



# THE CODE OF PROFESSIONAL RESPONSIBILITY

AND RULES & PROCEDURES

# **CODE OF PROFESSIONAL RESPONSIBILITY**

**AND**

# **RULES & PROCEDURES**

**REGARDING THE CODE OF  
PROFESSIONAL RESPONSIBILITY**

**Effective June 2023**

# CODE OF PROFESSIONAL RESPONSIBILITY

|                                                                                               |          |
|-----------------------------------------------------------------------------------------------|----------|
| <b>I. General Responsibilities .....</b>                                                      | <b>1</b> |
| C1.1 Professional Conduct                                                                     |          |
| C1.2 Ethics, Custom and the Law                                                               |          |
| C1.3 Disclosure of Other Agency Actions                                                       |          |
| <b>II. Responsibilities to the Physicians and Other Licensed Healthcare Prescribers .....</b> | <b>2</b> |
| C2.1 Diagnosis and Prescription                                                               |          |
| C2.2 Orthotic, Prosthetic and Pedorthic Evaluations and Recommendation                        |          |
| C2.3 Changes in Patient's Condition                                                           |          |
| C2.4 Provision of Services                                                                    |          |
| C2.5 Modifications                                                                            |          |
| <b>III. Responsibilities to the Patient.....</b>                                              | <b>4</b> |
| C3.1 Confidential Information                                                                 |          |
| C3.2 Care                                                                                     |          |
| C3.3 Records                                                                                  |          |
| C3.4 Research                                                                                 |          |
| C3.5 Trust and Honesty                                                                        |          |
| C3.6 Fees and Compensation                                                                    |          |
| C3.7 Practice Arrangements                                                                    |          |
| C3.8 Delay in Services                                                                        |          |
| C3.9 Compliance with Laws and Regulations                                                     |          |
| C3.10 Reporting                                                                               |          |
| C3.11 Delegation of Responsibility                                                            |          |
| C3.12 Advertising and Public Communication                                                    |          |
| C3.13 Illegal Discrimination                                                                  |          |
| C3.14 Prohibited Sexual Relations                                                             |          |
| C3.15 Sexual Relations with Key Third Parties Prohibited                                      |          |
| <b>IV. Responsibilities to Colleagues and the Profession.....</b>                             | <b>7</b> |
| C4.1 Dignity                                                                                  |          |
| C4.2 Substance Abuse                                                                          |          |
| C4.3 Solicitation                                                                             |          |
| C4.4 Examination                                                                              |          |
| <b>V. Application of the Code .....</b>                                                       | <b>8</b> |
| C5.1 Adherence to the Code                                                                    |          |
| <b>VI. Patient Care by other Healthcare Professionals.....</b>                                | <b>9</b> |
| C6.1 Concern about Care by Other Healthcare Professionals                                     |          |
| <b>VII. Credential.....</b>                                                                   | <b>9</b> |
| C7.1 Use of Credential                                                                        |          |

# RULES & PROCEDURES

|                                                                                                                                            |           |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>I. Responsibility and Objectives of the Professional Ethics Committee .....</b>                                                         | <b>10</b> |
| R1.1 Objectives                                                                                                                            |           |
| R1.2 Code and Rules                                                                                                                        |           |
| R1.3 Review of Complaints                                                                                                                  |           |
| R1.4 Resolution of Complaints                                                                                                              |           |
| R1.5 Reports                                                                                                                               |           |
| R1.6 Procedures                                                                                                                            |           |
| R1.7 Time                                                                                                                                  |           |
| <b>II. Nature of Authority .....</b>                                                                                                       | <b>11</b> |
| R2.1 Power to Investigate                                                                                                                  |           |
| R2.2 Disposition of Complaints                                                                                                             |           |
| R2.3 Committee Actions                                                                                                                     |           |
| R2.4 Monetary Award                                                                                                                        |           |
| R2.5 Committee Meetings                                                                                                                    |           |
| R2.6 Confidentiality                                                                                                                       |           |
| R2.7 Determination                                                                                                                         |           |
| R2.8 Record Keeping                                                                                                                        |           |
| <b>III. ABC Credential Holders Convicted or Charged with a Felony or Disciplined<br/>by Other Entities, Organizations or Agencies.....</b> | <b>13</b> |
| R3.1 Conviction/Charge                                                                                                                     |           |
| R3.2 Affiliations                                                                                                                          |           |
| R3.3 Professional Negligence                                                                                                               |           |
| <b>IV. Disciplinary Procedures – Initial Consideration.....</b>                                                                            | <b>14</b> |
| R4.1 Complaint                                                                                                                             |           |
| R4.2 Disclosure of Previous Actions                                                                                                        |           |
| R4.3 Committee Action                                                                                                                      |           |
| R4.4 Anonymous Complaint                                                                                                                   |           |
| R4.5 Additional Information                                                                                                                |           |
| <b>V. Disciplinary Procedures – Initial Action.....</b>                                                                                    | <b>15</b> |
| R5.1 Initial Determination                                                                                                                 |           |
| R5.2 Formal Investigation                                                                                                                  |           |
| R5.3 Response to Complaint                                                                                                                 |           |
| R5.4 Additional Information                                                                                                                |           |
| R5.5 Transparency of Information                                                                                                           |           |
| R5.6 No Further Action                                                                                                                     |           |
| <b>VI. Disciplinary Procedures – Disposition of Complaint.....</b>                                                                         | <b>16</b> |
| R6.1 Committee Action                                                                                                                      |           |
| R6.2 Notification of Committee Action                                                                                                      |           |
| R6.3 Notice of Appeal                                                                                                                      |           |
| R6.4 Board Appeal Panel                                                                                                                    |           |

# RULES & PROCEDURES

## CONTINUED

|                                                          |           |
|----------------------------------------------------------|-----------|
| <b>VII. Board Decisions .....</b>                        | <b>17</b> |
| R7.1 Remand for Further Consideration                    |           |
| R7.2 Board Decisions                                     |           |
| R7.3 Notification                                        |           |
| R7.4 Publication of Sanction                             |           |
| <b>VIII. Close of Case .....</b>                         | <b>18</b> |
| R8.1 Close of Case                                       |           |
| <b>IX. Request for Reinstatement of Credential .....</b> | <b>19</b> |
| R9.1 Reinstatement Request                               |           |
| <b>X. Governing Law &amp; Venue .....</b>                | <b>19</b> |
| R10.1 Governing Law                                      |           |
| R10.2 Venue                                              |           |
| <b>Supplements</b>                                       |           |
| Timeline                                                 |           |
| Professional Ethics Complaint Form                       |           |

# CODE OF PROFESSIONAL RESPONSIBILITY

## I. GENERAL RESPONSIBILITIES

### C1.1 — Professional Conduct

The practice of orthotics, prosthetics and pedorthics (Profession) is a recognized allied health profession. The ABC Credential Holder assumes specific responsibilities to physicians and other appropriately licensed healthcare prescribers, patients, the public, colleagues and to the Profession itself. These responsibilities must be discharged with honor and integrity to assure 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, and/or has been awarded any of the certifications, accreditations or recognitions offered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC), including residents registered with the National Commission on Orthotic and Prosthetic Education (NCOPE). As used herein, Committee refers to the Professional Ethics Committee of the ABC.

The Profession exists for the primary purpose of assisting patients in maintaining functional lives. ABC Credential Holder(s) shall be responsible for making their best efforts to meet the patient's orthotic, prosthetic and/or pedorthic needs. The manner in which the patient is served is essential to ensuring that the ABC Credential Holder is engaged in appropriate ethical professional conduct. Members of the Profession are responsible for maintaining and promoting ethical practice including, without limitation, reporting unethical practices of other ABC Credential Holders, 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 generally accepted practices of the Profession as well as actions that violate federal, state and/or local laws and/or regulations. Failure to conform to this Code, including conduct that violates best practices of the Profession and/or moral principles, laws, regulations, and/or customs, may be subject to disciplinary action in accordance with the Rules and Procedures Regarding the Code of Professional Responsibility (Rules). Disciplinary action, if any, 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/its attention involving the conduct of any ABC Credential Holder that violates the Code.

## C1.3 — Disclosure of Other Agency Actions

Each ABC Credential Holder must promptly, fully and accurately disclose to ABC any and all investigations, findings and actions by any federal, state or local: (i) orthotic, prosthetic or pedorthic (OP&P) related agency or body responsible for licensing or oversight of health or OP&P related licenses or certifications; (ii) government agency; (iii) quasi-government agency; and/or (iv) licensing board (individually an Agency and collectively Agencies). The ABC Credential Holder's disclosure requirement includes investigations by federal, state or private payers. 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 learning of the commencement of action by any Agency. Each ABC Credential Holder must promptly and fully cooperate with ABC, the Committee and the Agencies.

# II. RESPONSIBILITIES TO PHYSICIANS AND OTHER LICENSED HEALTHCARE PRESCRIBERS

## C2.1 — Diagnosis and Prescription

It is the responsibility of the ABC Credential Holder to work in conjunction with physicians and other licensed healthcare prescribers to determine the medical appropriateness of the orthosis, prosthesis or pedorthic device, as defined by the ABC Scope of Practice. The ABC Credential Holder must receive a prescription from a physician, other licensed healthcare prescriber, or other valid order that meets the Profession's standards before providing any custom fabricated or pre-fabricated orthosis, prosthesis or pedorthic device to a patient. Valid orders include but are not limited to: referrals, authorizations, 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 an off-the-shelf orthosis, pedorthic device or component parts thereof or ancillary supplies for an orthosis, prosthesis or pedorthic device to a patient if (i) he/she/it is not addressing a diagnosed medical condition and (ii) the ABC Credential Holder does not expend his/her/its professional skills in custom fitting the orthosis or pedorthic device, the component parts thereof or the ancillary supplies for an orthosis, prosthesis or pedorthic device to the patient.

The ABC Credential Holder may, without prescription or other valid order, provide a non-therapeutic pedorthic device if (i) he/she/it is not addressing a medical condition and (ii) he/she/it is not addressing the patient's biomechanical function.

## 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 interventions. 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 of primary concern.

## C2.3 — Changes in Patient's Condition

When appropriate, or when requested by the patient, physician or other licensed healthcare prescriber, 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 referring physician or other licensed healthcare prescriber and the patient of changes in the patient's condition that may 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 the selection of the orthotic, prosthetic or pedorthic provider. Professional affiliations, including employment and referral relationships, may not adversely limit access to orthotic, prosthetic and/or pedorthic services (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, prosthesis or pedorthic device without notifying the referring physician or other licensed healthcare prescriber, however, such repairs or adjustments must conform to the original prescription or the prescription as modified by the referring physician or other 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 referring physician or the other licensed healthcare prescriber and documented in the patient's clinical record.



## III. RESPONSIBILITIES TO THE PATIENT

### C3.1 — Confidential Information

All information relating to a patient's identity, background, condition, treatment or management plan and/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.

All patient information derived in a workplace from a working relationship relating to any patient shall be held and always remain confidential by all parties unless written permission to release the information is obtained from the patient or patient's legal guardian. No patient information shall be removed, copied or transferred by any ABC Credential Holder. The confidentiality requirements set forth in this Code shall be strictly adhered to by all ABC Credential Holders unless: (i) required otherwise by law or valid court order or subpoena; (ii) it becomes necessary to disclose such information to protect the welfare of the patient or the community; or (iii) confidential information must be disclosed to the Committee in connection with a valid complaint regarding a patient and an ABC Credential Holder in accordance with and pursuant to this Code. In such an event, any disclosure of confidential information shall be in accordance with applicable legal requirements, the Code and the Rules.

### C3.2 — Care

The ABC Credential Holder shall use all reasonable efforts to meet the patient's orthotic, prosthetic and pedorthic needs. Upon accepting an individual for Services, the ABC Credential Holder shall assume the responsibility for performing the tasks associated with Patient Evaluation, Formulation of the Treatment Plan, Implementation of the Treatment Plan, Continuation of the Treatment Plan, Practice Management, and Promotion of Professional Practice, all within the scope of practice of the discipline(s) in which he/she/it are credentialed or privileged and as described in ABC Practice Analyses, ABC Facility Accreditation Standards and the ABC Orthotic, Prosthetic and Pedorthic Scope of Practice (Scope of Practice), as they may be amended.

In the event the ABC Credential Holder seeks to terminate the professional relationship with a patient, the ABC Credential Holder shall provide reasonable advance written notification of such termination to the patient taking into account the patient's needs. The notification must include, at least:

- the effective date of the termination,
- the reason(s) for the termination and
- a statement that, upon the patient's written request, the ABC Credential Holder shall deliver a copy of the patient's records to the patient.

### C3.3 — Records

Upon a patient's written request, the ABC Credential Holder shall deliver a copy of the patient's records to the patient or a designated care provider. The ABC Credential Holder may not charge the patient or subsequent designated care provider in excess of amounts permitted by federal and/or state regulations.

### C3.4 — Research

In the event that the ABC Credential Holder desires to engage in a research project or study, he/she/ it shall first ensure that: (i) all patients affiliated with such projects and/or studies consent in writing to participate in such projects and/or studies and to the use of the results of the project and/or study; (ii) the protected healthcare 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, state and local 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 any acts in the conducting or presentation of the research appears to be unethical and/or illegal, the ABC Credential Holder shall immediately report the unethical and/or illegal conduct to ABC and, if appropriate, applicable law enforcement authority.

### C3.5 — Trust and Honesty

The ABC Credential Holder shall be trustworthy and honest.

### C3.6 — Fees and Compensation

The ABC Credential Holder shall provide the Services and orthoses, prostheses or pedorthic devices based on the needs of the individual receiving the Services and not primarily for personal financial gain. The ABC Credential Holder shall not engage in false, misleading or deceptive actions in relation to the Services provided and/or the cost of the Services undertaken or furnished. The ABC Credential Holder shall not over- utilize or unnecessarily continue the Services beyond the point of meaningful benefit for the patient or by providing the Services more frequently than necessary. The ABC Credential Holder shall not submit false or misleading information in requesting payment or reimbursement. The ABC Credential Holder may not: (i) deliver used devices or components when providing the Services; or (ii) utilize used components for the repair of an orthosis, prosthesis or pedorthic device, without the prior written consent of the patient. The ABC Credential Holder may not deliver used components when billing for a new orthosis, prosthesis or pedorthic device.

### C3.7 — 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, by way of example and without limitation, an unearned commission, discount or gratuity for providing the Services except for the fees earned for the 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.

### C3.8 — Delay in Services

The ABC Credential Holder shall not accept any prescription or valid order when the ABC Credential Holder knows, or has reason to know, that the orthosis, prosthesis or pedorthic device cannot be furnished within a reasonable period of time. In such instances, the ABC Credential Holder must discuss the situation with the patient and his/her current physician or other licensed healthcare prescriber in a timely manner. The ABC Credential Holder shall not unreasonably delay or allow for the unreasonable delay of the provision of the Services.

### C3.9 — Compliance with Laws and Regulations

The ABC Credential Holder shall provide Services in accordance with federal laws and regulations, and the laws and regulations of the jurisdiction(s) in which he/she/it provides Services.

### C3.10 — Reporting

The ABC Credential Holder shall report to ABC any conduct about which the ABC Credential Holder is aware and 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. Each ABC Credential Holder must make such disclosure to ABC within 30 days of the date from when he/she/it learns of any possible Code violation(s).

### C3.11 — 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 privileged individuals and Support Personnel (as defined in the [ABC Scope of Practice](#)) rests with the delegating ABC Credential Holder. Adequate supervision, as defined in ABC's Scope of Practice, is required to ensure patients receive the necessary and appropriate care.

### C3.12 — Advertising and Public Communication

The ABC Credential Holder shall not, nor permit any person to, use confusing or deceptive titles or descriptions. When advertising, the ABC Credential Holder may publicize himself/herself/ itself through any commercial publicity or other form of public communication (including without limitation any newspaper, magazine, internet, oral and/or written promotional materials, radio, television, social media 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) otherwise operate to deceive; (iv) be an unsolicited contact to an individual patient, in violation with any third party payer rules; or (v) promise remuneration of any kind in exchange for providing the Services that would violate federal, state or local laws or regulations. All advertisements shall be identified as an advertisement unless it is absolutely clear from the context that it is a paid advertisement.

### C3.13 — Illegal Discrimination & Harassment

The ABC Credential Holder shall not decline to accept a patient on any basis that would constitute illegal discrimination under federal law. ABC Credential Holders shall not engage in any harassing behavior or illegal discrimination of any kind.

### C3.14 — Prohibited Sexual Relations

The ABC Credential Holder shall not have nonconsensual sexual relations with anyone.

The ABC Credential Holder shall not have consensual sexual relations with a current or former patient unless the: (i) consensual sexual relationship existed between the ABC Credential Holder and the patient prior to the provision of any of the Services; (ii) the ABC Credential Holder has not provided any of the Services to the patient for six months preceding the beginning of the sexual relationship; or (iii) the ABC Credential Holder has not provided any of the Services for six months 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 providing any of the Services.

### C3.15 — Sexual Relations with Key Third Parties Prohibited

The ABC Credential Holder shall not have consensual 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, siblings, children, guardians, caregivers. Each matter shall be evaluated on a case-by-case basis. Factors to be considered in connection with consensual sexual relations with a Key Third Party shall include the: (i) nature of the patient's orthotic, prosthetic or pedorthic needs; (ii) length of the professional relationship; (iii) degree of the Key Third Party's emotional dependence on the ABC Credential Holder; and (iv) 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 responsibility to conduct himself/herself/itself in a manner that will assure the dignity and status of the Profession. Examples of unacceptable behavior include, but are not limited to, inappropriate conduct with a patient, falsifying documents, misusing the certification credential, slandering or libeling another, disparaging existing or former employers, disparaging existing or former employees or misrepresenting one's capacity as a provider of the Services.

## C4.2 — Substance Abuse

The ABC Credential Holder shall not use illegal drugs and/or any legally controlled substances resulting in the impairment of his/her professional judgment and/or ability to provide the Services.

## C4.3 — Solicitation

The ABC Credential Holder and his/her/its representatives shall not, either directly or indirectly, solicit the patronage of individual patients by way of: (i) of intimidation, threats, harassing conduct, undue influence, coercion, duress; and/or (ii) remuneration, unwarranted promises of benefits, or in violation of any third-party payer rules. The ABC Credential Holder and his/her/its representative shall not solicit a patient who appears to be in a cognitively impaired condition affecting his/her personal judgment to make decisions concerning the Services being offered. The ABC Credential Holder and his/her/its representatives shall not solicit a patient while they reside in an in-patient setting unless the ABC Credential Holder has received a valid order or referral from the treating physician or other appropriately licensed healthcare prescriber. All contacts with a patient shall be in a manner that is consistent with his/her/its obligation to act in a dignified manner as set forth in Code C4.1.

## C4.4 — Examination

The ABC Credential Holder, ABC Exam Candidates, and Exam Applicants (both as defined in the [ABC Scope of Practice](#)), must maintain the security of, and shall not disclose nor allow the disclosure of, any portion of the ABC credentialing examinations and their content.

# V. APPLICATION OF THE CODE

## C5.1 — Adherence to the Code and the Rules

The Code and the Rules shall apply to all ABC Credential Holders NCOPE residents, applicants for ABC credentials, applicants for ABC exams, and applicants for facility accreditation.

Adherence to the Code includes, without limitation, the actions of an ABC accredited facility's employees and/or independent contractors who provide patient care services or act as representatives for the facility, regardless of their individual credentialed status.

The ABC credentialed principals, owners and officers of a facility shall be responsible for the facility's employees' and independent contractors' compliance with the Code and the Rules regardless of whether such 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 shall 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 level of possible criminal violation, incompetence or malpractice, then the ABC Credential Holder must immediately notify the appropriate law enforcement, 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 as evidence of meeting the requisite standard of knowledge and competency only in the discipline in which the ABC Credential Holder is credentialed, as defined by ABC. The ABC Credential Holder shall not communicate, in any manner, that he/she/it is qualified to provide the Services beyond the discipline and scope of practice in which he/she/it is credentialed. The ABC Credential Holder shall not use any credentialing titles or designations awarded by ABC if such credentialing titles or designations are not in good standing for any reason. All personnel who provide patient care services must only use valid certification or licensure designations.

# RULES & PROCEDURES

## REGARDING THE CODE OF PROFESSIONAL RESPONSIBILITY

### I. RESPONSIBILITY AND OBJECTIVES OF THE PROFESSIONAL ETHICS COMMITTEE

#### R1.1 — Objectives

The fundamental objectives of the Committee are to: (i) enforce the Code to ensure that all ABC Credential Holders are practicing in accordance with professional standards; and (ii) protect the public against unprofessional and unethical conduct by ABC Credential Holders.

#### R1.2 — Code and Rules

The Committee may review and analyze the Code and the Rules and shall propose modifications to the Code and Rules for adoption by the ABC Board of Directors (Board).

#### R1.3 — Review of Complaints

The Committee is responsible for receiving, reviewing and, if appropriate, investigating all complaints that comply with Rule 4 regarding alleged violations of the Code (Complaint). The Committee's investigation shall mean evaluating all relevant and non-redundant information provided to it by the complainant (Complainant), the ABC Credential Holder and/or, at the Committee's sole and absolute discretion, verifiable third party sources.

#### R1.4 — Resolution of Complaints

The Committee shall resolve all Complaints 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 may 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 the Rules.

## R1.7 — Time

The time periods set forth in the Rules are intended to provide guidance to the Committee, the Board and the relevant parties, and may be extended at the Committee or Board'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 before 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 Complaints 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, including Complaints that may be initiated by ABC or the Committee. The Committee's powers do not extend to: (i) addressing economic issues as they relate to legitimate marketplace competition; or (ii) consumer dissatisfaction oriented complaints that may be resolved through judicial, quasi-judicial or other means.

## 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 the Rules.

## R2.3 — Committee Actions

After the Committee has determined to proceed with an investigation of allegations set forth in a Complaint, and subsequent to the Committee's investigation of the allegations set forth in the Complaint, in accordance with Rule R6.1, the Committee shall take any or all of the following actions:

- a.** notify all parties in writing that no Code violations were found and 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.** reprimand the ABC Credential Holder;
- d.** place the ABC Credential Holder on probation;
- e.** suspend the ABC Credential Holder's credential for a specific amount of time or indefinitely;
- f.** permanently revoke the ABC Credential Holder's credential;
- g.** refer the matter to the proper authorities, if appropriate; and/or
- h.** propose other action that is warranted under the circumstances.



## R2.4 — Monetary Award

The Committee will not determine or impose monetary awards to any party.

## 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 and/or video/virtual conference call. All Committee members must be given at least 10 days advance 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, telephone, 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 and 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 and absolute 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 of a Complaint has been completed and the Committee has made its decision, it shall inform both the 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 the Code section(s) violated by the ABC Credential Holder.

## 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 or pled nolo contendere, to a felony, or if the Committee finds that an Agency, including without limitation, the Office of Inspector General and Centers for Medicare/Medicaid Services or its contractors, has determined that the ABC Credential Holder is in violation of its rules and/or regulations, the Committee shall review the record leading to the conviction, plea and/or Agency findings and will thereafter send the ABC Credential Holder 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 a right to have a hearing. Following receipt of the ABC Credential Holder's written 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 an Agency rule or regulation, such charge will neither require nor preclude further action by the Committee.

Notwithstanding the above, if an ABC Credential Holder is charged with a felony, or is the subject of a law enforcement investigation regarding a possible felony, when in the interest of public protection, as determined by the Committee in its sole discretion, the Committee may indefinitely suspend the ABC Credential Holder's credential pending the Committee's final decision regarding the ABC Credential Holder's possible Code violation and, in such event, the Committee shall send the ABC Credential Holder written notice that his/her/its credential has been indefinitely suspended pending the Committee's final decision regarding the ABC Credential Holder's possible Code violation.

#### 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 an Agency or state licensing or certifying authority, the Committee shall review the records leading to the sanction(s), if available, and may, in its sole discretion and if appropriate, suspend or revoke his/her/its credentials without further proceedings and, in such event, the Committee shall send the ABC Credential Holder written notice that his/her/its credential is suspended or revoked.

#### R3.3 — Professional Negligence

If the ABC Credential Holder has acknowledged committing, or has been found by a court of law or Agency to have committed, professional negligence, the Committee shall review the record leading to the findings, if available, and, if appropriate, may, in its sole discretion, thereafter sanction the ABC Credential Holder, without further proceedings and, in such event, the Committee shall send the ABC Credential Holder written notice that his/her/its credential is sanctioned.

## IV: DISCIPLINARY PROCEDURES — INITIAL CONSIDERATION

### R4.1 — Complaint

A Complaint against any ABC Credential Holder may be submitted by: (i) any person or entity; (ii) any national, regional or state professional association of which the ABC Credential Holder is a member; (iii) any licensing or credentialing authority; or (iv) in accordance with Rule 4.3. The Complaint must be in writing, signed and must contain complete and accurate information as required by the ABC Complaint form and the Committee. The Complaint and supporting documents must be legible and may not exceed 20 pages without the prior approval of ABC.

### R4.2 — Disclosure of Previous Actions

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

### R4.3 — Committee Action

The Committee may proceed on its own initiative based on publicly available information that 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, or cannot, 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, the Committee shall determine whether sufficient information exists to proceed with a formal investigation of the Complaint. The Committee shall not proceed until such time as the Committee is satisfied that the Complainant has complied with all procedural requirements. If the Complainant refuses to have his/her/its name known to the ABC Credential Holder, the Committee shall not consider the matter unless it determines to proceed with the Complaint based on independent verifiable information. If the Committee concludes that an investigation of the Complaint is not warranted, it shall notify the Complainant in writing within 30 days of its determination.

### R5.2 — Formal Investigation

If the Committee determines that a formal investigation of the Complaint should ensue, it shall notify the Complainant and ABC Credential Holder in writing within 30 days of its determination. The notification sent by the Committee to the ABC Credential Holder shall include the Complaint and all supplemental information submitted with the Complaint, including the specific Section(s) of the Code that the ABC Credential Holder is alleged to have violated. The notification shall include a copy of the Code and the Rules. The notification will contain the name of the Complainant.

### R5.3 — Response to Complaint

The ABC Credential Holder is required to provide to the Committee 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 and any and all Committee inquiries. The response and supporting documents must be legible and may not exceed 20 pages without the Committee's prior written approval. If the ABC Credential Holder fails to respond to the Committee's request, the Committee may, at its discretion, send a one-time, second and final request for a response. 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 in its sole and absolute discretion.

### 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 in writing 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 — Transparency of Information

During a formal investigation, through final disposition of a Complaint, all information to be considered by the Committee that is shared by the Complainant and the ABC Credential Holder shall be shared with the other party.

## R5.6 — 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 in writing.

# 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 actions:

- 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 deems necessary;
- c.** reprimand the ABC Credential Holder if the Committee determines there has been a Code violation but limited harm to another person, the public or the profession has occurred;
- d.** place the ABC Credential Holder on probation and monitor the ABC Credential Holder for a specific length of time;
- e.** if appropriate, refer the matter to a state licensing or certifying authority;
- f.** suspend the ABC Credential Holder's credential;
- g.** permanently revoke the ABC Credential Holder's credential;
- h.** require the ABC Credential Holder to take remedial personal rehabilitative or educational actions; and/or
- i.** take any other action that is warranted under the circumstances.

## R6.2 — Notification of Committee Action

The Committee shall notify the Complainant and the ABC Credential Holder of its determination and action to be taken in writing within 15 days of the date of its decision. Any sanction levied by the Committee against the ABC Credential Holder will take effect the date of the notification letter. If the ABC Credential Holder has been suspended or has had his/her/its credential revoked, the ABC Credential Holder will not be eligible to obtain any other ABC credential during the period of the suspension or revocation.

## R6.3 — Notice of Appeal

If the ABC Credential Holder desires to appeal (Appeal) the Committee's decision, he/she/it must notify the Committee, in writing (Appeal Notice) within 15 days of the date of the Committee's decision. Any sanction levied by the Committee shall remain in effect during the Appeal. The Appeal Notice must be: (i) mailed by certified mail, return receipt requested; (ii) mailed by verifiable overnight express mail service; or (iii) sent by electronic message, which is capable of being verified as coming from the ABC Credential Holder, to ABC's headquarters. The Appeal Notice must include a detailed description of all reasons and bases for the Appeal. The Appeal Notice shall not be longer than five pages and shall include only information previously not provided to the Committee. The Appeal must be based upon at least one of the reasons set forth in Rule R7.2. If the ABC Credential Holder accepts the Committee's determination and sanctions or if the ABC Credential Holder does not Appeal within the 15 day time period, the Committee's conclusions and sanctions shall be deemed final and be effective the date of the initial notification. The Committee shall notify the Complainant and the ABC Credential Holder in writing that it has received an Appeal Notice. The Committee shall forward the Appeal Notice to the Board. 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.

## R6.4 — Board Appeal Panel

The Board may elect to establish a panel (Panel) consisting of at least 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 regarding an Appeal. 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.

# VII. BOARD DECISIONS

## R7.1 — Remand for Further Consideration

The Board may, after reviewing the decision of the Committee, determine that the Committee did not have all relevant evidence or adequately 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 and/or sanctions based on clear and convincing evidence in the event of any or all 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/or the Rules; and/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 Appeal Notice, the Board shall notify the Complainant and the ABC Credential Holder in writing of its decision which shall be final. The Board's decision may not be appealed. The Board shall notify the Committee once the Board has made a decision. The Committee shall implement the Board's directives.

## R7.4 — Publication of Sanction

ABC shall report at least annually the names of all ABC Credential Holders suspended or revoked during the prior 12 months due to a violation(s) of the Code. In addition, ABC shall notify all interested state licensing and certifying authorities, and 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 Complaint shall be closed and the Committee's access to all files shall be removed, and all their printed and electronic files must be destroyed or deleted.

## IX. REQUEST FOR REINSTATEMENT OF CREDENTIAL

### R9.1 — Reinstatement Request

ABC will consider all written reinstatement requests. All reinstatement requests 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; (iii) proof that the ABC Credential Holder has complied with requirements associated with the Committee or Board's actions; and (iv) copies of all relevant documents and materials supporting the reinstatement request. ABC will provide its written decision to the ABC Credential Holder within 45 days of receipt of the reinstatement request and all requested information.

## X. GOVERNING LAW & VENUE

### R10.1 — Governing Law

The ABC Credential Holder, the Complainant, and ABC agree that the laws of the Commonwealth of Virginia shall govern the Code and the Rules.

### R10.2 — Venue

The ABC Credential Holder, the Complainant, and ABC agree to file and pursue all claims and suits regarding the Code and/or the Rules with a court of competent jurisdiction in which ABC's headquarters are located.



## TIMELINE

- R5.1** The Committee must determine if there is sufficient basis to proceed and whether the Complaint complies with all procedural requirements within 45 days of receipt of a valid Complaint.
- R5.2** 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 within 15 days of making its initial determination.
- R5.3** The ABC Credential Holder must respond within 15 days of receipt of the notification.
- 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.]
- R5.6** 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.
- R6.2** The Committee shall notify the Complainant and the ABC Credential Holder of its decision within 30 days.
- R6.3** The ABC Credential Holder has 15 days to accept the Committee's decision or submit a notice of appeal.
- R7.3** The Board must notify the ABC Credential Holder of its decision within 60 days of receipt of the Notice of Appeal.

# PROFESSIONAL ETHICS 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 Ethics Committee will determine whether an inquiry can be initiated under its authority. The Complaint and supporting documents must be legible and may not exceed 20 pages without ABC's prior written approval.

## Section I – Your Personal Contact Information

|                                               |             |       |
|-----------------------------------------------|-------------|-------|
| Your Name (herein referred to as Complainant) |             |       |
| Street Address                                |             |       |
| Suite/Apt. #                                  | City<br>Zip | State |
| Work/Home Phone                               | Fax         |       |
| Cell Phone                                    | Email       |       |

## Section II – Alleged Code Violator's Contact Information

|                                                                          |             |       |
|--------------------------------------------------------------------------|-------------|-------|
| Name of Respondent (must be an ABC Credential Holder as defined in C1.1) |             |       |
| Street Address                                                           |             |       |
| Suite/Apt. #                                                             | City<br>Zip | State |
| Work Phone                                                               | Fax         |       |
| Website                                                                  | Email       |       |

## Section III – Alleged Code Violation

Cite specific Code(s) alleged to have been violated, example C2.1 or C3.1:

## Section IV – Specific Complaint Details

Cite the nature of your complaint including specific dates and events.

(Please use a separate sheet of paper if necessary. Supplemental attachments must be signed and dated.)

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

## Section V

List of supporting documentation attached (i.e. invoices and payments, signed statements from physician(s) and other professional personnel, etc.)

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**Please read and sign the following attestation:**

By signing this Complaint Form, I acknowledge that I have granted my permission to initiate an inquiry against the Respondent based on the allegations set forth herein. I have read and understand the Rules and Procedures. Further, I acknowledge that a copy of this Complaint Form, any accompanying letters of complaint and supporting documentation will be sent by the Professional Ethics Committee to the Respondent (in the event that an inquiry is initiated) and may be forwarded to the ABC Board of Directors if necessary. I acknowledge, consent and warrant that confidential information about me may be shared with ABC by me and the Respondent in connection with this Complaint and ABC's evaluation of the Complaint.

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Signature of Complainant

Date

**Medical Information Release Authorization:**

By signing below, I authorize the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. to deliver a copy of this authorization to any holder of my medical information and such holder may rely on this authorization and has the authority to release to ABC or its agents all medical and related information related to this Complaint.

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Signature of Complainant

Date

**Please submit completed Complaint Form to:**

American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc.  
Attn: Molly Maguire  
330 John Carlyle Street, Suite 210  
Alexandria, VA 22314  
mmaguire@abcp.org

Or fax all forms and documentation to 703-842-8898, Attn: Molly Maguire

THE AMERICAN BOARD FOR  
CERTIFICATION IN ORTHOTICS,  
PROSTHETICS AND PEDORTHICS, INC.

330 John Carlyle St, Suite 210, Alexandria, VA 22314  
Tel: (703) 836-7114 • ABCop.org