b) The Investigative Subcommittee, may at any reasonable time:
 - a) require any person, to answer any relevant questions; and

- b) require any person to give the Investigative Subcommittee any document, record, or thing relevant to the investigation that the person possesses or that is under the control of that person.
- c) The Investigative Subcommittee may copy and keep copies of anything given under *subsection 20.2*.

V. Proceedings Delayed

1. If during the investigation the Ethics Chairperson refers the complainant and the investigated person to an alternative complaint resolution process in accordance with *Division 2*, the investigation and hearing must not proceed unless the Ethics Chairperson is notified as described in *section 15.7* or makes a decision under *section 15.8*.

W. Investigation Process

1. The investigated person is entitled to make brief written submissions to the Investigative Subcommittee in response to the complaint.
2. The written submissions will be reviewed by the Investigative Subcommittee and will be used in their investigation of the complaint.
3. The written submissions must be submitted by personal service, courier, fax, or registered mail within twenty (20) days of receiving the notice under *section 18.1* from the Ethics Chairperson.
4. If the Investigative Subcommittee does not receive the written submissions by personal service, courier, fax, or registered mail within the twenty (20) day period, the written submission will not be used in the investigation.
5. The investigated person is entitled, at their own expense, to use legal counsel or an agent to assist them during the investigation.
6. The Investigative Subcommittee shall complete its investigation in a manner which is sensitive to time, but which does not compromise thoroughness.

X. Report of Investigation

1. When an Investigative Subcommittee concludes an investigation, the investigator or Chair of the Investigative Subcommittee must make a report within a reasonable time and must submit the report to the Ethics Chairperson.
2. The report prepared under *subsection 23.1* must:
 - a) contain all findings and determinations made by the Investigative Subcommittee; and

- b) contain a decision by the Investigative Subcommittee as to whether there is sufficient evidence to indicate that unprofessional conduct has occurred.
3. If, on reviewing a report made under this section, the Ethics Chairperson determines that the report is not complete or that the investigation was not properly conducted, the Ethics Chairperson must direct the Investigative Subcommittee or appoint another Investigative Subcommittee to undertake further investigation, and make a report and submit it to the Ethics Chairperson.
 4. If, on reviewing a report prepared under this section or section 25.5 (b), the Ethics Chairperson determines that the investigation is concluded, the Ethics Chairperson must:
 - i. refer the matter to a Judicial Subcommittee for a hearing; or
 - ii. dismiss the complaint, in the decision of the Ethics Chairperson, if:
 - (i) the complaint is trivial or vexatious, or
 - (ii) there is insufficient evidence or no evidence to support unprofessional conduct.
 5. Despite *subsection 5.4 (a)*, if the Judicial Subcommittee has not commenced a hearing and the Ethics Chairperson learns of new evidence that causes the Ethics Chairperson to be of the opinion that the complaint is trivial or vexatious, or there is insufficient evidence, or no evidence of unprofessional conduct, the Ethics Chairperson may withdraw the complaint from the Judicial Subcommittee and dismiss the complaint.

Y. Notification of Action Taken

1. If a complaint is dismissed under *section 23.4 (b)*, the Ethics Chairperson must notify the complainant and the investigated person in writing of the action taken:
 - a) and must give reasons;
 - b) and notify the complainant in writing the right to apply to the Complaint Review Committee under *section 25.1*.
2. If the Ethics Chairperson refers the complaint to a hearing, the Ethics Chairperson shall notify the complainant and the investigated person in writing that the complaint has been referred to a hearing.
3. If the Ethics Chairperson refers the complaint to hearing, in addition to the notice provided in *subsection 24.2*, the Ethics Chairperson shall also provide the investigated person and the AATA Complaints Director with:
 - a) a summary of the findings of the Investigative Subcommittee;

- b) any evidence received by the Investigative Subcommittee;
 - c) the report prepared by the Investigative Subcommittee; and
 - d) any submissions, statements, or correspondence received by the Investigative Subcommittee during the investigation.
4. Service of this section shall be by personal service, courier, fax, or registered mail.

Z. Review of Dismissal of Complaint

1. A complainant may apply, in writing with reasons, to the Ethics Chairperson for a review of the dismissal of a complaint within thirty (30) days after being notified of the dismissal under *section 10.2* or *24.1*.
2. On receipt of an application under *subsection 25.1*, the Ethics Chairperson must notify the investigated person and give a copy of the application to the Complaint Review Committee along with a copy of the report made under *section 23.1*.
3. Within sixty (60) days after receipt of the application and report under *subsection 25.2*, the Complaint Review Committee must commence a review of the report and the decision to dismiss the complaint.
4. The Complaint Review Committee may determine whether the submissions to it with respect to a review under *subsection 25.3* by the complainant and the investigated person must be written, oral, or both.
5. The Complaint Review Committee, on complying with *subsection 25.3*, must:
 - a) refer the matter to a Judicial Subcommittee for a hearing;
 - b) direct the Ethics Chairperson to conduct or appoint an Investigative Subcommittee to conduct a further investigation and to prepare a report on the further investigation and submit it to the Complaint Review Committee for its consideration before action under clause *25.5 (a)* or *(c)*, and
 - c) confirm that the complaint is trivial or vexatious, or there is insufficient or no evidence of unprofessional.

6. The Complaint Review Committee must give the complainant and the investigated person written notification, with reasons of any action taken under *subsection 25.5*.

AA. Early Admission

1. At any time after a complaint has been made but before a Judicial Subcommittee has made a decision as to whether unprofessional conduct has occurred, an investigated person may submit a written admission to the Ethics Chairperson. A guilty plea in a criminal court can be considered a form of early admission. In this case, the plea would have to be considered by the Judicial Subcommittee as is set out in *section 26.3*.
2. The admission must be in writing, must be signed and dated by the investigated person, and must be served by personal service, courier, fax, or registered mail to the Ethics Chairperson.
3. An admission under *subsection 26.1* may not be acted on unless it is accepted in whole or in part by a Judicial Subcommittee:
 - a) if an admission is received by the Ethics Chairperson, after a Judicial Subcommittee has been selected to hear the complaint, the Ethics Chairperson shall deliver the admission to the Chair of the Judicial Subcommittee selected, the Judicial Subcommittee will then review and determine whether the admission is accepted in whole or in part; or
 - b) if an admission is received by the Ethics Chairperson prior to the selection of a Judicial Subcommittee, then the Ethics Chairperson will appoint a Judicial Subcommittee to review the admission and determine whether the admission is accepted in whole or in part.
4. If an admission under *subsection 26.1* is accepted in whole or in part by a Judicial Subcommittee, any investigation of the complaint and any alternative complaint resolution process with respect to the complaint are suspended, and the Judicial Subcommittee shall hold a hearing to decide:
 - a) whether the admission amounts to unprofessional conduct; and
 - b) whether any orders are to be made under *section 32.1*.
5. Despite *subsection 26.4*, if an admission under *subsection 26.1* does not relate to all matters complained of or investigated, the remaining matters may be submitted to the Ethics Chairperson to be treated as information under *section 11.1*.
6. If a hearing is to take place under *subsection 26.4*, the Chair of the Judicial Subcommittee must:
 - a) notify the investigated person in writing of the date, time, and location of the hearing;
 - b) provide the investigated person with an address or fax number where service can be affected on the Chair of the Judicial Subcommittee; and

- c) notify the investigated person in writing of their right to submit a further written statement prior to the hearing date.
7. The date selected for the hearing under *subsection 26.4* is within the complete discretion of the Judicial Subcommittee, but shall allow for a reasonable period of time for the investigated person to prepare and submit a written statement prior to the hearing date.
8. The investigated person's written statement, written admission, and any oral submissions made by the investigated person at the hearing will be used by the Judicial Subcommittee in deciding whether:
 - a) there has been unprofessional conduct, and
 - b) whether any orders are to be made under *section 32.1*.
9. The investigated person's written statement must be received by the Chair of the Judicial Subcommittee at least seven (7) days prior to the hearing date; if the written statement is not received at least seven (7) days prior to the hearing date it will not be used at the hearing.
10. The written statement may be served on the Chair of the Judicial Subcommittee by personal service, fax, courier, or registered mail.
11. The investigated person is entitled to attend at the hearing either in person or by telephone and make oral submissions to the Judicial Subcommittee.
12. The investigated person is entitled, at their own expense, to use legal counsel or an agent to assist them during the hearing.
13. At the conclusion of the hearing under *subsection 26.4*, the Judicial Subcommittee shall prepare a written decision setting forth:
 1. whether or not there has been a finding of unprofessional conduct; and
 2. if there has been a finding of unprofessional conduct
a summary of the findings, a summary of the evidence supporting the decision; and any order(s) that have been made under *section 32.1*.
14. After the decision has been prepared under *subsection 26.13* the Judicial Subcommittee will serve a copy of the decision on the investigated person, the complainant, the Ethics Chairperson and the Board of Directors.
15. Service under *subsection 26.14* shall be by personal service, courier, fax, or registered mail.

DIVISION 4: HEARINGS**BB. Notice**

- a) Within ninety (90) days after serving the notice of a hearing under *section 24.2*, the Ethics Chairperson must set a date for a hearing with respect to the complaint unless:
 - a) the Ethics Chairperson dismisses the complaint under *section 23.5*; or
 - b) the Ethics Chairperson and the investigated person agree to an extension.
- b) The Ethics Chairperson must:
 1. at least sixty (60) days before the hearing date select a Judicial Subcommittee and a Chair of the Judicial Subcommittee to preside at the hearing;
 2. at least sixty (60) days before the hearing date provide the Chair of the Judicial Subcommittee with a copy of the documents listed in *section 24.3*; and
 3. at least forty five (45) days before the hearing, serve the investigated person with a notice to attend.

The notice to attend shall be served on the investigated person by personal service, courier, fax, or registered mail.

CC. Type of Hearing

- a) The Judicial Subcommittee selected to preside over the hearing shall having regard to:
 - a) the seriousness of the allegations made;
 - b) the possible order(s) which the investigated person might reasonably be expected to receive;
 - c) whether conducting the formal hearing in a certain manner will unreasonably increase costs and delays; and
 - d) any other matter or circumstance that they feel ought reasonably to be considered;and decide the manner in which the hearing will be conducted.
- b) Without limiting the generality of *subsection 28.1*, a hearing may be conducted in any of the following manners:
 - a) in person;

- b) by telephone conference call;
 - c) by written communications and submissions; and
 - d) by any combination of *subsection 28.2 (a), (b), or (c)* above.
- c) All hearings in person will be public unless the Judicial Subcommittee selected to hear the matter specifies otherwise. If a hearing or part of the hearing is held in private, the Judicial Subcommittee must state the reason why and must include the reason in the record.
- d) Even if a hearing in person is held in private:
- a) the investigated person and the investigated person's counsel may attend;
 - b) the complainant may attend unless the Judicial Subcommittee directs otherwise; and
 - c) the Ethics Chairperson, AATA Complaints director, or counsel for the Association and the Judicial Subcommittee may attend.
- e) Even if a hearing in person is open to the public, a witness, except for the investigated person, may be excluded from the hearing until the witness has given evidence and has been released or dismissed from the hearing.
- f) After the Judicial Subcommittee has decided the manner in which the hearing will be conducted, the Chair will notify in writing, the Ethics Chairperson of the choice of hearing.
- g) After receiving written notification under *subsection 28.6*, the Ethics Chairperson shall serve the investigated person with a notice to attend, the notice to attend shall include:
- 1. the date, time, and place of the hearing;
 - 2. the type of hearing selected;
 - 3. particulars of the hearing;
 - 4. the name of the Chair of the Judicial Subcommittee selected; and
 - 5. an address or fax number that can be used to serve the Judicial Subcommittee .
- h) The investigated person shall be entitled to be represented by counsel or an agent at the hearing.

- i) The Association shall be represented by the Ethics Complaint Director or counsel for the Association shall be entitled to use counsel at the hearing.
- j) If, the Judicial Subcommittee is also advised by counsel at the hearing, the Judicial Subcommittee's counsel shall not be the same counsel used by the Association to lead or present evidence on behalf of the Association at the hearing.
- k) Evidence may be given before the Judicial Subcommittee in any manner that it considers appropriate, and it is not bound by the rules of law respecting evidence applicable to judicial hearings.
- l) The Chair of the Judicial Subcommittee presiding over a hearing shall keep a written record of the hearing.
- m) All hearings, regardless of their form or manner, shall be conducted in accordance with the "doctrine of fairness".

DD. Decisions in Absence

1. In the event that the investigated person does not respond to or appear at a hearing and there is proof of service of the notice to attend, the Judicial Subcommittee may proceed with the hearing in the absence of the investigated person and may act or decide on the matter being heard in the absence of the investigated person.

EE. Evidence at Hearing

1. The investigated person and the Ethics Complaints Director, or their counsel or agent, shall have the right to submit further written argument or documentary evidence for use at a hearing under *section 28.1*.
2. Any written argument or documentary evidence that is to be used at a hearing under *section 28.1* must be served at least fourteen (14) days before the hearing.
3. Written argument or documentary evidence submitted by the investigated person shall be served on both the Chair of the Judicial Subcommittee and the Ethics Complaints Director; written argument or documentary evidence submitted by Ethics Complaints Director shall be served on both the Chair of the Judicial Subcommittee and the investigated person.
4. Service under *subsections 30.3* shall be by personal service, courier, fax, or registered mail.
5. Written argument or documentary evidence that has not been served at least fourteen (14) days before the hearing shall not be used at the hearing.

6. The documents provided under *section 24.3* and *27.2 (b)* and any additional written argument or documentary evidence that is submitted under this section shall be used by the Judicial Subcommittee at the hearing in making its decision(s).
7. If the type of hearing selected by the Judicial Subcommittee is either a hearing in person or a hearing by telephone conference, the investigated person and the Ethics Complaints Director, may in addition to written argument and documentary evidence submitted, make oral submissions at the hearing and any such submission shall be used by the Judicial Subcommittee in making its decision(s).

FF. Decisions and Records

1. The Judicial Subcommittee selected may decide that the conduct of an investigated person does or does not constitute unprofessional conduct.
2. If the Judicial Subcommittee decides that the conduct of an investigated person constitutes unprofessional conduct, the Judicial Subcommittee may request the Ethics Chairperson to provide it with a copy of any previous decision(s) of unprofessional conduct, with respect to the investigated person. The Judicial Subcommittee may take into consideration previous violations in determining any orders made under *section 32.1*.

GG. Orders

- a) If the Judicial Subcommittee decides that the conduct of an investigated person constitutes unprofessional conduct, the Judicial Subcommittee may make one or more of the following orders:
 - i. Caution the investigated person.
 - ii. Reprimand the investigated person.
 - iii. Impose conditions on the investigative person's practice, including conditions that the investigated person:
 - a. practice under supervision;
 - b. practice with one or more Certified Members;
 - c. not practice until the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order; and
 - d. report on specific matters to the Ethics Chairperson, Judicial Subcommittee or an individual specified in the order.

- iv. Direct the investigated person to satisfy the Ethics Chairperson, Judicial Subcommittee or an individual specified in the order that the investigated person is not incapacitated and suspend the investigated persons Association Membership until the Ethics Chairperson, Judicial Subcommittee or the individual specified is so satisfied.
- v. Require the investigated person to take counseling or a treatment program that in its opinion is appropriate.
- vi. Direct that within the time set by the order the investigated person must pass a specific course of study, obtain supervised practical experience of a type described in the order or satisfy the Ethics Chairperson, Judicial Subcommittee or individual specified in the order as to the investigated person's competence in the profession of athletic therapy.
- vii. Suspend the Association Membership of the investigated person for a stated period or until:
 - i. the investigated person has successfully completed a specific course or obtained supervised practical experience of a type described in the order; and
 - ii. the Ethics Chairperson, Judicial Subcommittee or individual specified in the order is satisfied as to the competence of the investigated person in the profession of athletic therapy.
- viii. Cancel the Association Membership of investigated person.
- ix. If, in the opinion of the Judicial Subcommittee, the investigated person's fees for professional services were improper or inappropriate or the professional services were improperly rendered or required the complainant to undergo remedial treatment, the Judicial Subcommittee may direct the investigated person to waive, reduce or repay a fee for professional services provided by the investigated person.
- x. Direct, subject to any section of this document or the *Alberta Athletic Therapists Association Policy and Procedure Manual*, that the investigated person pay within the time set in the order all or part of the expense of, cost of, and fees related to the investigation or hearing or both, including but not restricted to:
 - 1. legal expenses and legal fees for legal services provided to the Association, Ethics Chairperson or Judicial Subcommittee;

2. the cost of creating a record of the proceeding and serving notices and documents; and
 3. any other expenses of the Association directly attributable to the investigation or hearing or both.
 - xi. Direct that the investigated person pay to the Association within a time set in the order a fine not exceeding \$10,000.00.
 - xii. Any order that the Judicial Subcommittee considers appropriate for the protection of the public.
- b) A fine or expense ordered to be paid under *section 32.1* or *section 41.2* are a debt due to the Association and may be recovered by the Association by an action in debt.

HH. Stay and Enforcement of Orders

- a) The Board of Directors may, in any order made under *section 32.1* stay the order or a portion of the order.
- b) If the Board of Directors decides to stay an order or a portion of an order under *section 32.1*, the Board of Directors shall within ten (10) days of the written decision, provide the investigated person and the Ethics Chairperson with written notification of the conditions of the stay.
- c) If the Board of Directors is satisfied that a person has not complied with an order under *section 32.1* or *section 41.1*, the Board of Directors may:
 1. suspend the Association Membership of the investigated person until the order is complied with; or
 2. in the case of a non-payment of a fine described in *section 32.1 (k)* or expenses described in *section 32.1 (j)* or *section 41.2*, suspend the Association Membership of the investigated person until the fine or expenses are paid in full, or the Ethics Chairperson is satisfied that they are being paid in accordance with the agreement entered into with the investigated person.

II. Written Decisions

- a) The Judicial Subcommittee must, within a reasonable period of time after the conclusion of a hearing before it, make a written decision on the matter in which it:
 - a) describes each finding made by it;
 - b) states the reason for each finding made by it; and

- c) states any order made under *section 32.1*.
- b) The Judicial Subcommittee must forward to the Ethics Chairperson and the Board of Directors:
 - i. the written decision described in *subsection 34.1*; and
 - ii. the records of the hearing, consisting of all evidence presented before it, including:
 - o any record of testimony;
 - o the written record made by the Chair of the Judicial Subcommittee;
 - o the Investigative Subcommittee report; and
 - o any written argument or documentary evidence present before it.
- c) The Ethics Chairperson must, on receiving the decision and the records described in *subsection 34.2*, serve a copy of the decision on the:
 - 1. complainant and the investigated person; and
 - 2. notify the investigated person of the right to appeal the decision of the Judicial Subcommittee.
- d) Service of the decision on the investigated person shall be by personal service, courier, fax or registered mail.

JJ. Examination of Record

- a) The investigated person may examine the records of the hearing and, on paying the reasonable cost of copying and delivering the records, receive a copy of it.

DIVISION 5: APPEALS

KK. Staying an Appeal

- 1. A decision of a Judicial Subcommittee remains in effect pending appeal to an Appeal Subcommittee unless the Board of Directors, on written application, stays the decision pending the appeal.
- 2. The investigated person may make a written submission to the Board of Directors with respect to an application under *subsection 36.1*.

LL. Commencing an Appeal

1. An investigated person or the Ethics Complaints Director may commence an appeal to an Appeals Subcommittee of a decision by a written notice of appeal that:
 - a) identifies the appealed decision; and
 - b) states the reason for the appeal.
2. A notice of appeal must be given to the Ethics Chairperson within thirty (30) days after the date on which the decision of the Judicial Subcommittee was served on the investigated person.
3. The Ethics Chairperson must, upon being given a notice of appeal:
 - a) select an Appeal Subcommittee;
 - b) give a copy of the notice of appeal to the Appeal Subcommittee;
 - c) make a copy of the decision and records of the hearing available to each Member of the Appeal Subcommittee;
 - d) select a date, time, and place that the Appeals Subcommittee will hear the appeal;
 - e) ensure that the investigated person, the complainant, and the Ethics Complaints Director receive notice of the hearing of the appeal, and the notice shall include the date, time, and place which the Appeals Subcommittee will hear the appeal and a copy of the records of the hearing; and
 - f) service under *subsection 37.3 (e)* shall be, by personal service, courier, fax, or registered mail.
4. The Chair of the Appeal Subcommittee, at least twenty (20) days before the appeal hearing, must provide the investigated person, the complainant, and the Ethics Complaints Director in writing, with notice of the manner in which the appeal hearing will be conducted. All appeal hearings shall either be conducted in person or by telephone conference.

MM. Scheduling an Appeal

- a) The Ethics Chairperson must:
 1. if conditions have been imposed on the practice of the investigated person under *section 32.1 (c)(i), (ii), (iii)* or *(iv)*, or if the Membership or practice of the investigated person has been suspended or cancelled under *section 32.1 (g)* or *(h)*, schedule the appeal within forty five (45) days after the date of service of the notice of appeal; and

2. in all other cases, schedule the appeal within ninety (90) days after the date of service of the notice of appeal.
- b) The Ethics Chairperson may, on written request of the investigated person or the Chair of the Appeals Subcommittee, extend the periods referred to in *subsection 38.1* for one or more additional periods, but:
1. in a case to which *subsection 38.1(a)* applies, no extension may be granted without the consent of the investigated person; and
 2. in a case to which *subsection 38.1(b)* applies, no extension may be granted without the consent of the investigated person and the Chair of the Appeals Subcommittee.

NN. Process and Evidence on Appeal

1. The investigated person and the Ethics Complaints Director, or their counsel or agent, shall have the right to submit a brief written argument for use at an appeal hearing.
2. Any brief written argument that is to be used at an appeal hearing must be served at least fourteen (14) days before the hearing.
3. A written argument submitted by the investigated person shall be served on both the Chair of the Appeal Subcommittee and the Ethics Complaints Director. A written argument submitted by the Ethics Complaints Director shall be served on both the Chair of the Appeal Subcommittee and the investigated person.
4. Service of a written argument under *subsection 39.3* shall be by personal service, courier, fax, or registered mail.
5. A written argument that has not been served at least fourteen (14) days before the appeal shall not be used at the appeal hearing.
6. The decision, the records of the hearing, and any written argument submitted under this section shall be used by the Appeal Subcommittee at the appeal hearing in making its decision(s).
7. All appeal hearings must be conducted in person or by telephone conference, and the investigated person and the Ethics Complaints Director, or their counsel or agent may, in addition to written argument submitted, make oral submissions at the hearing and any such submissions shall be used by the Judicial Subcommittee in making its decision(s).
8. The Chair of the Appeal Subcommittee shall make a written record of the appeal hearing.

OO. Powers on Appeal

- a) Subject to *subsection 40.2 (b)*, an appeal to the Appeal Subcommittee must be based on the records of the hearing and the decision of the Judicial Subcommittee.
- b) The Appeal Subcommittee on an appeal may:
 1. grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting, but no adjournment may be granted without the consent of the investigated person if that person's practice or Association Membership is suspended or cancelled;
 2. on hearing an application for leave to introduce new evidence, direct the Judicial Subcommittee that held the hearing to hear the new evidence and to reconsider its decision and quash, confirm or vary the decision; and
 3. draw inferences of fact and make a determination or finding that, in its opinion, should have been made by the Judicial Subcommittee.

PP. Orders on Appeal

- a) The Appeal Subcommittee must, within thirty (30) days from the date of the conclusion of the appeal hearing before it, make a decision and, by order, do one or more of the following:
 - a) make any finding that, in its opinion, should have been made by the Judicial Subcommittee.
 - b) quash, confirm, or vary any finding or order of the hearing tribunal or substitute or make a finding or order of its own.
 - c) refer the matter back to the Judicial Subcommittee to receive additional evidence for further consideration.
 - d) refer the matter back to the Ethics Chairperson to schedule it for rehearing before another Judicial Subcommittee composed of persons who were not Members of the Judicial Subcommittee that heard the matter.
- b) Subject to anything contained in this document or the *Alberta Athletic Therapists Association Policy and Procedure Manual*, the Appeal Subcommittee may direct the investigated person to pay, within the time set by the Appeal Subcommittee, in addition to expenses, costs, and fees referred to in *section 32.1(j)*, all or part of the expenses of, costs of, and fees related to the appeal including:
 1. legal expenses and legal fees provided to the Association and the Ethics Chairperson;

2. the cost of creating a record of the proceedings and serving notices and documents;
and
 3. any other expenses of the Association directly attributable to the appeal.
- c) A fine or expense ordered or directed to be paid under this section are a debt due to the Association and may be recovered by the Association by an action in debt.
- d) Subject to *section 43.1*, a decision or order of the Appeal Subcommittee is final.

QQ. Written Decision on Appeal

- a) The Appeal Subcommittee must, within thirty (30) days from the date of the conclusion of an appeal hearing before it, make a written decision on the matter in which it:
- a) describes each finding made by it;
 - b) states the reason for each finding made by it; and
 - c) states any order made under *section 41.1*.
- b) The Appeal Subcommittee must forward to the Ethics Chairperson and the Board of Directors,
1. the written decision described in *subsection 42.1*; and
 2. the records of the appeal hearing, consisting of all evidence presented before it, including any record of testimony, the written record made by the Chair of the Appeal Subcommittee, and any written argument present before it.
- c) The Ethics Chairperson must, on receiving the decision described in *subsection 42.2*, serve a copy of the decision on the complainant, the investigated person, and the Ethics Complaints Director.
- d) Service under *subsection 42.3* shall be by personal service, courier, fax, or registered mail.

RR. Application to Vary Appeal Order

1. If the time for filing an appeal under this Part has passed or due to a change in circumstances an order under this Part is impossible to carry out, the person to whom the order is directed or the Ethics Chairperson may apply to the Board of Directors for a variation of the order.

PART III: OTHER MATTERS

SS. Enforcement of Orders

1. Subject to provisions of this document and the *Alberta Athletic Therapists Association Policy and Procedure*, any order granted or issued under this document is effective from the date that notice of the decision or order is served on the person to whom the order is directed.
2. Subject to provisions of this document and the *Alberta Athletic Therapists Association Policy and Procedure*, enforcement of all orders granted under this document shall be the responsibility of the Board of Directors.

TT. Public Disclosure of Disciplinary Action

1. After a person's time for filing an appeal has expired and an order has been issued and served on the person to whom the order is directed, the Ethics Chairperson shall within a reasonable period of time, publish in the Association's newsletter the person's name, a summary of the findings and the final order(s) imposed.
2. The Ethics Chairperson will notify the CATA National Office by written report as to any suspensions of Members.
3. The Ethics Chairperson in association with the CATA National Office will notify the person's insurance company as to any suspensions from the Association.
4. Depending on the nature of the unprofessional conduct, the Ethics Chairperson will send a written report of the unprofessional conduct to any other professional organization that the person is responsible to.
5. Depending on the nature of the complaint, certain complaints will be reported by the Ethics Chairperson to law enforcement agencies. This may be done anywhere in the complaint or investigation process if the complaint is criminal in nature.

Amendments to the Professional Code of Conduct

- Changes to the AATA *Code of Ethics* will be approved by majority vote of the Board of Directors upon the recommendation of the Association's Ethics Committee.
- Changes will be presented to the general Membership via the Association Newsletter/Website and in the Ethics Committee annual report to the Annual General Meeting.