A. PROCEDURE FOR PROCESSING CHARGES

1. Any charges received by the Society will be referred to the Society’s legal counsel who will review them for compliance with the Society’s Bylaws. Any purported charges which are not in compliance with the Society’s Bylaws, or which could not be the basis for disciplinary action by NASS if proven, or which involve testimony given in or which is the subject of pending litigation, will be returned to the Complainant.

2. With respect to all remaining charges, the Complainant will be contacted to determine whether there are any further documents or exhibits that he or she would like to submit to the Committee in support of the charges. Testimony of prospective witnesses should be summarized and submitted in written form, or transcripts of their testimony produced, if germane to the charges. It is the Complainant’s responsibility to collect and present all evidence, which he or she wishes the Committee to consider in support of the charges. The Complainant shall de identify all Protected Health Information, as that term is defined in the Health Insurance Portability and Accountability Act (“HIPAA”), prior to submitting such information to the Committee. Protected Health Information that has not been de identified will be returned to the Complainant in the absence of patient consent or an exception to HIPAA’s privacy regulations. Copies of all material supporting the charges will be furnished to each Committee member. Complaints must be submitted with 12 copies for distribution to PCEC members (either on paper or, preferably --in the case of larger cases with volumes of supporting documentation-- on disc).

3. The Respondent will be furnished a full set of the documents which are furnished to the Committee members, and which constitute the charges and supporting evidence. The Respondent will then have 30 days to prepare whatever written responses and/or exhibits he or she believes are appropriate, and to submit them to the Committee (also with 12 copies). In the event the Respondent submits Protected Health Information to the Committee, said information shall be de identified by the Respondent. Protected Health Information that has not been de identified will be returned to the Respondent in the absence of patient consent or an exception to HIPAA’s privacy regulations. A full set of copies should also be submitted to the Complainant. This process will be coordinated by the Society’s legal counsel, but it is each Respondent’s responsibility to collect and present all evidence, which he or she wishes the Committee to consider in opposition to the charges.

B. PRELIMINARY EVALUATION BY COMMITTEE

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

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

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

4. If the Committee tentatively decides that a prima facie case has not been established and no hearing is warranted and the Complainant does not demand a hearing that tentative decision will be presented to the Board of Directors as the Committee’s final recommendation pursuant to Section D, below. If the Board of Directors disagrees, after reviewing the case, the case will be remanded to the Committee for a full hearing, with all parties bearing their own expenses.

C. PROCEDURE FOR CONDUCTING HEARING

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

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

3. All parties are advised that no new matters, evidence or witnesses may be introduced in the hearing by either the Complainant or the Respondent if they have not been previously disclosed in the documents supporting and denying the charges. The hearing will be conducted by the Chairman or Acting Chairman of the Committee, with assistance by the Society’s legal counsel. The strict rules of evidence will not be applicable. Witnesses may be questioned regarding their testimony, but extensive cross-examination will not be permitted. The Chairman shall have the authority to impose reasonable reciprocal limitations on the time available for both direct testimony and cross-examination.

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

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

   b. That the charges are sustained, and the accused be

      i. censured
      ii. suspended for a definite time, or
      iii. expelled.

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

D. FINAL APPROVAL OF DECISION

1. The report and recommendations of the Committee shall be reduced to writing and forwarded to the Board of Directors, the Complainant, and the Respondent. The Respondent will be advised in writing of the date of the Board of Directors meeting at which the Report of the Committee will be heard, and of the fact that the Respondent shall have an opportunity to make any statement he or she desires before actions taken on the recommendations to the Board of Directors.

2. The Board shall also consider, and either approve, reject or modify, any assessment of costs made against a Complainant pursuant to Section B-3, above. Once approved by the Board, any such assessment of costs against a member shall be considered special assessment dues imposed pursuant to Section 19.1 of the Bylaws.

3. In the event that the final action by the Board of Directors includes the censure, suspension or expulsion of a member, that member shall have the right to appeal that decision to the Society’s membership pursuant to Section 2.7.c of the Bylaws.

4. In some special cases in which a member is known or suspected of having been engaged in unprofessional conduct but no official Complainant is present, the Secretary may serve as the Complainant on behalf of the Society, in which case he or she shall recuse him or herself from deliberations if the matter comes before the Board. If this occurs, the Secretary is indemnified by the Society.