

A Call for Comment: Members of CAMFT are Invited to Comment on the Proposed Revisions to Part II of the CAMFT Code of Ethics

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The *CAMFT Code of Ethics* is comprised of two parts: Part I describes and defines each of the ethical standards which every member of CAMFT agrees to abide by as a condition of his or her membership in CAMFT. Part II of the *Code of Ethics* provides a detailed description of the Procedures that must be followed when a complaint is filed with CAMFT, which alleges that a member of CAMFT has violated the *Code of Ethics*.

The following proposed revisions to Part II of the *Code of Ethics* are the product of over two years of work by the CAMFT Ethics Committee, with the input and collaboration of CAMFT Executive Director Mary Riemersma, CAMFT legal staff Michael Griffin, Richard Leslie, Of Counsel to CAMFT, and other consultants. The process of revising the *Code of Ethics* is a substantial task, to say the least. It is also one of the Ethics Committees' fundamental areas of responsibility. CAMFT Bylaws specifically authorize the Ethics Committee to maintain and review the *Code of Ethics*, interpret the *Code of Ethics* to the membership and the public, and from time to time propose revisions, deletions, and additions to the *Code of Ethics* to the Board of Directors for its approval.^{1 2}

What Are the Reasons for Recommending Changes to Part II?

Even the most carefully conceived and well-written ethical standards are imperfect. The Ethics Committee is likely to suggest a change to the *Code of Ethics*, based upon their experience investigating and applying the *Code of Ethics* to many cases, involving a broad range of ethical concerns. As a general rule, the Ethics Committee considers and/or recommends changes to the *Code of Ethics* when it appears that a particular standard or procedure has become outdated, unenforceable, or problematic.^{3 4 5}

Although there were a number of reasons for proposing changes to the Procedures stated in Part II of the *Code of Ethics*, a full discussion of each revision is beyond the scope of this article.

It may be helpful, however, to consider the general rationale for the proposed revisions, as described below.

In general, the proposed revisions to Part II of the *CAMFT Code of Ethics* are intended:

1. To clarify the Procedures that are to be followed when an ethics complaint is received at CAMFT, including the initial actions taken by the CAMFT Executive Director, CAMFT legal staff, and by the Ethics Committee Chair.
2. To clarify the roles of the Committee and the Committee Chair.
3. To clarify Procedures concerning the authority and function of the Committee Chair, including his or her collaboration with CAMFT legal staff.
4. To eliminate inefficient, unnecessary, and/or unclear Procedures and to ensure that terminology is used in a consistent manner throughout the Procedures.

5. To ensure that the Procedures are consistent with California law, including, but not limited to, Sections 805 and 809 of the Business and Professions Code, and with the *CAMFT Bylaws*.
6. To ensure that the Procedures concerning hearings that may be held before the Board of Directors are consistent with the Peer Review Fair Hearing Procedures, commencing with Section 809 of the Business and Professions Code.

Members are invited to offer their input

The membership of CAMFT is typically asked to provide input and recommendations regarding proposed revisions to the *Code of Ethics*. As an example, in the November/ December 2007 issue of *The Therapist*, CAMFT members were asked to provide input on the proposed revisions to Part I of the Code of Ethics. After receiving and considering such input, the Board of Directors adopted the final (current) version of Part I of the Code of Ethics, which went into effect in September 2009.

Each of the proposed additions appear in **bold**, and proposed deletions appear with a strike line through the word, i.e., ~~example~~. The numbering is subject to change as modifications are approved or not. Other modifications are clearly identified.

CAMFT members are urged provide any input, and/or commentary regarding the existing standards and any of the proposed revisions by January 8, 2011. Mail and fax submissions can be sent to: CAMFT, c/o Michael Griffin, Staff Attorney, 7901 Raytheon Road, San Diego, CA, 92111. Fax: (858) 292-2638. Members can also for commentary to Mary Riemersma, Executive Director at maryr@camft.org.

Michael Griffin, LCSW, JD, is a Staff Attorney at CAMFT. He is available to answer members questions regarding business, legal, and ethical issues.

References

¹*Bylaws of the California Association of Marriage and Family Therapists*

²The composition of the Ethics Committee is defined in Article VII, Section B3 of the *CAMFT Bylaws, Id*: The Committee shall consist of not less than five, nor more than seven members, all of whom must be clinical members of CAMFT for at least two years prior to appointment. The term of office is two years, with a maximum of four terms. Committee members may not be members of the Board of directors.

³The *CAMFT Code of Ethics* was previously revised on 9/09, 7/08, 5/02, 4/97, 4/92, 10/87, 9/78, and 3/66.

⁴The Board of Directors and individual members of CAMFT may also propose changes to the *Code of Ethics*.

⁵Leslie, Richard, J.D., Of Counsel, "On Ethics: Ethical Standards," *The Therapist*, (May/June, 1993); Griffin, Michael, J.D., "An Overview of the Revised CAMFT Ethical Standards," *The Therapist*, (Sept. /Oct., 2008).

Proposed Revision to Part II of the CAMFT Code of Ethics

CAMFT CODE OF ETHICS

PART I THE STANDARDS

~~PART II THE PROCEDURES FOR HANDLING COMPLAINTS OF VIOLATIONS OF THE~~

~~ETHICAL STANDARDS FOR MARRIAGE AND FAMILY THERAPISTS~~

Changes Made Through 7/31/10

PREAMBLE When accepting membership in the Association, each member ~~agrees binds~~ ~~himself/herself~~ to abide by the *CAMFT Code of Ethics*. It is the ethical responsibility of each member to safeguard the standards of ethical practice and to see that violations of the *CAMFT Code of Ethics* are addressed. Members of the Association cooperate with duly constituted bodies of the California Association of Marriage and Family Therapists, and in particular, with the Ethics Committee, by responding to inquiries promptly, **truthfully**, and completely. *The following index is here for website use only and is not a part of the Procedures*

- I. ~~Basics and~~ Scope of Authority of the Ethics Committee
- II. Membership and Meetings of the Committee
- III. Initiation of Complaints
- IV. Initial Action by Executive Director
- V. Preliminary Determination by Chair of Ethics Committee with the Advice of Legal Counsel
- VI. Investigation by Ethics Committee or Designees
- VII. Action by the ~~Full~~ Ethics Committee
- VIII. Procedures for Hearings Before the Board of Directors
- IX. Records and Disclosures of Information

I. ~~Basics and~~ Scope of Authority of the Ethics Committee

A. The Bylaws of the Association (Article IV, Section A) provide for three categories of membership: ~~as follows:~~

- 1. clinical member ~~voting~~
- 2. prelicensed member ~~voting for one director only~~
- 3. associate member ~~non-voting~~

B. The Association has authority only over these members. This authority is derived from Article IV, Section C of the Bylaws. ~~of the Association which requires that:~~

Except as otherwise provided in these Bylaws, membership in any category shall be upon a majority vote of the Board of Directors. The Board of Directors may refer an application for membership to the Ethics Committee when it has reasonable cause to believe that the applicant may have violated the *CAMFT Code of Ethics*. The Ethics Committee, after investigating the referral, shall make its recommendation to the Board of Directors.

All members shall pay dues in accordance with the dues schedule of the Association and shall abide by the Bylaws and the *CAMFT Code of Ethics* of the Association.

Note: All references to “member” shall include applicants for membership. The Executive Director shall report denials of membership to licensing board(s), pursuant to Section 805 (c) of the Business and Professions Code.

~~All members shall pay dues in accordance with the dues schedule of the Association and shall abide by the Bylaws and the ethical standards of the Association.~~

C. **Article VII, Section B.3.** of the Bylaws of the Association set forth authorize the various functions of the Ethics Committee. ~~to:~~

The Ethics Committee maintains and reviews the *CAMFT Code of Ethics*, interprets the *Code of Ethics* to the membership and the public, conducts investigations of alleged ethics violations, makes recommendations to the Board of Directors regarding members alleged to have violated the *Code of Ethics*, makes recommendations to the Board of Directors regarding acceptance or rejection of prospective members who may have violated the *CAMFT Code of Ethics*, and from time to time proposes revisions, deletions, and additions to the *Code of Ethics* to the Board of Directors for its approval.

~~Maintain and review the ethical standards of the Association, interpret the ethical standards to the membership and the public, conduct investigations of alleged ethics violations, make recommendations to the Board of Directors regarding members alleged to have violated the ethical standards, and from time to time propose revisions, deletions and additions to the ethical standards and procedures to the Board of Directors for its approval. (Article VII, Section B3.)~~

D. The Bylaws of the Association, in Article IV, Section E3 set forth provisions for the expulsion or suspension of members. ~~also provide that:~~

Expulsion or suspension – any member who violates the *CAMFT Code of Ethics* may be expelled or suspended from membership in the Association following an investigation and report by the Ethics Committee and a hearing before the Board of Directors. A two-thirds (2/3) majority vote of those Directors present at the hearing shall be necessary in order to expel or suspend a member. The member accused of the violation shall be given a reasonable opportunity to defend against the charge and shall be entitled to be represented at all stages of the proceedings. Any member to be expelled or suspended shall be entitled to at least fifteen (15) days prior notice of the expulsion or suspension and the reasons therefore, and shall be entitled to be heard, orally or in writing, not less than five (5) days before the effective date of expulsion or suspension by the Board of Directors. Notice may be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first-class, registered, or certified mail sent to the last address of the member as shown on the Association’s records. The *CAMFT Code of Ethics* shall spell out further details

of the procedures for investigation and hearing of alleged violations not inconsistent with these Bylaw provisions.

~~Anyone in any class of membership who violates the ethical standards of the Association may be expelled or suspended from membership in the Association following an investigation and report by the Ethics Committee and a hearing before the Board of Directors. A two thirds (2/3) majority of those Directors present at the hearing shall be necessary in order to expel or suspend a member. The member accused of the violation shall be given a reasonable opportunity to defend against the charge and shall be entitled to be represented at all stages of the proceedings. Any member to be expelled or suspended shall be entitled to at least fifteen (15) days prior notice of the expulsion or suspension and the reasons therefore, and shall be entitled to be heard, orally or in writing, not less than five (5) days before the effective date of expulsion or suspension by the Board of Directors. Notice may be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first class or registered mail sent to the last address of the member as shown on the Association's records. The ethical standards of the Association shall spell out further details of the procedures for investigation and hearing of alleged violations that are not inconsistent with these bylaw provisions.~~

~~E. One role The various roles of the Ethics Committee, therefore, is to investigate include conducting investigations of complaints of violations of the Code of CAMFT Code of Ethics; and maintaining, interpreting, reviewing, and proposing revisions, deletions, and additions to the Ethical Standards to the members and CAMFT Board of Directors.~~

II. Membership and Meetings of the Committee

~~A. Pursuant to Article VII, Section B3 of the Bylaws defines the composition and terms of office of the Ethics Committee., the Ethics Committee is designated as a standing committee of CAMFT, and shall consist of not less than five (5) nor more than seven (7) members, all of whom shall be clinical members of the Association for at least two (2) years prior to appointment. The Committee shall not contain any directors on its membership. The term of office shall be two (2) years.~~

The Ethics Committee shall consist of not less than five (5) nor more than seven (7) members, all of whom shall be clinical members of the Association for at least two (2) years prior to appointment. The Committee shall not contain any directors as members. The term of office shall be two (2) years with a maximum of four terms.

~~B. Pursuant to Article VII, Section E of the Bylaws, defines when the Ethics Committee may meet and the required notice for such meetings. committees shall meet at such times as determined either by resolution of the Board of Directors, by resolution of the Committee, or by a Committee chair with the prior approval of the president of the Association.~~

1. Meetings—Committees shall meet at such times as determined either by resolution of the Board of Directors, by resolution of the Committee with the approval of the President, or by a Committee Chair with the prior approval of the President. Meetings of Committees shall be held at the principal office

of the Association or at any other place that is designated from time to time by the Board, the Committee, or the Committee Chair.

2. **Notice**—Meetings of the committees shall be held upon not less than ten (10) days written notice. Notice of a meeting need not be given to any committee member who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such committee member.
3. **Quorum**—A majority of the committee members of each committee shall constitute a quorum of the committee for the transaction of business.
4. **Minutes**—Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board of Directors may adopt rules for the governance of any committee consistent with the provisions of these Bylaws.

~~C. Meetings of the Committee shall be held upon not less than ten (10) days written notice. Notice of a meeting need not be given to any Committee Member who signed a waiver of notice or a written consent to holding the meeting or as approved by the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such committee member.~~

~~D. A majority of the Committee Members of each committee shall constitute a quorum of the committee for the transaction of business.~~

III. Initiation of Complaints

A. The Ethics Committee shall recognize and accept written complaints received from ~~both members of the Association, and non-members, of the Association,~~ **or the Ethics Committee may proceed on its own initiative, as specified in Section III.**

~~F.~~

B. All complaints must be in writing.

C. Complaints must be signed by the complainant and accompanied by the complainant's address **and other contact information.** ~~In addition, the Committee will only act on the basis of a complaint that specifically names the person alleged to have been affected by the member's conduct, and only if the affected person agrees to be identified to the member.~~

~~D. Any member who knows of a violation of the *CAMFT Code of Ethics* should bring this fact to the attention of the Committee in the form of a complaint.~~

D. A member who knows of a violation of the *CAMFT Code of Ethics* is encouraged, if appropriate, to attempt to resolve the issue by bringing it to the attention of the particular therapist(s), bringing this fact to the attention of the Ethics Committee in the form of a complaint, and/or, taking other appropriate action.

E. Anonymous complaints shall not be recognized **or accepted.** ~~as a basis for action.~~

F. Notwithstanding the provisions specified, the Ethics Committee may proceed on its own initiative when it has been presented with **sufficient information** enough facts, which, if proven, would constitute a violation of the *CAMFT Code of Ethics*.

For example, the Committee could proceed on information received from another professional organization, or a state licensing board, or a **peer review** committee. ~~If the Committee decides to proceed on its own initiative, it shall prepare a written statement concerning factual allegations of a violation or violations of the CAMFT Code of Ethics Code.~~

G. The Ethics Committee may, in its discretion, determine that a complaint **should not** ~~cannot~~ be acted upon because the events complained about occurred too far in the past.

H. The Ethics Committee shall proceed with an investigation if directed to do so by the CAMFT Board of Directors.

IV. **Initial Action by Executive Director**

Upon receipt of a complaint, the Executive Director, or his/her designee (hereafter "Executive Director"), shall determine whether the person **who is the subject of the complaint** ~~about whom the complaint has been made~~ is a member or applicant for membership in the Association.

A. If the person is not a member or applicant for membership in the Association, the Executive Director shall so inform the complainant in writing and shall explain that the Association has no authority to proceed against the person.

~~B. If the person is an applicant for membership in the Association, the complaint shall be immediately referred to the Chair of the Membership Committee.~~ If the person is a member of the Association **or applicant for membership in the Association**, the Executive Director shall forward a copy of the complaint to the Chair of the Ethics Committee. A letter shall be sent **by the Executive Director** to the complainant acknowledging receipt of the complaint and informing the complainant that the person complained against is a member. A copy of the CAMFT *Code of Ethics (Part I)* ~~shall will~~ be included with the letter.

V. **Preliminary Determination by Chair of Ethics Committee with the Advice of Legal Counsel**

A. The Chair of the Ethics Committee, **or his/her designee (hereafter "Chair")**, with the advice of Legal Counsel for the Association, shall review the complaint and ~~shall~~ determine whether **it states allegations which, if proven, would constitute one or more violations of the CAMFT Code of Ethics.** ~~the complaint warrants further action by the Committee or whether the matter shall be closed without further action.~~ In the event **that** the Chair determines that the complaint ~~should~~ **shall** be closed without further action, the complainant shall be notified of such decision and the reason for such decision. **When the Chair determines that the complaint should not be closed, the complaint shall be referred to the Ethics Committee.** ~~To aid in making such a determination, the Chair of the Ethics Committee may request a written response to the letter of complaint from the member.~~ **To aid in making such determinations, the Chair, with the advice of Legal Counsel for the Association, may request, in writing, clarification from the complainant.**

B. **When a complaint has been referred to** ~~If the Chair of the Ethics Committee, requests a written response from the member to aid in making the determination referred to in paragraph (A) above, or if the Chair determines that the complaint warrants further action by the Committee,~~ the Chair shall request the complainant's permission **to disclose his/her name and/or to use any evidence provided by the complainant, for the purpose of the investigation.** ~~for the use of his/her name in the~~

- ~~investigation and disclosure of his/ her name and all written or other matter or evidence provided by the complainant. The Chair shall also request that the complainant agree, in writing, to waive his/her rights of confidentiality and/ or psychotherapist/patient privilege in order to permit the Ethics Committee to obtain information related to the investigation from the member and/or others. available to him/her so that the Ethics Committee may obtain information from the member and others.~~
- C. If the complainant refuses permission for the use of his/ her name in the investigation or refuses permission for the disclosure of his/her name or any of the written or other matter or evidence provided by the complainant, or if the complainant refuses to sign a waiver of confidentiality and/or psychotherapist/patient privilege, then the Chair, ~~of the Ethics Committee~~ with the advice of Legal Counsel, may ~~do any of the following: close the matter and notify the complainant in writing or return refer the matter to the full Ethics Committee for its their action.~~
- ~~1. decide whether the Committee may proceed with the complaint with an investigation on the Committee's own initiative pursuant to III (F).~~
- D. All correspondence to the complainant and to the member shall be marked "Confidential" or "Personal and Confidential."
- E. **All actions of the Chair shall be reported to the Ethics Committee at its next regularly scheduled meeting.**

VI. Investigation by Ethics Committee

- ~~A. When the Chair of the Ethics Committee has decided that the complaint warrants further investigation, copies of the complaint and any supporting documentation/evidence shall be sent to all members of the Ethics Committee. Any written response from the member shall also be sent to all members of the Ethics Committee.~~
- A. The ~~Chair of the~~ Ethics Committee shall **receive and review complaints and supporting documentation/ evidence to determine whether or not to investigate complaints.** ~~cause an investigation of the complaint to take place. If the Committee determines that the complaint warrants investigation, such~~ investigations may be carried out by the Chair ~~of the Committee~~ in consultation with Legal Counsel ~~or by two or more members of the Ethics Committee in consultation with legal counsel or the Chair, or by the entire Committee.~~ **The Chair, in consultation with Legal Counsel, may act on behalf of the Committee between meetings of the Committee to pursue investigations and shall report such actions to the Committee at its next regularly scheduled meeting.**
- B. The Chair, ~~of the Ethics Committee~~ in consultation with Legal Counsel, shall prepare and send a letter to the ~~accused member, prior to commencing the investigation,~~ specifying those sections of the *CAMFT Code of Ethics*, ~~which that~~ may have been violated by the member. The letter shall **inform the member of the ethical duty to contain a request that the member cooperate with the Ethics Committee in its their effort to investigate obtain a full picture of the circumstances that which led to the allegations, and to provide on the member's his/her behalf, a written statement in outlining his/her response to the allegations made in the complaint.** ~~allegations or~~

- ~~accusations made by the complainant. The member shall be sent a copy of the CAMFT Code of Ethics with the letter.~~
- ~~C. Investigations may be pursued by corresponding with the member and other persons the parties involved in the dispute, or by interviewing such persons, personally or by telephone, such parties, or by any other lawful means.~~
 - ~~D. During the investigative investigation stage of the proceedings, the accused member shall have the right to consult with his/her attorney and shall have the right to have his/her attorney present at any investigatory meeting with the member.~~
 - ~~E. If an accused member resigns from membership in the Association at any stage of the investigation of the complaint, the Ethics Committee, in its discretion, may continue its investigation. If inability to pay dues is cited as a reason for voluntary resignation by a member under an ethics investigation, the Ethics Committee may suspend dues obligations until the ethics investigation is completed. The Executive Director shall make reports to licensing board(s) of resignations and withdrawal or abandonment of applications, pursuant to Section 805 (c) of the Business and Professions Code.~~
 - ~~G. After the investigation is completed, a full report shall be made to the Ethics Committee detailing the findings.~~
 - ~~H. The Ethics Committee, receiving the report of the investigation, may take such action as is authorized by Section VII of these Procedures.~~
 - ~~I. The accused member and the complainant shall be notified when the case has been submitted to the full Ethics Committee.~~
 - ~~J. The accused member shall be sent a copy of these procedures (Part II of the CAMFT Ethical Standards for Marriage and Family Therapists) upon first being contacted by the Ethics Committee.~~

VII. Action by the Full Ethics Committee

A. After reviewing the complaint, the response of the member, **and any other pertinent information,** ~~and the report of the investigation,~~ the Ethics Committee may attempt to settle the case by mutual agreement with the member. While settlement by mutual agreement is favored, ~~the Ethics Committee is not required to attempt such a settlement.~~ **close the case without a finding of a violation of the CAMFT Code of Ethics, hold the case in abeyance pending other action, continue the investigation, attempt to settle the case by mutual agreement, send a letter with cautions or recommendations, or recommend to the Board of Directors that the individual's membership be terminated, suspended, placed on probation, or that other action be taken.** The Ethics Committee may ~~appropriately~~ impose more stringent requirements upon members previously found to have violated the *CAMFT Code of Ethics*, or any other relevant professional or state code of professional conduct. If additional evidence of unethical conduct is brought to the attention of the Committee after a matter has been closed, the case may be reopened and acted upon under these procedures.

B. If the Ethics Committee decides to attempt to settle the case by mutual agreement:

1. ~~In making such a settlement,~~ The Committee may recommend **that** ~~to the member that he/she agree to the terms of a Settlement by Mutual Agreement. the~~

~~Committee's request. The terms and conditions of the Settlement by Mutual Agreement may include requiring the member to: the member cease and desist from specified actions, accept censure, be placed on probation and/or rehabilitation, be under given supervision or monitored practice, complete education or therapy or both, agree to suspension or resignation termination of membership in the Association, or any other terms and conditions that action which the Committee deems appropriate. The Ethics Committee may appropriately impose more stringent requirements upon members previously found to have violated the CAMFT Code of Ethics, or any other relevant professional or state code of professional conduct.~~

2. The **Settlement by Mutual Agreement** shall be ~~in reduced to writing~~ and shall detail the **specific sections of the CAMFT Code of Ethics that have been violated and the manner in which the agreement is to be implemented.** ~~facts upon which it is based and the manner in which it is to be instituted and/or supervised.~~
 3. **The Committee shall supervise and oversee compliance with the Settlement by Mutual Agreement. The Committee has the final authority over the Settlement by Mutual Agreement and the meaning of the terms of the Settlement by Mutual Agreement. The Committee may alter such terms and conditions when requested by the member or as deemed necessary by the Committee with the written agreement of the member.** ~~The agreement shall be instituted and/or supervised by the Ethics Committee and/or any member of the Association so designated in the agreement.~~
 4. The Agreement shall become **effective and is binding** ~~final~~ as soon as it is **signed** ~~reduced to writing and agreed to by the member and the Chair Ethics Committee~~ or at any other time designated in the Agreement. ~~The Board of Directors shall be notified of the agreement without disclosing the name of the member. The Agreement shall be maintained in the Association's records. filed in the membership file of the member.~~
 5. **The Committee, in its sole discretion, may make a finding that the member has not complied with one or more terms or conditions of the Settlement by Mutual Agreement. In the event of the member's non-compliance with the Settlement by Mutual Agreement, the Committee may proceed in accordance with the provisions of the Settlement by Mutual Agreement that relate to non-compliance, or in accordance with Section D, or in any other manner not inconsistent with Section D.**
 6. **If no Settlement by Mutual Agreement occurs, either because the Committee elects to not offer a settlement, or because a settlement is offered but rejected by the member, the Committee may recommend that action be taken against the member by the Board of Directors as a result of one or more violations of the CAMFT Code of Ethics.**
- C. **When the Ethics Committee recommends that action be taken by the Board of Directors, the Ethics Committee shall give the member written notice as specified below. Notice shall be given by personal delivery or certified mail sent to the last address of the member as shown on the Association's records. The written notice shall include, at a minimum, all of the following information: 1)**

the findings of the Ethics Committee, 2) the final proposed action of the Ethics Committee, 3) whether such action, if adopted by the Board of Directors, would require a report pursuant to Section 805 of the Business and Professions Code, 4) that the member has a right to request a hearing on the final proposed action, and 5) that the time limit within which a hearing must be requested is within thirty (30) days from receipt of notification of the final proposed action, or within forty (40) days from the mailing of notification of the final proposed action, whichever is earlier.

D. If a hearing is not requested within forty (40) days from mailing of notification of the final proposed action, then the Committee's final proposed action shall be deemed adopted, and the Chair shall thereafter forward the final determination to the Executive Director for such further action as may be appropriate.

E. If a hearing is requested on a timely basis, the Ethics Committee shall provide to the member written notice that includes, at a minimum, all of the following information: 1) the reasons for the final proposed action recommended, including the acts or omissions with which the member is charged, and 2) the place, time, and date of the hearing. Notice shall be given by personal delivery or certified mail sent to the last address of the member as shown on the Association's records. The hearing shall be commenced within sixty (60) days after receipt of the request for a hearing.

~~C. If the Ethics Committee does not attempt to settle the case settling by mutual agreement, it will either drop the charges and close the case finding no violation of the Ethical Standards, or make a formal recommendation to the Board of Directors that action should be taken. If the Committee recommends formal action, it shall: (a) recommend action to be taken, including a request to cease and desist, provide censure, probation, supervision, therapy, education, or rehabilitation, or to terminate or suspend membership in the Association, or any other action which the Association is authorized to take against a member; (b) recommend the manner in which the action will be instituted and/or supervised; (c) notify the member of the recommendation; (d) send the member a copy of the report of the investigation and recommendations of the Ethics Committee; and (e) inform the member, by certified mail, return receipt requested, that he/she has a right to a hearing before the Board of Directors of the Association, and that if he/she does not request a hearing before the Board of Directors within thirty (30) days from receipt of notification, no hearing will be held and the Ethics Committee's recommendation for action will become final. The Ethics Committee may appropriately recommend impose more stringent sanctions upon members previously found to have violated the *CAMFT Ethical Standards for Marriage and Family Therapists*, or any other relevant professional or state code of professional conduct, than the recommendation of sanctions of first time offenders.~~

~~G. In the event that the Committee's recommendation for action becomes final because the member does not request a hearing within thirty (30) days, the Ethics Committee Chair shall thereafter forward a determination of the matter to the Executive Director for execution.~~

~~F. If the member requests a hearing before the Board of Directors, then the Ethics Committee shall prepare and transmit to the Board of Directors, through the President of the Association, the statement of charges against the member and the action which the Ethics Committee recommends.~~

VIII. Procedures for Hearings Before the Board of Directors

~~A. If the member requests a hearing before the Board of Directors, then the Ethics Committee shall prepare and transmit to the Board of Directors, through the President of the Association, the statement of charges against the member, and the action which the Ethics Committee recommends.~~

~~B. Upon receipt of the statement of charges and recommended *final* action from the Ethics Committee, the President of the Association² shall inform the charged member by certified mail, return receipt requested, that his/her request for a hearing has been received and enclose a copy of the charges, the report of the investigation, and the recommended action. The member shall be informed about these procedures for hearings before the Board of Directors.~~

A. The hearing shall be conducted in accordance with the provisions of these Procedures. Should these Procedures be inconsistent with the Peer Review Fair Hearing Procedures commencing with Section 809 of the Business and Professions Code, the provisions of the Business and Professions Code shall prevail.

B. The hearing shall be held before the Board of Directors.

C. The Board of Directors may designate a hearing officer to preside at such hearing, who shall gain no direct financial benefit from the outcome, shall not act as a prosecuting officer or advocate, and shall not be entitled to vote. If there is no hearing officer, the President or designee shall preside at such hearing. The official presiding at the hearing shall be hereafter referred to as the presiding officer.

D. The member shall have the option of being represented by counsel, and if counsel is desired, written notice shall be given by the member at the time the hearing is requested. The costs of such attorney shall be at the member's expense.

~~E. A hearing shall be scheduled at the next regularly scheduled meeting of the Board of Directors or as soon thereafter as possible. The complainant and charged member shall be notified promptly of the hearing date, time, and place. All costs of attendance for the charged member at the hearing shall be borne by the complainant and the charged member, respectively.~~

F. The charged member shall have the right to a reasonable opportunity to voir dire the Board of Directors and any presiding officer, if selected, and the right to challenge the impartiality of any Board Member or presiding officer.

~~G. In any hearing before the Board of Directors of the Association, The Ethics Committee, through its Chair, or his/her designee shall present the case against the~~

~~member. At least thirty (30) days before the hearing, the Ethics Committee shall furnish the charged member and the Board of Directors with copies of all documents and the names of witnesses who will appear in support of the charges.~~

H. Continuances shall be granted, upon agreement of the parties, or by the presiding officer on a showing a good cause.

~~The Ethics Committee, through the Chair of the Committee or his/her designee, shall present the charges against the member and shall have the right to:~~

- ~~1. be represented by counsel for the Association~~
- ~~2. present witnesses and evidence to support the charge call,~~
- ~~3. cross-examine witnesses who appear for the charged member~~
- ~~4. offer rebuttal evidence~~
- ~~5. make opening and closing statements.~~
- ~~6. submit a written statement at the close of the hearing.~~

F. The charged member shall have the right to:

- ~~1. be represented by counsel~~
- ~~2. present witnesses and evidence~~
- ~~3. cross-examine witnesses against him/her~~
- ~~4. appear on his/her own behalf~~
- ~~5. offer rebuttal evidence~~
- ~~6. make opening and closing statements~~

I. The charged member and the Ethics Committee shall have the right to inspect and copy documentary information relevant to the charges in each other's possession or under their control. Both parties shall provide access to this information at least thirty (30) days before the hearing.

J. The parties shall exchange lists of witnesses expected to testify and copies of all documents expected to be introduced at the hearing at least thirty (30) days before the hearing.

K. The charged member and the Ethics Committee have the following rights:

- 1. To be provided with all of the information made available to the Board of Directors.**
- 2. To have a record made of the proceedings.**
- 3. To make opening and closing statements.**
- 4. To call, examine and cross-examine witnesses. Members of the Association have a duty to testify as to relevant information, if requested to do so by the Ethics**

Committee. Failure to cooperate may be a violation of Section 3.1(e) and 7.7 of the Code of Ethics.

5. To present and rebut evidence.

6. To submit a written statement at the close of the hearing.

K. All evidence that is relevant and reliable, as determined by the **presiding officer**, ~~of the Association,~~ shall be admissible. The formal rules of evidence shall not apply.

L. ~~A tape recording of the hearing shall be made, if requested by the Board or the accused member. If the accused member makes the request, he/she shall pay for the expense of recording the hearing.~~

L. The Ethics Committee shall have the burden of proving the charges by a preponderance of the evidence.

M. **The decision of the Board shall be by majority vote of the Board of Directors present. Pursuant to the Bylaws, if the decision is to expel or suspend, a two-thirds majority vote of the Board of Directors present is required.**

N. **Upon completion of a hearing concerning a final proposed action, the member and the Ethics Committee shall receive a written decision of the Board of Directors within a reasonable time. Said decision shall include findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached. The written decision shall be delivered by personal delivery or certified mail sent to the last address of the member as shown on the Association's records.**

~~The Board of Directors shall issue its *written* decision within thirty (30) days after the hearing.~~

~~The decision shall state:~~

~~1. the Board's findings of fact~~

~~2. whether a violation of the code was found and, if so, the section of the code violated; and~~

~~3. the Board's decision:~~

O. If no violation of the *CAMFT Code of Ethics* is found, the Board of Directors shall order that the member be cleared of all charges.

P. If a violation or violations of the *CAMFT Code of Ethics* is/are found, the Board shall **either adopt the final proposed action recommended by the Ethics Committee** ~~order action(s) to be taken, including adopt the final proposed action recommended by the Ethics Committee order to cease and desist; censure; order therapy, probation, rehabilitation, supervision, or education; order revocation or suspension of membership;~~ or take any other action that the Board deems appropriate, **including, but not limited to, requiring the member to cease and desist from specific actions; accept censure; probation and/or rehabilitation; supervision or monitored practice; education, therapy, or both; and/or suspension or termination of membership.** ~~The decision shall also specify the manner in which the action is to be instituted and/or supervised.~~

~~The President of the Association shall inform the complainant and the Chair of the Ethics Committee of the decision. Notice of the decision to the member shall be by certified mail, return receipt requested.~~

Q. There shall be no appeals from decisions of the Board of Directors, but the Board, in its discretion, may reconsider its decision upon **the written** request of the ~~accused~~ member. ~~Any request for reconsideration shall be made in writing within thirty (30) days of receipt of the Board's decision.~~

R. Any ~~probationary provisions~~ **terms or conditions of probation or other actions or sanctions** ordered by the Board shall be monitored by the Ethics Committee. Any request **by the member** for modification of ~~the probationary terms or conditions of probation or other actions or sanctions~~ shall be directed to the Ethics Committee, **which shall consider and act upon the request for modification in a reasonable time.**

IX. Resignations and Non-Renewals

~~If a an accused member resigns from membership in the Association during at any stage of the investigation of the complaint or at any other time during the consideration of the complaint, the Ethics Committee, in at its discretion, may continue its investigation. If inability to pay dues is cited as a reason for voluntary resignation by a member under an ethics investigation, the Ethics Committee may suspend dues obligations until the ethics investigation is completed. The Executive Director shall make reports to licensing board(s) of resignations and withdrawal or abandonment of applications, pursuant to Section 805 (c) of the Business and Professions Code.~~

X. Records and Disclosure of Information

- A. The permanent files of the Ethics Committee shall be maintained in the **principal central** office of the Association.
- B. All information obtained by the Ethics Committee, including any investigating subcommittee **or designee**, and all proceedings of the Ethics Committee shall be confidential, except as follows:
 1. Information may be disclosed by those investigating the complaint, **or the investigating sub-committee or designee**, as is necessary in order to pursue a thorough investigation.
 2. The complainant ~~shall~~ **may** be informed of the status and progress of the complaint ~~in a timely manner~~ and shall be notified of the conclusion of the case.
 3. The Ethics Committee may, in its discretion, authorize the Executive Director to publicize **summaries of** Settlements by Mutual Agreement without disclosing the name of the complainant or the charged member.
 4. ~~In situations in which~~ **When** an accused member resigns ~~ed from his/her~~ CAMFT membership ~~in the face~~ **during the course** of an Ethics Committee investigation, and **where the Committee determines that there has been** a violation of the

~~CAMFT Code of Ethics, code is subsequently proven, the Association may publish the fact and circumstances of the member's resignation. any publication shall include the fact of the member's resignation.~~

~~5. Whenever the Board of Directors finds, after hearing, that a member has violated the **CAMFT Code of Ethics** Code, and orders disciplinary action, the Board of Directors or its designee is authorized to disclose the ethics violation and disciplinary action to the membership of the Association. Publication shall be made of all *expulsions* terminations or suspensions of membership. Publication may also be made of other sanctions, in the discretion of the Board of Directors.~~

5. Whenever the Board of Directors finds, after a hearing, that a member is ~~not guilty of the~~ **has not violated the CAMFT Code of Ethics** Code violations charged, that fact shall be disclosed to the membership of the Association **by publication in *The Therapist*** only upon the written request of the accused cleared member.

6. If, after a hearing, the Board of Directors finds that a member has violated the CAMFT Code of Ethics, the Board of Directors may do any of the following:

- a. **Disclose the ethics violation and sanction(s) or action(s) imposed to the membership of the Association.**
- b. **Inform state regulatory agencies and other professional organizations, including chapters of CAMFT.**

7. The Board of Directors shall order the publication of a member's expulsion or suspension if, after a hearing by the Board of Directors, the member has been found to have violated the CAMFT Code of Ethics and the Board has accepted the recommendation for expulsion or suspension. If the member does not request a hearing to contest a final proposed action of the Ethics Committee for suspension or expulsion, the expulsion or suspension may be published.

8. If there is to be publication of the Board of Directors' findings and actions, it will be made in *The California Therapist* and shall will include the member's full name, any earned degree, his/her geographical location, and the violation of the any section of the CAMFT Code of Ethics that was Code-violated, and the sanction(s) or action(s) imposed. proven.

~~The Board of Directors may inform state regulatory agencies and other professional organizations, including chapters of CAMFT, of any disciplinary action taken against a member for violating the CAMFT Code of Ethics for Marriage and Family Therapists.~~