
Model Code of Ethics

for
Members of Regulatory Boards
for the
Licensed Professions

Presented by the
Task Force to Develop a Regulatory Code of Ethics

Federation of Chiropractic Licensing Boards

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INTRODUCTION

At its Leadership Conference in July 1998, which focused on ethics, the Federation of Associations of Regulatory Boards (FARB) noted that many professions have developed ethical codes for their practitioners. However, the Conference also noted the absence of any parallel document guiding the work of the regulators of those professions. Therefore, the leadership of FARB authorized the drafting of a model code of ethics for members of regulatory boards for the licensed professions.

Since the idea was generated by the attending representatives of the Federation of Chiropractic Licensing Boards (FCLB), that organization was requested to take the lead on the model code project. Consequently, the *Model Code of Ethics for Members of Regulatory Boards for the Licensed Professions* has been created for initial use by the FCLB and its member boards. Subsequently, it will be presented for consideration by FARB for use in all the regulated professions. As a model, the Code is intended to be considered for adoption or adaptation by individual regulatory boards or their umbrella agencies.

The purpose of the Code is to instill and assure the public's trust and confidence in its regulatory boards for the licensed professions. That trust must embrace the integrity of the people who serve on those boards, including the qualifications for public service that attracted their appointment.

At its essence, the Code is a set of expectations held by the regulatory authority for each profession that can help guide individual board members in their decision-making. It can also support the recruitment and selection of members for the regulatory boards by providing a mechanism for rating nominees to a board. Conversely, the Code can also provide a rationale for the removal of board members whose service does not meet expectations or is otherwise unacceptable.

In general, while in and of itself such a code does not carry the force of law, it may be used to provide practical detail to law, rules or regulations that address ethics and other areas pertinent to board service.

For any code to attract widespread understanding and acceptance, it must be founded on clear elements that unequivocally define and further its purpose. Given the purpose of the Code as assuring public trust in professional regulation, the following principles are presented as a foundation on which the Code was drafted and from which it may be modified to reflect changing circumstances.

Founding principles

- # The mission of a regulatory board for a licensed profession is to ensure that the public will have access to competent, safe, and ethical practitioners in the profession.
 - # Members of a regulatory board must familiarize themselves with the laws, rules, regulations, policies and procedures that govern their service on the board.
 - # The work of regulatory boards for the licensed professions is public service, not private interest or group advocacy.
 - # Performance of public service is a bestowed privilege, not an earned or inherited right; thus, all who serve do so at the pleasure of their appointing authority.
 - # Regardless of whether a member of a regulatory board for a licensed profession is a licensee in that or some other profession, a consumer, or any other type of member, it is essential for each board member to represent the public; that is, all of the people.
 - # Members of regulatory boards must strive beyond the norm to avoid any actual or perceived conflict of interest that may compromise the integrity of the board.
 - # Members of regulatory boards must strive beyond the norm to avoid any relationship, activity or position that may influence, directly or indirectly, the performance of his or her official duties as a board member.
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The Code presents expectations for public service by members of regulatory boards for the licensed professions in four areas:

- 1) Personal Qualities
- 2) Board Decisions and Actions
- 3) External Activities and Relationships
- 4) Accountability

1) Personal Qualities:

Personal qualities form the composite qualities of any group. Therefore, the recruitment and selection of group members is tantamount to the group's fulfillment of its purpose. Members of regulatory boards must personify a set of qualities particularly and conspicuously consistent with public service.

This section of the Code describes that set of personal qualities identified by regulators as those most likely to instill and assure the public's trust and confidence in its regulatory boards for the licensed professions.

2) Board Decisions and Actions:

Board recommendations, decisions and actions must always be in the interest of the public; that is, for the common good, not just for the good of some.

A board whose actions benefit the profession at the expense of the consumer or other groups cannot sustain public trust or confidence in its work. Eventually, the purpose of such a board will be revealed, not as protection of the public, but as protection of the profession. Actual or perceived, such a purpose is not merely inappropriate for a public regulatory body, but may be in violation of statutes governing the activity of such bodies.

Also, the processes by which regulatory boards make their decisions and take their actions should be matters of public record and, in many jurisdictions, are subject to open meetings laws.

This section sets forth expectations that may reasonably be held by the public for the activities of its regulatory boards for the licensed professions.

3) External Activities and Relationships:

In most cases, the external activities and relationships of members of any group have the potential for enriching the contributions of the group's members. However, governmental bodies constituted in law for the good of the general public must function in accordance with their statutory purpose. Moreover, their ability to function must be free from any influence external to the group, be it personal, financial, or otherwise, that may conflict with the achievement of the statutory purpose.

As governmental bodies constituted for public protection, regulatory boards for the licensed professions must exercise uncommon caution to avoid, declare and reconcile any actual or apparent conflicts of interest or affiliations of their members. In this regard, members of regulatory boards for the licensed professions are held to a higher standard of service than members of many other groups.

This section outlines the areas of potential conflicts of interest for board members as well as the actions the public can reasonably expect a board to take in order to avoid, declare or reconcile such conflicts.

4) Accountability:

Ethical boards are accountable to those they serve. A dedicated and purposeful effort must be made to seek out the ideas and concerns of the public and the licensees. Secondly, but also important, feedback and involvement must be solicited from the appointing or electing authority, legislature, and the regulated profession.

This section outlines some areas which should be evaluated periodically by the regulatory

board.

It is the sincere hope of the Federation of Chiropractic Licensing Boards that this document contributes to promoting the highest standards for selection of and service by the members of regulatory boards for chiropractic and all licensed professions.

Our vision is that this Code may play a part in enhancing the public trust in those boards, and ultimately, in ensuring that all citizens will have access to competent, safe, and ethical practitioners when seeking professional services.

Presented to the membership for consideration for adoption

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Personal Qualities

Introduction

No human organization can function with integrity unless the people at its core are themselves fundamentally ethical. Core persons in an organization set the tone, create the leadership direction, and personify the organization's message heard by everyone, internally and externally.

People at the core of government organizations in a democracy have an added responsibility regarding ethical integrity: they are elected or appointed to uphold the public trust. Those persons so elected or appointed assume the lofty and highly visible responsibilities of public servants. The fiduciary relationship that characterizes public service exists between the public servant and all of the people and their organizations equally.

Therefore, regulatory boards for the professions should be constituted to represent:

1. ***The general consumer population of the regulated jurisdiction*** to the extent possible, including gender, race, ethnicity, religion, disability status, geography, socioeconomic level, and military service, and any other group historically under-represented in the particular profession to ensure that the services of the profession are accessible to all;
2. ***The profession and its practices***, including specialization practice areas, philosophical bases, practice settings, professional education programs, membership organizations, and research to ensure that regulatory decisions and actions take into consideration the full context of the profession, not just part of it; and
3. ***The electing or appointing authority*** as a public regulatory body carrying out the designated mission of ensuring the public health, safety and welfare.

An election or appointment to a regulatory board should be based on broad and open recruitment of individuals whose conduct personifies those qualities identified as particularly suited to public service. The personal qualities of an individual that constitute appropriate attributes for public service on a regulatory board for a profession are fairly uniform across professions and jurisdictional boundaries. Identification of those qualities by electing or appointing authorities is essential to ensuring the integrity of the body whose members conduct the work of regulating the professions in the interest of public health, safety and welfare.

To assist electing and appointing authorities in their efforts to identify qualified individuals, this section of the Code describes those personal qualities deemed most likely to instill and ensure the public trust and confidence in its boards and their members who regulate the licensed professions.

Personal Qualities of Members of Regulatory Boards

I. Integrity

- A. Has no criminal or professional misconduct record, nor is under current investigation of charges or complaints, and has an acceptable malpractice history
- B. Possesses sound moral principles, e.g., is upright, honest, sincere
- C. Has courage of convictions to withstand pressures to be swayed from public protection agenda
- D. Is honest about personal agendas and leaves them outside the board room
- E. Reveals any actual or perceived conflicts of interest to appropriately recuse self from decisions or actions in those areas of interest
- F. Maintains confidentiality associated with examinations, disciplinary proceedings, and other pertinent matters

II. Service

- A. Seeks and finds personal gratification through service to others
- B. Is available for all regulatory activities, to be called on short notice, to travel, to be flexible in scheduling commitments and handling cancellations, and is not over-booked with other obligations
- C. Provides accurate and timely submissions of reports, vouchers and other documentation associated with board service

III. Sacrifice

- A. Tolerates inconvenience, frustration, and scheduling conflicts to be available for board service
- B. Subjugates own need gratification to the greater good and, consequently, postpones, minimizes or foregoes it altogether
- C. Rises above temptations for personal gain and avoids mutual benefit transactions available to private sector leaders that would pose conflicts of interest in the public sector

IV. Vision

- A. Uses knowledge of regulatory history, concepts and rationale (including law, rule, regulation, and administrative policy) to articulate ideas and plans for refining, enhancing and developing measures of public protection, standards of licensure and practice, and systems for regulating practitioners of the profession
- B. Acts as a role model for the profession and general public by discussing and presenting Board mission and function in the community whenever appropriate
- C. Encourages public awareness of the standards and legal requirements of professional credentials, practices, and conduct

V. Commitment

- A. Understands and embraces the central mission of the regulatory board as protecting the public, not advocating for the profession
- B. Demonstrates interest and ability in learning about administering law, rule, regulation, policy and the necessary protocols and procedures
- C. Abides by the legal and ethical responsibilities associated with board membership
- D. Remains current with cross-professional issues and trends inside and outside the jurisdiction

VI. Consumer Advocacy

- A. Has experience in consumer advocacy and/or civic or public service organizations
- B. Actively seeks to provide relevant information about professional practice and regulation to the consumer public and its organizations, including the soliciting of consumer concerns and ideas
- C. Provides appropriate nominations of individuals qualified to be consumer members of the board

VII. Diversity and Inclusiveness

- A. Values diversity of board membership representative of the general population in the jurisdiction
- B. Actively promotes representative diversity in the profession with the understanding that such diversity not only ensures inclusive and comprehensive decisions and actions by the board, but also maximizes the opportunity for all people to be able to access needed services of the profession
- C. Operates primarily on the basis of consensus-building, cooperation, conflict resolution and team effort, not individualism, egotism, factionalism, charisma or confrontation
- D. Accepts conflicts as they arise in the normal course of events and approaches them as opportunities for greater understanding, team-building and improved function

VIII. Fairness and Balance

- A. Is deliberative, not quick to judge, and approaches the work of the board without bias, dispassionately, disinterested, and dissociated from positions on partisan issues
- B. Respects the rights of all parties
- C. Is mindful of standards and strives to interpret them to be as inclusive as possible, not exclusive
- D. Understands the difference between high and minimally acceptable standards of competence and practice
- E. Understands and applies processes and procedures uniformly to all individuals and circumstances

Board Recommendations, Decisions, and Actions

Introduction

Board recommendations, decisions, and disciplinary actions constitute almost all publicly visible and legally scrutinized regulatory activity. Consequently, all such activity needs to meet the highest standard of ethical conduct possible. Boards whose recommendations, decisions, and disciplinary actions benefit the profession at the expense of the consumer cannot sustain the public trust, and violate their ethical and legal charge to protect the public.

In a democratic society, the public business must be performed in an open and public manner. The citizens must be fully aware of and able to observe the performance of public officials, and attend and listen to the deliberations that go into the making of public policy. The people must be informed if they are to retain control over their public servants. The welfare of the citizenry depends on a healthy public process to enable the government to operate for the benefit of those who created it, and whom it serves.

This section of the Code outlines the general considerations forming the boundaries of regulation, and discusses the important roles boards undertake in issuing recommendations, decisions, and disciplinary actions.

The first of the following four sections, General Considerations, must be understood and referenced through the remaining three sections.

I. General Considerations

- A. **Overall principle:** Ethical conduct begins with each regulatory board meticulously following all laws which govern its recommendations, decisions and disciplinary actions.
- B. **Jurisdictions:** All regulatory boards function under laws, rules, and regulations written within their respective jurisdictions and/or “umbrella agencies”
 - # professional regulation
 - # administrative services
 - # department of state
 - # other
- C. **Scope:** Such laws may be:
 - # international
 - # federal or national
 - # state, province, territory, commonwealth, district
 - # county, parish
 - # municipal

D. **Sources:** Such laws may be found in different sections of each jurisdiction's codes, and must be reviewed frequently:

- # R.I.C.O., racketeering, or anti-trust
- # bribery or corrupt influence
- # criminal
- # administrative procedures or other "umbrella" agency
- # ethics
- # conflict of interest codes or guidelines
- # equal opportunity
- # Americans with Disabilities Act

E. **Manner of conduct:** All board recommendations, decisions, and actions must be conducted in as fair, equitable, impartial, and non-partisan manner as possible. It must also be noted that each board's reputation is largely created by the staff who first encounter the public and the profession.

- # Board members and staff must represent the highest standards of ethical and professional conduct
- # All board activity must be carefully documented and well organized for future reference and scrutiny
- # Board members must ensure that both the professional and public members of the board are equal partners with unique perspectives, who value one another's insights, comments, and experiences
- # Board members must not serve as spokespersons for the board unless properly designated by the board

II. Board Recommendations

A. **Advice on legality and propriety:** Licensees will occasionally query boards about the legality and propriety of certain procedures and activities. Whenever possible, boards should define clearly what is acceptable and unacceptable. Boards must, at the same time, refrain from pre-forming, pre-judging, or freely giving legal opinion or advice. Information can be communicated to the public through:

- # Rules and regulations
- # Public forums or focused hearings
- # Newsletters
- # Attorney general or counsel office opinions
- # Internet websites
- # Position papers

B. **Establishing professional code of ethics:** Boards may wish to consider helping

to create a national or international code of ethics for the profession if one does not exist. In professions with existing ethical standards, those should be widely and vigorously disseminated.

- C. ***Equivalent licensure criteria:*** To fairly and ethically address concerns relating both to protecting the public and assuring access to qualified practitioners, boards may wish to consider recommending that their jurisdiction's licensure criteria become comparable or equivalent across jurisdictional boundaries. This may serve to assure the public of acceptable levels of training and experience as well as potentially to permit greater interjurisdictional mobility. Areas of interest include:
- # Adoption of national examinations where available and appropriate
 - # Adoption of uniform pre-professional criteria, with time-frames reflecting changing requirements
 - # Adoption of a standard number of years in practice for endorsement / reciprocity
 - # Determination of acceptable prior malpractice history through appropriate profession-specific or interprofessional databanks (e.g., CIN-BAD, NPDB)
- D. ***Criteria for removing members:*** Boards may wish to consider developing and standardizing criteria for recommending the removal of non-contributing or ethically compromised board members. *It is noted that board membership frequently occurs as an extension of the political process, along with its implied limitations.*

III. Board Decisions

- A. ***Focused on mission:*** All board decisions must be made with the primary mission squarely in mind: Each board is charged, in some fashion or language, with protecting the public; all other considerations become secondary.
- B. ***Boards part of larger regulatory community:*** All board decisions must be made with the awareness of the responsibility each board has to the larger regulatory community. Board responsibility does not end at the jurisdictional or professional border.
- C. ***Reporting board actions:*** Whenever and wherever legally appropriate, information on board decisions and actions should be reported:
- # To the general public (through rules and regulations, public forums or focused hearings, newsletters, Internet websites)
 - # To all licensees
 - # Appropriate profession-specific, interjurisdictional or interprofessional databanks (CIN-BAD, NPDB)
- D. ***Reporting criteria:*** Boards must be aware of reporting criteria to each appropriate

professional databank, and be aware of possible overlap when some licensees may be practicing in more than one discipline.

Be certain that all board decisions and actions are reported to the appropriate databank in a timely manner

Access the information in the interjurisdictional databanks on a regularly scheduled basis

Board staff must collate data and report any information obtained about a licensee at the next meeting for board consideration

E. **Proposed changes:** Boards may from time to time decide to propose changes in the laws and/or rules or regulations which govern the profession. When this occurs, the board should strive to:

Reach a consensus, in both language and sentiment, among board members about the need for the changes proposed

Be certain that the proposed changes are within the applicable codes and laws of the “umbrella” agency or jurisdiction

Hold all required or appropriate public hearings, including proper notification of licensees

Share, whenever possible, information and background research which supports or validates the changes with other interested boards

Be prepared to explain and defend, with any and all appropriate research and documentation, the proposed changes to the legislative and executive branches

IV. Board Disciplinary Actions

A. **Rights to due process:** Boards must establish procedures, within the enabling laws of the “umbrella” agency and/or jurisdiction, which ensure the rights to due process for ALL parties.

B. **Confidentiality:** In the healing arts especially, but in all board actions, confidentiality must be scrupulously maintained when and where such confidentiality is appropriate.

C. **No prejudgment:** Disciplinary actions must never be prejudged by preferential treatment of those involved because of personal values, friendship, or standing in the community.

D. **Recusal:** Boards must establish and follow a clear recusal process when real or strongly perceived conflict of interest arises.

E. **Proper processes:** Within the existing legal framework for each “umbrella”

agency or jurisdiction which governs disciplinary action, each board should strive to:

- # File adequate and timely notice of charges
- # Clearly communicate in writing with the respondent about discovery, evidence, board procedures, etc.
- # Share all information from respondents with all board members
- # Utilize alternative dispute resolution for cases which meet pre-established criteria
- # During hearings, allow full and open testimony: ask witnesses if they have anything else to say
- # Seek legal advice: be certain that current laws are being properly applied
- # Determine first if laws/rules have been violated; weigh the impact of sanctions secondarily
- # Maintain confidentiality with all parties, especially the media, during the proceedings
- # When appropriate under law, report in a timely manner public disciplinary actions to the public, licensees, interjurisdictional professional databanks, interprofessional databanks

External Activities

Introduction

Actions of individual board members will be evaluated both inside and outside the boardroom. Conduct must at all times be of the highest moral and ethical character. The action and interaction of the individual board members will reflect the integrity of the board.

Many areas of potential conflict will occur during a member's tenure and following retirement from active board service. Activities that are conducted outside of the board meeting and that are part of external activities should be closely evaluated for ethical conformity.

Many of these conflicts will be painfully obvious while others will be only conflicts of perception. It is suggested that if a board member senses possible conflict of interest, he/she may wish to consult an impartial third party for advice and direction (i.e., assistant attorney general, ethics commission, leadership of the board, and/or professional staff).

At all times, board members must make decisions that are directed by all ethical considerations. The board member's moral compass must always be truly pointed in the correct ethical direction.

To assist elected and appointed board members in their efforts to develop maximum awareness of areas of actual and perceived conflicts inherent in external activities, this section of the Code describes those areas most likely to jeopardize the public trust in the boards.

External Activities and Related Areas

I. Conflict of interest

- A. Conflict of interest is defined as having any interest, financial or otherwise, direct or indirect, or engaging in any business or transaction or professional activity or incurring any obligation of any nature, which is in substantial conflict with the proper discharge of the board member's duties in the public interest.
- B. Board members must make public (and recuse themselves from) any conflict of interest that exists to ensure the integrity of the board and all of its decisions.

Disclosure and recusal are important tools to avoid actual or perceived conflict of interest. Board members must not overuse recusal as an excuse to avoid conflict in exercising their full responsibilities.

C. Types of Potential Conflict in External Activities

Personal conflicts are those actions that may ultimately have a personal consequence that is a direct or indirect effect of a decision or action. No decisions should be made that will advance the personal benefit of the board members. Some examples of personal conflict include:

- # **Personal gain:** Will this decision affect the board member's personal life in any direct way?
- # **Sexual favors:** Will this behavior affect the board member's position unfairly?
- # **Influence:** Will this behavior affect the board member's position unfairly? Will it result in unwarranted privileges or exemptions?
- # **Effects on personal relationship:** Will there be an effect on the board member's current, past or future personal relationship(s)?
- # **Benefits to those who have a relationship with the board member:** No decision should effect the personal or financial gain of anyone with whom the board member has a personal relationship
- # **Gift received:** Acceptance of any gift should be perceived as a bribe to influence present or future considerations.

Financial conflicts are those in which a board member or those with whom he/she has a personal relationship, may benefit financially, or be perceived as benefitting financially, from decisions by or the influence of the board member. Some examples of financial conflicts include:

- # **Employment Gain:** These may include opportunities for consulting, speaking / teaching, etc. Employment during and subsequent to board membership should not appear to be relate to any board matters.
- # **Financial Gain: effects on the board member's business:** Decisions and actions must not affect the future financial position of the board member's business. Contractual and creditor relationships also apply here.
- # **Outside Activities:** These may include present employment, investment, and/or business opportunities
- # **Recruitment of other professionals or patients into business opportunities:** Extreme care must be exercised to be certain no actual or perceived leverage of authority with the board position is used in this area.

II. Confidentiality

- A. At all times the board member must conform to the rules of confidentiality in dealings outside the boardroom
- B. Protected information obtained in the capacity of board member must remain confidential during and after board membership.

Actions prior to and subsequent to board membership: Termination of board membership does not dissolve the board member from responsibility. Actions must continue to be governed by the same rules that apply during active board membership. Confidentiality must be maintained on all confidential subjects that the individual was privy to as a board member.

III. Sexual Relationships

- A. No board member should engage in a sexual relationship with any other board member or staff during board membership, except as permitted by marriage.

IV. Professional Activities

- A. A board member should not serve as an officer or board member of a state professional trade association or state or provincial professionally-related trade group.

V. Representation of Responsibilities

- A. *Spokesperson:* A board member should not represent himself/herself as a spokesperson for the board to influence his/her status in areas outside of the business of the board.
- B. *Disclosure of information:* A board member should not share information with any other person, or encourage another person to act in any way prohibited to the board member.
- C. *Representation of responsibilities to others:* Actions or statements made to others outside of the board should not be designed to influence the outcome of any board decision.

Accountability

Introduction

An ethical board is accountable to all its stakeholders. These include:

- # The public, whose health and safety it is sworn to protect
- # The practitioners, whose livelihoods depend on fair and equitable adoption and application of statutes and regulations

In most instances, the board is also responsible to the appointing or electing authority, and to the regulated profession in general.

Boards should have in place internal and external assessment tools to review and evaluate their processes as they relate to public protection.

This section of the Code is designed to assist boards in assessing whether their processes are accountable to their stakeholders.

General assessment:

When and how does the board evaluate the overall organization, budget, procedures, legislative and policy activities, communications, involvement in national / international association of the profession's regulatory boards?

Some specific areas:

I. Does the board maintain appropriate record keeping?

Some areas may include:

- # Number of licensees
- # Number and general types of complaints made
- # Number and type of disciplinary actions taken
- # Documented amount of time it takes to handle a complaint, including number of investigative hours
- # Comparison of your licensed profession to others in your jurisdiction
- # Comparison of the licensed profession in your jurisdiction to the same profession nationally and internationally
- # Accurate budgets and financial reports, adequate funding, demonstrating cost-effectiveness, and revenue sources, value of volunteer time by board members
- # Clear and concise interpretations of practice issues, including catalogued legal opinions

II. What are the criteria to review the complaint process?

Some areas may include:

- # Has current system in place to track the complaint process
- # Re-evaluates the complaint process regularly for maximum effectiveness
- # Resolves complaints in a timely manner
- # Ensures procedures conform to accepted standards
- # Avoids bias
- # Is not arbitrary or capricious
- # Maintains adequate investigative resources
- # Reports all public actions to profession's central database
- # Offers expedited and alternative dispute resolution for cases meeting appropriate and predetermined standards

III. How does the board evaluate its public relations efforts to make board services available?

Some areas may include:

- # Use of Internet websites, properly and accurately indexed
- # Regular press releases to press, with appropriate designation of spokespersons
- # Consumer friendly education materials, widely distributed
- # Proactive reports to legislature
- # Regular newsletters or other communications tools sent to licensees
- # Board meeting locations varied maximize access to the board
- # Yellow pages listing
- # User surveys and feedback

IV. How does the board evaluate the effectiveness of its members?

Some areas may include:

- # Maintains orientation process for new members
- # Provides on-going orientation about hot issues
- # Values equally the opinions of both professional and consumer members
- # Has high level of attendance, high level of participation
- # Uses committees appropriately
- # Ensures that legal counsel is available at all meetings
- # Encourages appropriate involvement by staff
- # Requires members to be knowledgeable about ethical and legal responsibilities
- # Encourages members to continue their own education in the field of regulation
- # Supports diversity in composition of board

V. What are the bases for evaluating a board member for suitability for reappointment?

Some areas may include:

attends regularly

maintains confidentiality of board processes

is well prepared for meeting - reads materials before arrival

participates in discussion

is honest about personal agendas and leaves them outside the board room

APPENDIX: Reference documents

1. Glossary - *still under development*
2. Contents of a sample ethics code
3. A Framework for Ethical Decision Making
Michael McDonald (reprinted with permission by the author)
4. Sample case questions and discussion - *still under development*
5. Bibliography - *still under development*

APPENDIX 1
Glossary - still under development

APPENDIX 2

Contents of a Sample Ethics Code

- A. Purpose
- B. Definitions
- C. Body - Code of Conduct
 - 1. *Expectations*
 - Personal qualities - qualifications for service
 - Board decisions and actions
 - External activities and relationships
 - 2. *Actions which may constitute violations*
 - Threats
 - Bribery
 - Granting of sexual favors
 - Conflict of interest
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 - Trading in special influence
 - Use of public position for personal gain
 - Contracts with other jurisdictions
 - Disclosure of confidential information
 - 3. *Required actions in conflicts*
 - Disclosure
 - Recusal
 - Effect on quorum
 - 4. *Post-service restrictions*
 - Respect for protected information
- D. Range of sanctions - civil and criminal
 - 1. *Fines*
 - 2. *Imprisonment*
 - 3. *Removal from office*
- E. Process for waivers / securing advisory opinions
- F. Enforcement body (commission)
 - 1. *Composition / terms*
 - 2. *Compensation*
 - 3. *Powers and duties*
 - 4. *Reporting obligations*
 - 5. *Disqualifications from service*
 - 6. *Range of sanctions*
 - 7. *Confidentiality provisions*
 - 8. *Right of appeal to higher body*

APPENDIX 3 A Framework for Ethical Decision Making

Michael McDonald (reprinted with permission of the author)

1. *Identify the problem.*

- 1.1. ***Be alert; be sensitive to morally or politically charged situations.*** Look behind the technical requirements of your job to see the moral dimensions. Use your ethical resources to determine relevant moral standards. Use your moral intuition.
- 1.2. ***Gather information and do not jump to conclusions.*** While accuracy is important, there can be a trade-off between gathering more information and letting morally significant options disappear. Sometimes you may have to make supplementary assumptions because there is insufficient information and no time to gather more information.
- 1.3. ***State the case briefly with as many of the relevant facts and circumstances as you can gather within the decision time available.***
 - 1.3.1 ***What decisions have to be made?*** There may be more than one appropriate decision.
 - 1.3.2. ***By whom?*** Remember that there may be more than one decision-maker and their interactions can be important.

2. *Specify feasible alternatives.*

- 2.1. ***State the live options at each stage of decision-making for each decision-maker.*** You then should ask what the likely consequences are of various decisions. Here, you should remember to take into account good or bad consequences not just for yourself or your board, but for all affected persons (i.e. the public).

3. *Use your ethical resources to identify morally significant factors in each alternative.*

- 3.1. ***Principles.*** These are principles that are widely accepted in one form or another in the common moralities of many communities and organizations.
 - 3.1.1. ***Respect autonomy.*** Would I be exploiting others, treating them paternalistically, or otherwise affecting them without their free and informed consent? Have promises been made? Are there legitimate expectations on the part of others because I am a professional person?
 - 3.1.2. ***Do not harm.*** Would I be harming someone to whom I have a general or specific obligation as a professional or as a human being?
 - 3.1.3. ***Do good.*** Should I be preventing harm, removing harm, or even providing positive benefits to others?
 - 3.1.4. ***Be fair.***

- 3.2. **Moral models.** Sometimes you will get moral insight from modeling your behavior on a person of great moral integrity.
 - 3.3. **Use ethically informed sources.** Policies and other source materials, professional norms such as board policy, legal precedents, and wisdom from your religious or cultural traditions.
 - 3.4. **Context.** Contextual features of the case that seem important such as the past history of relationships with various parties.
 - 3.5. **Personal judgments, your associates, and trusted friends or advisors can be invaluable.** Of course, in talking a tough decision over with others, you have to respect confidentiality issues within the context of the individual situation.
4. **Propose and test possible resolutions.**
 - 4.1. **Perform a sensitivity analysis.** Consider your choice critically by considering which factors would have to change to get you to alter your decision.
 - 4.2. **Impact on others' ethical performance?** Think about the effect of each choice upon the choices of other responsible parties. Are you making it easier or harder for them to do the right thing? Are you setting a good example?
 - 4.3. **Would a good person do this?** Ask yourself what would a virtuous professional (one with integrity and experience) do in these circumstances?
 - 4.4. **What if everyone in similar circumstances did this?** Formulate your choice as a general maxim for all similar cases?
 - 4.5. **Does it seem right?** Are you still satisfied with your choice? If you are still satisfied, then go with your choice. If not, consider the factors that make you uncomfortable with a view to coming up with a new general rule with which you are satisfied.
 5. **Make your choice.**
 - 5.1. **Live with it.**
 - 5.2. **Learn from it.** This means accepting responsibility for your choice. It also means accepting the possibility that you might be wrong or that you will make a less than optimal decision. The object is to make a good choice with the information available, not to make a perfect choice. Learn from your failures and successes.

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APPENDIX 4
Sample case questions and discussion
Still under development

APPENDIX 5
Bibliography
Still under development