



The Code of Professional Responsibility

and Rules & Procedures

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Code of Professional Responsibility
and
Rules & Procedures Regarding the
Code of Professional Responsibility

Revised March 2010

Code of Professional Responsibility

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I. Preamble

C1.1 — Introduction

The practice of orthotics, prosthetics and pedorthics (“Profession”) is a recognized allied health profession. The ABC Credential Holder assumes specific responsibilities to the physician or other licensed healthcare prescriber, the patient, the public, associates and to the Profession itself. These responsibilities must be discharged with honor and integrity to assure the maintenance of public confidence in the Profession. For the purposes of this Code of Professional Responsibility (“Code”), the term “ABC Credential Holder” shall mean any person, facility or organization which may apply or has applied for, or has been awarded any of the accreditations or certifications offered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (“ABC”). As used herein, “Committee” refers to the Professional Discipline Committee of the ABC.

The Profession exists for the primary purpose of assisting patients in maintaining functional lives. The ABC Credential Holder shall be responsible for making the greatest possible effort to satisfy the patient’s orthotic, prosthetic or pedorthic requirements. The manner in which the patient is served is the essential factor relating to the appropriate ethical professional conduct. Members of the Profession are responsible for maintaining and promoting ethical practice including, without limitation, reporting unethical practices in accordance with this Code. This Code, adopted by ABC, shall be binding upon all ABC Credentials Holders.

C1.2 — Ethics, Custom and the Law

Unethical conduct may involve violations of customs and usages of the Profession as well as actions that violate the law and regulations. Failure to conform to this Code, including conduct that violates moral principles, customs and practices of the Profession, the law or regulations, may be subject to disciplinary action in accordance with the “Rules and Procedures Regarding the Code of Professional Responsibility” Complaints (“Rules”). Disciplinary action depends on the particular circumstances involved and, without limitation, how the conduct in question reflects upon the dignity and integrity of the Profession.

The Committee will take appropriate action, if any, consistent with the Rules. Each ABC Credential Holder has a civic and professional obligation to report to the appropriate governmental body any and all evidence that may come to his/her attention involving the alleged criminal conduct of any ABC Credential Holder relating to the practice of orthotics, prosthetics or pedorthics.

C1.3 — Disclosure of Other Agency Actions

Each ABC Credential Holder must promptly, fully and accurately disclose to ABC any and all investigations, finding and actions by any: (i) orthotic, prosthetic or pedorthic (“OP&P”) related agency or body responsible for national, state or local licensing or oversight of health or OP&P related licenses or certifications; (ii) government agency; (iii) quasi-government agency or (iv) licensing board (collectively “Agencies”). The ABC Credential Holder’s disclosure requirement includes investigations by Federal, State or private payors regarding existing or potential billing malfeasance. The ABC Credential Holder’s disclosure requirement does not include general billing audits that are not specific to an ABC Credential Holder. Each ABC Credential Holder must make such disclosure to ABC within 30 days from the date of the commencement of action by any Agency. Each ABC Credential Holder must promptly and fully cooperate with ABC and the Agencies.

II. Responsibilities to the Physician or Appropriately Licensed Healthcare Prescriber

C2.1 — Diagnosis and Prescription

It is the responsibility of the ABC Credential Holder to work in conjunction with the physician or appropriately licensed healthcare prescriber to determine the medical appropriateness of the orthosis, prosthesis or pedorthic device. The ABC Credential Holder must receive a prescription from a physician or appropriately licensed healthcare prescriber or other valid order that meets the profession’s standards before providing any orthosis, prosthesis or pedorthic device to a patient. “Valid orders” include but are not limited to: referrals, authorizations or hospital or skilled nursing facility orders, or other requests that are consistent with the profession’s standards.

Notwithstanding the above, the ABC Credential Holder may, without prescription or other valid order, provide a prefabricated orthosis or pedorthic device, component parts thereof or certain component parts of a prosthesis to a patient if (i) the ABC Credential Holder does not expend his or her professional skills in custom fitting the orthosis or pedorthic device, the component parts thereof or the certain component parts of a prosthesis to the patient, and (ii) the cost of the orthosis or pedorthic device, component parts thereof or certain component parts of a prosthesis is billed directly to or paid by the patient or is billed in accordance with third-party payer regulations.

C2.2 — Orthotic, Prosthetic and Pedorthic Evaluation and Recommendation

It is the responsibility of the ABC Credential Holder to recommend specific orthotic, prosthetic or pedorthic design. The ABC Credential Holder shall recognize that each individual patient is unique and deserves specific and responsive guidance from the ABC Credential Holder. The ABC Credential Holder shall be guided at all times by concern for the physical, emotional, social and economic welfare of the patient. All decisions by the ABC Credential Holder must be made with the understanding and intent that the patient's best interests are the primary concern.

C2.3 — Changes in Patient's Condition

When appropriate, or when requested by the patient, physician or licensed healthcare provider, the ABC Credential Holder shall monitor and observe the patient's physical condition in connection with the orthotic, prosthetic or pedorthic care and the prescribed device to make certain the patient is responding appropriately. As soon as possible, the ABC Credential Holder must notify the physician or referring appropriately licensed healthcare provider and the patient of changes in the patient's condition that affect the patient's orthotic, prosthetic or pedorthic treatment plan.

C2.4 — Provision of Services

The ABC Credential Holder shall recognize the patient's freedom of choice in selection of the orthotic, prosthetic or pedorthic treatment. Professional affiliations, including employment and referral relationships, may not adversely limit access to services and shall not adversely affect the decision-making process of the ABC Credential Holder. The ABC Credential Holder must adhere to the ethical principles of ABC which shall take preference over business relationships.

C2.5 — Modifications

The ABC Credential Holder may repair or adjust an orthosis or prosthesis without notifying the prescribing physician or appropriately licensed healthcare prescriber, however, such repairs or adjustments must conform to the original prescription or the prescription as modified by the prescribing physician or appropriately licensed healthcare prescriber. Any repairs, adjustments, modifications or replacements that substantially alter the design or function of the originally prescribed devices, must be authorized by the physician or the appropriately licensed healthcare provider.

III. Responsibilities to the Patient

C3.1 — Confidential Information

All information relating to a patient's identity, background, condition, treatment or management plan or any other information relating to the ABC Credential Holder/patient relationship is, and shall always remain, confidential and may not be communicated to any person or entity who is not providing direct medical care to the patient without the prior written consent of the patient or patient's legal guardian.

Patient information that may be derived from any ABC Credential Holder's peer review process shall be held and always remain confidential by all participants unless written permission to release the information is obtained from the patient or patient's legal guardian. All patient information derived in a work place from a working relationship relating to any patient shall be held and always remain confidential by all parties. The confidentiality requirements set forth in this Code shall be strictly adhered to by all ABC Credential Holders unless required otherwise by law or valid court order or subpoena, or if it becomes necessary to disclose such information to protect the welfare of the patient or the community. In such an event, any disclosure of confidential information shall be in accordance with applicable legal requirements.

C3.2 — Care

The ABC Credential Holder shall use all reasonable efforts to meet the patient's orthotic, prosthetic and pedorthic requirements. Upon accepting an individual for orthotic, prosthetic or pedorthic services, the ABC Credential Holder shall assume the responsibility for performing the tasks associated with Patient Assessment, Formulation of the Treatment Plan, Implementation of the Treatment Plan, Follow-up Treatment Plan, Practice Management, and Promotion of Competency and Enhancement of Professional Practice, all within the scope of practice of the discipline(s) in which they are credentialed or privileged and as described in the *ABC Practice Analysis of the Discipline of Orthotics and Prosthetics* and the *ABC Orthotic, Prosthetic and Pedorthic Scope of Practice* ("Scope of Practice"), as they may be amended.

C3.3 — Research

In the event that the ABC Credential Holder desires to engage in a research project or study, he/she shall first ensure that: (i) all patients affiliated with such projects or studies consent in writing to the use of the results of the study; (ii) the data and information regarding the patient remains confidential; (iii) the dignity and well-being of the patient shall be primary concerns; (iv) the research is conducted in accordance with all federal and state law; (v) there is an absence of fraud; (vi) all data is fully disclosed; (vii) there is an appropriate acknowledgment of individuals making contribution to the research; and (viii) in the event that any acts in the conduct or presentation of research appears to be unethical or illegal, the ABC Credential Holder shall immediately report the unethical or illegal conduct to ABC and, if appropriate, the applicable law enforcement authority.

C3.4 — Trust and Honesty

The ABC Credential Holder shall be truthful and honest.

C3.5 — Fees and Compensation

The ABC Credential Holder shall provide services and orthoses or prostheses based on the needs of the individual receiving the services and not solely for personal financial gain. The ABC Credential Holder shall not engage in false, misleading or deceptive actions in relation to the ultimate cost of the services undertaken or furnished. The ABC Credential Holder shall not over-utilize or unnecessarily continue orthotic, prosthetic or pedorthic services beyond the point of benefit or by providing services more frequently than necessary. The ABC Credential Holder shall not submit false or misleading information in requesting payment or reimbursement.

C3.6 — Practice Arrangements

The ABC Credential Holder shall not: (i) directly or indirectly request, receive or participate in dividing, transferring, assigning or rebating any funds derived from a referral of a patient to any other individual or entity, whether affiliated with the ABC Credential Holder or otherwise; or (ii) profit by means of a credit or other valuable consideration, such as an unearned commission, discount or gratuity for providing orthotic, prosthetic and pedorthic services, except for the fees earned for services performed for the patient.

The ABC Credential Holder shall refer all patients to the most appropriate service provider, taking into consideration the nature and extent of the problem, treatment resources and availability of healthcare benefit coverage, and the likelihood of receiving appropriate and beneficial care. If the ABC Credential Holder is involved in an arrangement with a referring source in which the referring source derives income from the ABC Credential Holder's services, the ABC Credential Holder must disclose all pertinent information to the patient including without limitation that the referring practitioner derives income from the provision of the services. The ABC Credential Holder shall advise his/her employer of any employer or employee practice which is in contradiction with this Code.

C3.7 — Delay in Services

The ABC Credential Holder shall not accept any prescription when the ABC Credential Holder knows, or has good cause to believe, that the orthosis or prosthesis cannot be furnished within a reasonable period of time. In such instances, the ABC Credential Holder must discuss the situation with the patient and physician or appropriately licensed healthcare provider. The ABC Credential Holder shall not unreasonably delay or allow the unreasonable delay of the provision of orthotic, prosthetic or pedorthic services.

C3.8 — Compliance with Laws and Regulations

The ABC Credential Holder shall provide orthotic, prosthetic or pedorthic care in accordance with Federal law and the laws and regulations of the jurisdiction(s) in which they practice.

C3.9 — Reporting

The ABC Credential Holder shall report to ABC any conduct that reasonably appears to violate this Code. This reporting requirement includes, without limitation, self reporting, and the reporting about other ABC Credential Holders, in connection with a third party investigation and finding, regardless of whether the investigation has been completed.

C3.10 — Delegation of Responsibility

The ABC Credential Holder shall not delegate any task requiring unique skills, knowledge or judgment to an unqualified person. The primary responsibility for orthotic, prosthetic and pedorthic care performed by supporting personnel rests with the delegating ABC Credential Holder. Adequate supervision, as defined in ABC's Scope of Practice, is required to make certain the patient receives the necessary and appropriate care.

C3.11 — Advertising and Public Communication

The ABC Credential Holder shall not provide any consideration to any member of the press, radio or television, or other communication medium in exchange for professional publicity in a news item. When advertising, the ABC Credential Holder may publicize him/herself through any commercial publicity or other form of public communication (including any newspaper, magazine, telephone directory, radio, television, direct mail or other advertising) provided that the communication shall not: (i) contain a false, fraudulent, misleading, deceptive, unfair or sensational statement or claim; (ii) be misleading due to the omission of necessary material information; (iii) contain any false or misleading statement; (iv) otherwise operate to deceive; or (v) promise remuneration of any kind, in exchange for providing services, that would violate Federal or State law or regulations. Each advertisement shall be identified as an advertisement unless it is absolutely clear from the context that it is a paid advertisement.

C3.12 — Illegal Discrimination

The ABC Credential Holder shall not decline to accept a patient on the basis of race, gender, color, religion or national origin or on any basis that would constitute illegal discrimination under Federal law.

C3.13 — Sexual Relations with Patient Prohibited

The ABC Credential Holder shall not have consensual or nonconsensual sexual relations with a current or former patient of the ABC Credential Holder unless a consensual sexual relationship existed between the ABC Credential Holder and the patient prior to the provision of any orthotic, prosthetic or pedorthic services or the ABC Credential Holder has not provided any orthotic, prosthetic or pedorthic services to the patient for a one year period preceding the beginning of the sexual relationship or for a one year period after the termination of the sexual relationship. The ABC Credential Holder shall not engage in, require or demand sexual relations with a patient incident to or as a condition of any orthotic, prosthetic or pedorthic services.

C3.14 — Sexual Relations with Key Third Parties Prohibited

The ABC Credential Holder shall not have consensual or nonconsensual sexual relations with a Key Third Party when such relations are based on the use or exploitation of trust, knowledge, influence or emotions derived from a professional relationship. A “Key Third Party” is a person who is closely related to the patient and shall include, but not be limited to, spouses or partners, parents, guardians, surrogates and proxies. Each matter shall be evaluated on a case-by-case basis. Factors to be considered shall include: (i) the nature of the patient’s orthotic, prosthetic or pedorthic problem; (ii) the length of the professional relationship; (iii) the degree of the Key Third Party’s emotional dependence on the ABC Credential Holder; and (iv) the importance of the clinical encounter to the Key Third Party and the patient

IV. Responsibilities to Colleagues and the Profession

C4.1 — Dignity

The ABC Credential Holder has the personal responsibility to conduct themselves in a manner that will assure the dignity and status of the Profession. Examples of unacceptable behavior include, but are not limited to, falsifying documents, misusing the certification credential, slandering or libeling another, disparaging former employers, disparaging former employees and misrepresenting one’s capacity as a provider of services.

C4.2 — Solicitation

The ABC Credential Holder shall not, either directly or indirectly, solicit the patronage of individual patients by way of intimidation, threats, harassing conduct, undue influence, coercion, duress, remuneration or unwarranted promises of benefits. The ABC Credential Holder shall not solicit a patient who is apparently in a mental condition that impairs his/her personal judgment to make decisions concerning the devices or services being offered. The ABC Credential Holder shall not solicit a patient in a manner that is inconsistent with his/her obligation to act in a dignified manner as set forth in Code C4.1.

C4.3 — Examination

The ABC Credential Holder/candidate/applicant shall maintain the security and prevent the disclosure of ABC credentialing examinations and their content.

V. Application of Code

C5.1 — Adherence to Code

This Code shall apply to all ABC Credential Holders, including but not limited to residents, exam candidates and individual and facility applicants.

An ABC accredited facility is subject to and shall comply with this Code and the Rules. This obligation includes without limitation, the actions of its employees or independent contractors who provide patient care services for the facility, regardless of their individual credentialed status. The credentialed principals and credentialed officers of an accredited facility shall be responsible for the facility's employees' or independent contractors' compliance with this Code and the Rules, regardless of whether the employees or independent contractors are credentialed.

VI. Patient Care by Other Healthcare Professionals

C6.1 — Concern about Care by Other Healthcare Professionals

The ABC Credential Holder should exercise appropriate respect for other healthcare professionals. Concerns regarding patient care provided by other such professionals should be addressed directly to those professionals rather than to the patient. In the event that such concerns rise to the possible level of criminal violation, incompetence or malpractice, then the ABC Credential Holder must immediately notify the appropriate credentialing or licensure authority and if necessary, the patient or legal guardian.

VII. Credential

C7.1 — Use of Credential

The ABC Credential Holder shall use the fact that he/she/it is credentialed only as evidence of meeting the requisite standard of knowledge and competency in the discipline in which the ABC Credential Holder is credentialed, as defined by ABC.

Rules & Procedures Regarding the Code of Professional Responsibility

I. Responsibility and Objectives of the Professional Discipline Committee

R1.1 — Objectives

The fundamental objectives of the Professional Discipline Committee (“Committee”) are to enforce the *Code of Professional Responsibility* (“Code”) to ensure that any person, facility or organization which may apply or has applied for, or has been awarded any of the accreditations or certifications offered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (“ABC”) (collectively the “ABC Credential Holder”) are practicing in accordance with professional and community standards and to protect the public against unprofessional and unethical conduct by ABC Credential Holders.

R1.2 — Rules

The Committee shall review and analyze the Code and shall propose recommendations regarding the Code for adoption by the Board of Directors (“Board”) of ABC.

R1.3 — Conduct

The Committee is responsible for receiving, reviewing and, if appropriate, investigating complaints of unprofessional conduct or alleged violations of the Code.

R1.4 — Resolution of Complaints

The Committee shall resolve all complaints of unprofessional and unethical conduct or alleged violations of the Code, including without limitation findings, conclusions and sanctions, if warranted.

R1.5 — Reports

Upon the Board’s request, the Committee shall deliver a summary report to the Board identifying the Committee’s activities.

R1.6 — Procedures

Subject to the review of the Board, the Committee shall adopt procedures and safeguards governing the functions of the Committee to ensure that all ABC Credential Holders and the Committee are in full compliance with the Code and these *Rules and Procedures Regarding the Code of Professional Responsibility* (“Rules”).

R1.7 — Time

The time periods set forth in these Rules are intended to provide guidance to the Committee, the Board and the parties, and may be extended at the Committee’s discretion depending on the circumstances of each proceeding. Failure of the Committee, the Board or any party to comply with the time periods shall in no event prevent the continuation or conclusion of a proceeding by the Committee or the Board.

II. Nature of Authority

R2.1 — Power to Investigate

The Committee shall have the power to, but shall not be obligated to, investigate all allegations of unprofessional and unethical conduct that may be harmful to colleagues or to the public, or that may be otherwise contrary to the objectives of the Code or ABC, provided that such allegations are made in writing. The Committee's powers do not extend to addressing economic issues as they relate to legitimate marketplace competition.

R2.2 — Disposition of Complaints

The Committee has the sole authority to decide whether to act on a complaint and to make final determinations regarding each complaint, subject to the Board's authority to conduct an appeal as set forth in these Rules.

R2.3 — Committee Actions

The Committee may take the following actions:

- a. notify all parties in writing that no action is warranted against the ABC Credential Holder;
- b. request that the ABC Credential Holder cease the improper conduct, accept supervision or seek appropriate assistance;
- c. place on probation or reprimand the ABC Credential Holder;
- d. suspend the ABC Credential Holder's credential for an appropriate amount of time;
- e. permanently revoke the ABC Credential Holder's credential;
- f. refer the matter to the proper authorities for criminal prosecution, if appropriate; or
- g. propose other action that is warranted under the circumstances.

R2.4 — Monetary Award

The Committee will not determine or impose monetary awards to the complainant.

R2.5 — Committee Meetings

The Committee shall meet at reasonable intervals, as needed, but not less than four times each year. A quorum at such meetings shall consist of a majority of the members of the Committee. The Committee may meet by telephone conference call. All Committee members must be given at least 10 days advance written notice of any meeting, provided that such notice may be waived by any member of the Committee or by the attendance of any member of the Committee at the meeting. Notices may be communicated by mail, hand delivery, electronic transmission or by facsimile.

R2.6 — Confidentiality

All information disclosed to the Committee or the Board shall be maintained on a confidential basis, except that the Committee or the Board shall be permitted to disclose such information when compelled by a validly issued subpoena, when otherwise required by law, to law enforcement officers or government agencies if warranted and

as determined by ABC or the Committee in its sole discretion, or to parties essential to the review and investigation of the alleged unethical or unprofessional conduct. Public information shall not be considered confidential information for purposes of this Rule.

R2.7 — Determination

When an investigation has been completed and the Committee has made its decision, it shall inform both the complainant (“Complainant”) and the ABC Credential Holder of its conclusions and the actions to be taken, if any, along with the bases for such actions. Such disclosures shall include a citation to any particular Code section violated.

R2.8 — Record Keeping

The Committee shall establish reasonable procedures to ensure that confidentiality is maintained with respect to the handling, storage, maintenance and destruction of records.

III. ABC Credential Holders Convicted or Charged with a Felony or Disciplined By Other Entities, Organizations or Agencies

R3.1 — Conviction/Charge

If the ABC Credential Holder has been convicted of, pled guilty to or pled nolo contendere to a felony, or if the Committee finds that a Federal, State or other recognized appropriate enforcement agency (“Agency”), including without limitation, the Office of Inspector General and the National Supplier Clearinghouse, has determined that the ABC Credential Holder is in violation of pertinent rules and regulations, the Committee shall review the record leading to the conviction, plea or Agency finding and will thereafter send the ABC Credential Holder a notice requesting the ABC Credential Holder show good cause why he/she/it is not in violation of the Code. This action will be conducted without the right to have a hearing, as described in Rule R5.6. Following receipt of the ABC Credential Holder’s response, the Committee may proceed with a final determination in accordance with Rules R2.3 and R6.1. If the ABC Credential Holder has been charged with a felony or possible violation of a pertinent rule or regulation, such charge will neither require nor preclude further action by the Committee.

R3.2 — Affiliations

If the ABC Credential Holder has been expelled or suspended for unethical or unprofessional conduct from a national, regional or state professional association, or had his/her/its license or credential revoked or sanctioned in any way on ethical grounds by a state licensing or certifying authority, the Committee shall review the records leading to the sanction(s), if available, and may, if appropriate, send the ABC Credential Holder a notice that his/her/its credentialed status will be suspended or revoked without further proceedings.

R3.3 — Malpractice

If the ABC Credential Holder has acknowledged committing or has been found to have committed malpractice, the Committee shall review the record leading to the findings, if available, and may thereafter send the ABC Credential Holder a notice that his or her credentialed status will be suspended or revoked without further proceedings.

R3.4 — Appeal of Committee Action Pursuant to Rule R3.2 or R3.3

Except in those instances set forth in Rule R3.1, if the ABC Credential Holder's credentialed status is revoked or suspended pursuant to Rules R3.2 or R3.3, the ABC Credential Holder must notify the Committee, in writing, within 30 days of the date of the notification of the Committee's decision, if he/she/it intends to appeal the Committee's decision. The written appeal must be mailed by certified mail, return receipt requested or by verifiable overnight express mail service, to ABC's headquarters. The written appeal must include all reasons and bases for the appeal. Along with the written appeal, the ABC Credential Holder shall pay to ABC the applicable appeal administrative fee. At the Committee's sole discretion, a hearing may be conducted by telephone conference call or in person if the Committee determines that exceptional circumstances exist. The hearing shall be scheduled by the Committee within 30 days of receipt of the ABC Credential Holder's notification, and shall take place within 60 days thereafter at a date and time established by the Committee. The ABC Credential Holder shall be responsible for all of his/her/its costs.

IV: Disciplinary Procedures — Initial Consideration

R4.1 — Complaint

A complaint ("Complaint") against any ABC Credential Holder may be submitted by: (i) any party claiming to have been harmed by the unethical or unprofessional conduct of the ABC Credential Holder; (ii) any national, regional or state professional association of which the ABC Credential Holder is a member; (iii) any licensing or credentialing authority; (iv) ABC; or (v) the Committee. The Complaint must be in writing and must contain complete and accurate information as required by the ABC Complaint form.

R4.2 — Disclosure of Previous Actions

The Complainant shall inform the Committee of previous steps, if any, that have been taken with respect to the alleged unethical or unprofessional conduct and the results of such steps taken.

R4.3 — Committee Complaint

The Committee may proceed on its own initiative when an ABC Credential Holder appears to have violated the Code by initiating an investigation or requesting information from the ABC Credential Holder or by submitting a formal Complaint.

R4.4 — Anonymous or Oral Complaint

The Committee may not act solely on the basis of an anonymous or oral Complaint.

R4.5 — Additional Information

The Committee may, through correspondence or otherwise, seek supplementary information from the Complainant or any other party, when necessary, in order to completely evaluate the substance of the allegations. In the event that the Committee determines that additional information is necessary but the Complainant refuses to provide such information, the Committee may determine that the case should be closed.

V: Disciplinary Procedures — Initial Action

R5.1 — Initial Determination

Within 45 days of receiving a Complaint from the Complainant, the Committee shall determine whether sufficient information exists to proceed with a formal investigation. The Committee shall not proceed until such time as the Committee is satisfied that the Complainant has complied with all procedural requirements. If the Committee concludes that an investigation is not warranted, it shall notify the Complainant within 30 days of its determination.

R5.2 — Formal Investigation

If the Committee determines that a formal investigation should ensue, it shall notify the Complainant and ABC Credential Holder within 30 days of its determination. The notification sent by the Committee to the ABC Credential Holder shall include the Complaint and a description of the alleged behaviors involved in the Complaint, including the specific Section of the Code that the ABC Credential Holder is alleged to have violated. The notification shall include a copy of the Code and these Rules. The notification shall further contain the name of the Complainant. If the Complainant refuses to have his/her name known to the ABC Credential Holder, the case shall be closed. The notification shall include a statement that the information submitted by the ABC Credential Holder shall become part of the record and may be used in further proceedings.

R5.3 — Response to Complaint

The ABC Credential Holder is required to provide to the Committee and personally sign his/her/its written response within 15 days from the date of the notification sent by the Committee. The ABC Credential Holder's response must be complete, accurate and fully responsive to the Complaint. Failure to respond, or any other unwarranted delay by the ABC Credential Holder, or the lack of the ABC Credential Holder's cooperation, shall in no way prevent the continuation or conclusion of the proceedings by the Committee as it deems fit.

R5.4 — Additional Information

If, after receipt of the ABC Credential Holder's response, the Committee determines that additional information is warranted from either or both the Complainant or the ABC Credential Holder, or from any third party, it shall notify the Complainant and the ABC Credential Holder of the request for additional information. The parties shall provide the additional information no later than 15 days from the date of the request for additional information.

R5.5 — No Further Action

Once all of the information has been received pursuant to Rules R5.3 and R5.4, the Committee may conclude that the Complaint has no basis in fact, is insufficient or is likely to be corrected on its own merit and, therefore, may determine to close the case without further action. Such decision shall be made within 45 days of the Committee's receipt of all of the information. If the Committee determines to close the case, it shall inform both the Complainant and the ABC Credential Holder.

R5.6 — Right to a Hearing

If the Committee, having received all information pursuant to Rules R5.3 and R5.4, determines that further action is warranted, it shall notify the Complainant and the ABC Credential Holder that the Committee is prepared to consider all of the information before it and render a decision on that basis. The ABC Credential Holder may request that, prior to such analysis and decision, he/she/it be afforded the opportunity to have a hearing before the Committee so that he/she/it may present his/her/its interpretation of the facts before the Committee. If the ABC Credential Holder desires to have a hearing before the Committee, he/she/it must so notify the Committee, in writing, within 15 days of the Committee's notification to the ABC Credential Holder and Complainant as set out in this Rule R5.6. The ABC Credential Holder's failure to timely request a hearing shall be deemed a waiver by the ABC Credential Holder of the right to a hearing. All hearings shall be by telephone conference call unless due to exceptional circumstances the Committee determines in its sole discretion to conduct an in-person hearing. The Complainant shall be invited to be present during the hearing. If the Complainant is invited to be present during the hearing but does not attend, the hearing and investigation shall not be delayed or terminated.

R5.7 — Peer Review

The hearing process shall be conducted through peer review. The ABC Credential Holder may be accompanied by any third party, including legal counsel. However, the ABC Credential Holder personally, and not any other party including, without limitation, the ABC Credential Holder's legal counsel, shall make all presentations, responses and address all issues to the Committee.

R5.8 — Committee Panel

The Committee may, in its discretion, establish a panel (“Panel”) consisting of at least three Committee members, to act on its behalf at any hearing referred to in these Rules. The Panel shall conduct any such hearing in accordance with these Rules and shall report all findings during the hearing to the Committee for the Committee’s consideration and determination.

R5.9 — Hearing Schedule

If the ABC Credential Holder requests a hearing pursuant to Rule R5.6, the Committee shall schedule a hearing date no later than 60 days after receipt of the ABC Credential Holder’s request. The Committee shall notify the ABC Credential Holder and Complainant of the date, time and, if applicable, place of the hearing. If the hearing is conducted by telephone conference call, the Committee, in its sole discretion, shall determine the date and time of the hearing. If the hearing is conducted in-person, the Committee, in its sole discretion, shall determine the location, date and time of the hearing. The ABC Credential Holder and Complainant shall each pay all of his/her/its own costs.

VI. Disciplinary Procedures — Disposition of Complaint

R6.1 — Committee Action

If the Committee concludes that some type of action is warranted, it shall adopt any one or more of the following sanctions or take any other appropriate action:

- a. require that the ABC Credential Holder cease and desist the alleged conduct;
- b. require the supervision of the ABC Credential Holder as the Committee sees necessary;
- c. reprimand the ABC Credential Holder if the Committee determines there has been a Code violation but no damage to another person, the public or the profession has occurred;
- d. censor the ABC Credential Holder if the Committee determines there has been a Code violation but the damage done is not sufficient to warrant more serious action;
- e. place the ABC Credential Holder under probation and actually and systematically monitor the ABC Credential Holder for a specific length of time;
- f. if appropriate, refer the matter to the national, regional and state professional association and/or a state licensing or certifying authority;
- g. suspend or revoke the ABC Credential Holder’s credential;
- h. require the ABC Credential Holder to take remedial personal rehabilitative or educational actions; or
- i. take any other action as set forth in Rule R2.3.

R6.2 — Notification of Committee Action

The Committee shall notify the Complainant and ABC Credential Holder of its determination and action to be taken within 30 days of the date of its decision.

R6.3 — Notice of Appeal

If the ABC Credential Holder intends to appeal the Committee's decision, he/she/it must notify the Committee, in writing ("Notice") within 15 days of the date of the Committee's decision. The Notice must be mailed by certified mail, return receipt requested or by verifiable overnight express mail service, to ABC's headquarters. The Notice must include all reasons and bases for the appeal. The appeal must be based upon at least one of the reasons set forth in Rule R7.2. Along with the Notice, the ABC Credential Holder shall pay to ABC the applicable appeal administrative fee. If the ABC Credential Holder accepts the Committee's determination and sanctions or the ABC Credential Holder does not appeal the Committee's decision within the 15 day time period, the Committee's conclusions and sanctions shall be deemed final, effective immediately. The Committee shall so notify the Complainant and the ABC Credential Holder. The Committee shall forward the Notice to the Board of Directors.

R6.4 — Panel

The Board may elect to establish a panel consisting of three of its members, who are not simultaneously serving on the Committee, to act on its behalf to review, consider and make a final determination about an appeal of a Committee decision. As used herein, the term "Board" shall mean "Panel" where the Board has constituted a Panel to act on its behalf pursuant to this Rule R6.4.

R6.5 — Written Appeal to the Board

If the ABC Credential Holder appeals a decision by the Committee, along with the Notice, he/she/it must submit a detailed written statement setting forth all of the bases and reasons for the appeal. The written statement must include at least one of the reason(s) set forth in Rule R7.2. The Board shall consider the written statement and all available evidence. The ABC Credential Holder shall pay for all of his/her/its own costs.

VII. Board Decisions

R7.1 — Further Consideration

The Board may, after reviewing the decision of the Committee, determine that the Committee did not properly review the evidence prior to making its final decision in the matter. In such case, the Board may remand the matter back to the Committee for further consideration.

R7.2 — Board Decisions

The Board shall only modify the Committee's decisions based on clear and convincing evidence in the event of the following:

- a. the Code was incorrectly applied;
- b. the findings of facts by the Committee were clearly erroneous;
- c. it would be unjust or unfair to implement the Committee's decision;
- d. the procedures used by the Committee were in serious and substantial violation of the Code and these Rules; or
- e. the disciplinary sanctions determined by the Committee were grossly disproportionate to the facts.

R7.3 — Notification

Within 60 days of receipt of the Notice, the Board shall notify the Complainant and the ABC Credential Holder of its decision which shall be final. The Board's decision may not be appealed. Once the Board's decision has been made, it shall notify the Committee, which shall implement the Board's directives.

R7.4 — Publication of Sanction

ABC shall report at least annually the names of all sanctioned ABC Credential Holders and the violations of the Code involved. In addition, ABC shall notify all interested national, regional and state professional associations as well as state licensing and certifying authorities; and, on request, any interested person or public agency deemed necessary to protect the public or who recognizes the standards of ABC.

VIII. Close of Case

R8.1 — Close of Case

Once the final decision has been made by the Committee or the Board, the matter shall be closed and the files shall be retained at ABC's headquarters.

IX. Request for Reinstatement of Credential

R9.1 — Reinstatement Request

ABC will consider all written reinstatement requests, which must include the following information: (i) the date of the final Committee or Board disposition; (ii) a complete statement of reasons that the ABC Credential Holder believes support the reinstatement request; and (iii) copies of all relevant documents and materials supporting the reinstatement request. ABC will provide its decision to the ABC Credential Holder within 45 days of receipt of the reinstatement request.

X. Governing Law/Venue

R10.1 — Governing Law

The laws of the Commonwealth of Virginia shall govern these Rules.

R10.2 — Venue

The ABC Credential Holder and ABC agree to file and pursue all claims and suits regarding these Rules with the applicable court in the jurisdiction in which ABC's headquarters are located.

ABC Rules & Procedures Schedule of Time Requirements

Rule	If No Hearing Is Requested Receipt Of Complaint	Rule	If Hearing Is Requested Receipt Of Complaint
R5.1	Within 45 days of receipt of a valid complaint, the Committee must determine if there is sufficient basis to proceed and must comply with procedural requirements.	R5.1	Within 45 days of receipt of a valid complaint, the Committee must determine if there is sufficient basis to proceed and must comply with procedural requirements.
R5.1 R5.2	Within 30 days of making the initial determination, the committee must inform the Complainant that no further action is warranted or notify the Complainant and the ABC Credential Holder that it will proceed with a formal investigation.	R5.1 R5.2	Within 30 days of making the initial determination, the committee must inform the Complainant that no further action is warranted or notify the Complainant and the ABC Credential Holder that it will proceed with a formal investigation.
R5.3	The ABC Credential Holder must respond within 15 days of receipt of the notification.	R5.3	The ABC Credential Holder must respond within 15 days of receipt of the notification.
R5.4	The Committee may request additional information from Complainant, the ABC Credential Holder or third parties.	R5.4	The Committee may request additional information from Complainant, the ABC Credential Holder or third parties.
R5.4	If additional information is requested from any party, a response must be received within 15 days . [The Committee may request additional information until it is satisfied that it understands all relevant facts of the matter.]	R5.4	If additional information is requested from any party, a response must be received within 15 days . [The Committee may request additional information until it is satisfied that it understands all relevant facts of the matter.]
R5.5	If no further action is warranted, the Committee must notify the Complainant and the ABC Credential Holder within 45 days of the Committee's receipt of all of the information	R5.5	If no further action is warranted, the Committee must notify the Complainant and the ABC Credential Holder within 45 days of the Committee's receipt of all of the information.
R5.6	Once the Committee has all of the relevant information, it must notify the Complainant and the ABC Credential Holder that it is prepared to review the information and render a decision.	R5.6	Once the Committee has all of the relevant information, it must notify the Complainant and the ABC Credential Holder that it is prepared to review the information and render a decision.
—	If the ABC Credential Holder does not request a hearing before the Committee, the Committee may render a decision.	R5.6	The ABC Credential Holder may request a hearing before the Committee within 15 days .
R6.2	The Committee shall notify the ABC Credential Holder of its decision within 30 days .	R5.9	A hearing must be scheduled within 60 days from receipt of the request.
R6.3	The ABC Credential Holder has 15 days to accept the Committee's decision or submit a notice of appeal.	—	The Committee deliberates and reaches a decision.
R7.3	The Board must notify the ABC Credential Holder of its decision within 60 days of receipt of the Notice of Appeal. The Board's decision is final.	R6.2	The Committee will notify the ABC Credential Holder of its decision within 30 days after reaching a decision.
		R6.3	The ABC Credential Holder has 15 days to accept the Committee's decision or to submit a Notice of Appeal.
		R7.3	The Board must notify the ABC Credential Holder of its decision within 60 days after receiving the Notice of Appeal. The Board's decision is final.

Professional Discipline Complaint Form

Complete each section of this form. Submit your signed complaint form to ABC along with the appropriate documentation to support your complaint. Upon receipt, the Professional Discipline Committee will determine whether an inquiry can be initiated under its authority.

Please print legibly.

Section I – Your Personal Contact Information

Name (herein referred to as “Complainant”)

Address 1

Address 2

City

State

Zip

Phone

Fax

Website

Email

Section II – Alleged Code Violator’s Contact Information

Name of Respondent (must be an ABC credentialed individual or facility)

Address 1

Address 2

City

State

Zip

Phone

Fax

Website

Email

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