

## Ethics Committee Submission Form Expert Witness Testimony Rule 16 of the Code of Ethics

Please complete this form carefully. As the submitter of this challenge, you have the burden of proof to provide all information and supporting material needed to comprehensively review the challenge. The Committee will not review your challenge if you do not provide complete answers below and de-identify all patient health information in your answers and supporting materials. The Ethics Committee will return to you any supporting material that is not consistent with HIPAA de-identification requirements.

### **Confidentiality**

The process by which the Ethics Committee reviews all challenges is designed to ensure fundamental fairness, objectivity, and confidentiality to all parties before a final decision is reached. The process is confidential. Please do not discuss or make public the fact that a challenge has been filed or is ongoing. Unauthorized oral or written communications with any member of the Ethics Committee or the Academy's Board of Trustees prior to the final resolution of a challenge (including the completion of any appeal) are strictly forbidden. Any such unauthorized communications by the challenged Fellow or Member, or by the submitter of the challenge, either directly or by proxy, shall be considered as non-cooperation with the Ethics Committee and shall be subject to the same sanctions as the failure to observe the Rules of Ethics.

### **Investigative Timeline**

The initial review process typically occurs within 30 days. The timeline for investigating and rendering a decision on a challenge varies from several weeks to over about a year depending on multiple factors, including timeliness of responses to correspondence, and general cooperation and complexity of the issue in the challenge. Prior to the completion of the review process, no information will be provided to the submitter.

### **Investigative Limitations**

Lacking the powers of investigation that governmental bodies and other entities possess means that some challenges cannot be adequately resolved by the Ethics Committee.

By submitting this form, you are acknowledging that:

1. Your name and complete submission will be revealed to the challenged AAO Fellow or Member.
2. You have an ethical obligation to include only information that is truthful, accurate, complete, and is not based on personal grievance, as well as to assure that no information has been concealed.
3. Your presence at an administrative hearing may be needed to resolve this challenge.

4. If you wish to be represented by counsel during the pendency of this investigative proceeding, you will bear the costs associated with that representation.
5. You understand and respect the AAO Ethics Committee's investigative process and its limitations.

### **Part I. Your Contact Information**

Provide your name and complete contact information, including your phone number, street address, and email address:

### **Part II. Information about the Challenge**

1. Name and contact information of the AAO Fellow or Member who is the subject of your challenge:
2. What are the dates involved with the subject matter of your challenge? \_\_\_\_\_
3. Has the matter been before a court, state medical board or other state or federal administrative body? Yes / No If yes, please attach an order from the appropriate authority, referencing all parties and indicating the current status of the matter. The Ethics Committee reserves the right, in its sole discretion, to decline acceptance of the submission or to defer its investigation of the submission pending proceedings in any court, state medical board or other state or federal administrative body.
4. Is there a confidentiality or non-disclosure agreement or a protective order related to this matter? Yes / No If yes, please attach a copy of the agreement or protective order. ***You should consult your attorney before answering this question or sending any material to the Ethics Committee.***
5. Name(s) and contact information of other ophthalmologist(s) who provided expert testimony or whose records/materials were obtained and submitted into evidence in this case, if any:

### Part III. Allegations of Unethical Expert Testimony

Please answer the following questions in reference to an Academy Fellow/Member testifying in a manner that you allege to have specifically violated Rule 16 of the Academy's Code of Ethics (the text of Rule 16 is printed below).

1. Did the Fellow or Member prepare a written report? \_\_\_\_ Yes \_\_\_\_ No  
If yes, please submit a copy of the report. If no, please explain.  
  
A. Was this report entered into evidence as an exhibit? \_\_\_\_ Yes \_\_\_\_ No
2. Did the Fellow or Member testify at a deposition? \_\_\_\_ Yes \_\_\_\_ No  
If yes, please submit a complete transcript of the pertinent deposition testimony, including copies of any relevant exhibits. If no, please explain.
3. Did the Fellow or Member testify at trial? \_\_\_\_ Yes \_\_\_\_ No  
If yes, please submit a complete transcript of the pertinent trial testimony, including copies of any relevant exhibits. If no, please explain

Note: If a large amount of supporting material will accompany your challenge, please scan it, and send it electronically. Videotaped depositions must be transcribed before submitting to the Ethics Committee.

### Part IV. Specific Allegations

1. The Ethics Committee requires that you describe in detail the expert testimony that you allege to have violated Rule 16 of the Academy's Code of Ethics. If you are describing testimony from more than one case, please separate the allegations by numbered paragraphs. State your challenge *with specificity*; citing specific portions of the deposition or trial transcript with page and line numbers to reference specific concerns.

You may provide your answers in a separate document, using paragraph numbers that pertain to question 1 and 2 of Part IV, as necessary.

In addition to the relevant materials requested in Part III above, please also submit the following:

- A. Patient records, if pertinent to your challenge. Patient records, once submitted into evidence in a trial, are considered to be in the public domain and thus no permission from the patient is needed to forward the records to the Ethics Committee for review. However, all patient records submitted to the Ethics Committee for review must be fully de-identified to mask the identity of the patient(s).
- B. Additional information that may be pertinent to the challenge, e.g., contrary expert opinions (this would pertain in cases where a malpractice case went to trial and opposing expert opinions were provided), and/or articles in the scientific literature

that support your allegations about the inaccuracy of the expert's testimony.

For your reference, Rule 16 of the Code of Ethics is reprinted below:

**16. Expert Testimony.** *Expert testimony should be provided in an objective manner using medical knowledge to form expert medical opinions. Nonmedical factors (such as solicitation of business from attorneys, competition with other physicians, and personal bias unrelated to professional expertise) should not bias testimony. It is unethical for a physician to accept compensation that is contingent upon the outcome of litigation. False, deceptive, or misleading expert testimony is unethical. For purposes of this Rule, expert testimony shall include oral testimony provided under oath, affidavits and declarations used in court proceedings and certificates of merit signed, ratified or otherwise adopted by the physician.*

### Submitting Your Challenge

☐

Check here to agree to communicate with the Ethics Committee by email. Do not send any protected health information in an e-mail message. All expert witness testimony challenges must be accompanied by this completed form.

Electronic communications to the Ethics Committee may be sent to [ethics@aao.org](mailto:ethics@aao.org). The street address for sending printed submission forms and supporting materials is:

The Ethics Committee  
American Academy of Ophthalmology  
655 Beach Street  
P.O. Box 7424  
San Francisco, CA 94120-7424

The Code of Ethics may be reviewed at: <https://www.aao.org/ethics-detail/code-of-ethics>.

Please review the linked document prior to submitting your challenge: [Ethics Statement - Understanding Rule 16 of the Code of Ethics](#).