

*Principles of Ethics, Code of
Professional Conduct and Advisory
Opinions of the American Association
of Orthodontists*

*Adopted April 2017
Amended May 2018*

2 *Principles of Ethics, Code of*
3 *Professional Conduct and Advisory Opinions*
4 *of the American Association of Orthodontists*

5
6 The professional conduct of members of this Association shall be governed by these
7 Principles of Ethics, Code of Professional Conduct and Advisory Opinions. Every
8 member of this Association shall adhere to these requirements.

9
10 The primary purpose and goal of the AAO's Principles of Ethics, Code of Professional
11 Conduct and Advisory Opinions is to protect the public.

12
13 **PREAMBLE**

14
15 Membership in the American Association of Orthodontists (AAO) is voluntary. By
16 accepting membership, all members assume an obligation to self-discipline above and
17 beyond the requirements of laws and regulations, in accordance with these Principles of
18 Ethics, their associated Code of Professional Conduct and relevant Advisory Opinions
19 (hereafter referred to as the "Principles, Code and Opinions").

20
21 The **Principles of Ethics** define the pillars of personal character members of the
22 American Association of Orthodontists voluntarily agree to pursue in order to fulfil the
23 position entrusted to the profession by society. Principles provide guidance, offer
24 direction and defend reasoning for the **Code of Professional Conduct** and the
25 **Advisory Opinions**. The central core of the AAO's Principles, Code and Opinions is
26 fixed in these five Principles: patient self-governance, do no harm, treat all people fairly,
27 do good, truthfulness. Principles may support multiple features of the Code of
28 Professional Conduct and Advisory Opinions found within this document.

29
30 The **Code of Professional Conduct** illustrates specific obligatory conduct related to the
31 Principles voluntarily agreed to through membership in the AAO. The Code of
32 Professional Conduct promulgated by the AAO through its House of Delegates and
33 associated legislative processes, is the result of an on-going dialogue between the
34 profession of orthodontics and society and, therefore, is subject to continuous review.
35 Violations may result in disciplinary action as the Code of Professional Conduct is
36 binding on all members of the AAO.

37 The **Advisory Opinions** are interpretations that apply the Code of Professional
38 Conduct relative to specific fact situations. They are adopted by the AAO's Council on
39 Membership, Ethics and Judicial Affairs to provide guidance to the membership on how
40 the Council might interpret the Code of Professional Conduct in a disciplinary
41 proceeding.

42
43 The term "ethical," as used in the Principles, Code and Opinions, means the highest
44 principles and practices, customs and usages of the orthodontic specialty. It may, but

45 does not necessarily, involve issues of morality in the practice of orthodontics. The term
46 “unethical” means conduct which fails to conform to such standards, customs and
47 usages or policies, and thereby violates these Principles, Code and Advisory Opinions.
48

49 These Principles, Code and their associated Advisory Opinions may exceed, but are
50 never less than nor contrary to, legal requirements. Under no circumstances should
51 these Principles, Code and Opinions be construed to encourage conduct that violates a
52 law. Violation of law may subject the member to civil or criminal liability. Unethical
53 conduct in violation of any of the Principles, Code and Opinions may result in
54 disciplinary action by the Association, such as reprimand, suspension or expulsion from
55 membership, as provided in the Association’s Bylaws. Relevant Bylaws provisions
56 appear at the end of these Principles.
57

58 Expulsion from membership is the maximum penalty that may be imposed by the
59 Association on a member who violates these Principles, Code and Opinions. However,
60 the Association may also have an obligation to report to the appropriate governmental
61 agency, state board of dental examiners or provincial regulatory body certain violations
62 of these Principles, Code and Opinions.
63

64 Acquittal or exoneration of a member charged with illegal conduct in civil or criminal
65 action does not foreclose the Association’s right to initiate a disciplinary proceeding
66 against a member with reference to the conduct that was the subject of such action.
67 However, such acquittal or exoneration may be considered in relation to whether a
68 violation of these Principles of Ethics, Code of Professional Conduct and Advisory
69 Opinions has occurred and/or any subsequent penalty to be imposed.
70

71 **PRINCIPLES of ETHICS, CODE OF PROFESSIONAL** 72 **CONDUCT AND ADVISORY OPINIONS** 73

74 **PRINCIPLE 1: PATIENT SELF-GOVERNANCE** (“Autonomy”) Members have a duty to
75 respect the patients’ rights to self-determination and confidentiality.
76

77 **CODE OF PROFESSIONAL CONDUCT**

78 **1.A. PATIENT INVOLVEMENT.**

79 Members have the duty to respect patients’ rights to self-determination and
80 confidentiality.

81 **1.B. PATIENT RECORDS**

82 Members have the duty to safeguard patient records and their confidentiality.
83

84 **Advisory Opinions:**

85 **1.A. (i)** Members should inform their patients of any proposed treatment
86 and any reasonable alternatives in a manner and context that enables
87 patients to understand treatment alternatives and their decisions.

88 **1.A (ii)** Members should avoid interpersonal relationships with their
89 patients that could impair the provider’s professional judgment or risk the

90 possibility of exploiting the patient's confidence placed in the orthodontic
91 provider by the patient.

92 **1.A (iii)** Members shall make treatment decisions and render all related
93 opinions and recommendations based on the expressed interests and
94 desires of the patient.

95 **1.A (iv)** It is ethical to provide a second opinion to a patient as long as it is
96 qualified as to whether or not it is based on a review of the treating
97 practitioner's records and treatment history.

98 **1.A (v)** A second opinion should include a diagnosis and treatment plan
99 recommended to the patient. It is unethical to propound a specific
100 technique, philosophy, training or ability as superior without
101 acknowledging that each orthodontist uses different techniques based on
102 training and experience, and that the second opinion is based on an
103 orthodontist's individual perspective.

104 **1.A (vi)** Patients should be informed of their oral health status without
105 defamatory statements that are both untrue and damaging comments
106 about the patient's prior treatment.

107 **1.A. (vii)** All opinions and treatment related recommendations, regardless
108 if provided during initial examination, second opinions or at other times,
109 must disclose any aspect of the opinion or recommendation which might
110 be construed as a benefit to the member in any tangible or intangible way
111 regarding a direct or indirect financial or other beneficial interest in a
112 product or service, or is motivated by a relationship with the manufacturer
113 or supplier of such product or service. Any second opinion must further
114 disclose any perceived or real conflict of interest related to any
115 recommendation that unnecessarily alters technique, adversely alters
116 treatment time, expense, anticipated outcome or any other aspect of
117 patient care.

118
119 **1.B. (i)** Members shall maintain the confidentiality of patient records.
120 Upon request of a patient or another practitioner acting on behalf of the
121 patient, and regardless of whether the patient owes an outstanding
122 balance, members shall provide any information (including copies of
123 appropriate records) that may be beneficial to the future treatment of that
124 patient. Reasonable costs for duplicating and providing such records may
125 be charged to the patient.

126 **1.B. (ii)** Members should retain patient records (including chart, x-rays,
127 models, etc.) for at least as long as the applicable statute of limitations
128 period in their state or province for bringing a malpractice claim (which
129 may not begin to run in the case of a minor until the age of majority).

130
131 **PRINCIPLE 2: DO NO HARM** ("Nonmaleficence") Members have a duty to refrain from
132 harming the patient.

133
134 **CODE OF PROFESSIONAL CONDUCT**
135

136 **2.A.** Members shall be dedicated to providing the highest quality orthodontic and
137 dental care to their patients within the bounds of the clinical aspects of the
138 patient's condition, and with due consideration being given to the needs and
139 expressed interests of the patient.

140 **2.B.** Members should devote sufficient efforts to maintain expertise in providing
141 evidence based orthodontic care through clinical practice and continuing
142 education focusing on the specialty of orthodontics as well as other interrelated
143 aspects of dentistry.

144 **2.C.** Members shall make every reasonable effort to enable continuing
145 orthodontic care for patients of record and shall not abandon their patients.
146

147 **ADVISORY OPINIONS:**

148 **2.A. (i)** Members must prescribe and directly supervise the work of all
149 auxiliary personnel through (a) being present in the orthodontic office
150 when care is rendered, (b) prescribing procedures to be performed and
151 personally evaluating the treatment status of the patient, and (c) except for
152 imaging processes and emergency removal of irritating or broken
153 appliances, approving all procedures performed by auxiliary personnel
154 before dismissing the patient.

155 **2.A (ii)** Members shall make reasonable arrangements for emergency
156 care for their patients and should, when consulted for emergency care by
157 a patient not of record, make reasonable arrangements for emergency
158 care and advise that the patient should subsequently return to his/her
159 original provider unless the patient has a different preference.

160 **2.A (iii)** Members shall make treatment decisions and render all related
161 opinions and recommendations based on the best interest and within the
162 desires of the patient without regard to a member's direct or indirect
163 financial or beneficial interest in a product or service, or direct or indirect
164 relationship with the manufacturer or supplier of such product or service.

165 **2.A. (iv)** A second opinion should include a diagnosis and treatment plan
166 recommended to the patient. It must be honest and focus on the facts
167 presented. It is unethical to propound a specific technique, philosophy,
168 training or ability as superior without acknowledging that each orthodontist
169 uses different techniques based on training and experience, and that the
170 second opinion is based on an orthodontist's individual perspective.

171 **2.A. (v)** All opinions and treatment related recommendations, regardless if
172 provided during initial examination, second opinions or at other times,
173 must disclose any aspect of the opinion or recommendation which might
174 be construed as a benefit to the member in any tangible or intangible way
175 regarding a direct or indirect financial or other beneficial interest in a
176 product or service, or is motivated by a relationship with the manufacturer
177 or supplier of such product or service. Any second opinion must further
178 disclose any perceived or real conflict of interest related to any
179 recommendation that unnecessarily alters technique, adversely alters
180 treatment time, expense, anticipated outcome or any other aspect of
181 patient care.

- 182 **2.A. (vi)** Members shall not practice while abusing controlled substances,
183 alcohol or other chemical agents which impair their ability to practice.
184 **2.A (vii)** It is ethical to provide a second opinion to a patient as long as it is
185 qualified as to whether or not it is based on a review of the treating
186 practitioner's records and treatment history.
187 **2.A (viii)** Patients should be informed of their oral health status without
188 defamatory comments about the patient's prior treatment.
189 **2.A (ix)** It is unethical to engage, or aid and abet, in treatment which is
190 dangerous and/or has no scientific basis.
191 **2.C. (i)** Members should seek to enter into Mutual Assistance Agreements
192 or other similarly intended arrangements with like-minded orthodontists to
193 guard against patient abandonment in the event of unforeseen events
194 such as temporary disability or death.
195

196 **PRINCIPLE 3: MEMBERS HAVE THE DUTY TO TREAT PEOPLE FAIRLY** (Justice)
197

198 **CODE OF PROFESSIONAL CONDUCT:**

- 199 **3.A.** Members shall be dedicated to generating public confidence in the
200 orthodontic specialty by improving the quality and availability of orthodontic and
201 dental care to the public.
202 **3.B.** Members shall recognize and abide by the laws that apply to the practice of
203 dentistry and orthodontics in their jurisdiction.
204 **3.C.** Members shall provide a workplace environment devoid of harassment or
205 inappropriate behavior and a workplace that upholds respectful and cooperative
206 relationships for all employees and patients.
207

208 **ADVISORY OPINIONS:**

- 209 **3.A. (i)** Members may exercise discretion in selecting a patient into their
210 practice, provided that they shall not refuse to accept a patient because of
211 the patient's race, creed, color, sex, national origin, disability, HIV
212 seropositive status, or other legally recognized protected class.
213 **3.A. (ii)** Members should pursue changes in laws, requirements, rules
214 and/or regulations within their jurisdiction that are contrary to the best
215 interests of patients.
216 **3.A. (iii)** It is ethical to accept for treatment or complete treatment for a
217 patient who has an outstanding balance with a previous practitioner.
218 **3.A. (iv)** It is ethical to remove appliances from, or to continue treatment
219 for, a patient not of record upon request by that patient; provided, that all
220 reasonable effort should be made to determine the reason for the request
221 from the patient. It is advisable to consult with the patient's practitioner, if
222 possible, prior to such removal or continuation of treatment.
223 **3.A. (v)** It is ethical to withdraw from treating a patient of record, provided
224 that advance written notice to the patient or responsible party is given in
225 accordance with state/provincial laws so as to allow for another provider to
226 be secured.

227 **3.A. (vi)** It is ethical for members to provide dental care other than
228 orthodontics unless announcing a practice that “is limited to” orthodontics.
229

230 **3.B. (i)** It is ethical to decline accepting a patient not formerly of record for
231 continuation of routine orthodontic care after being seen for emergency
232 treatment.

233 **3.B. (ii)** Members may assign to an auxiliary or other employee only those
234 duties for which they have been appropriately trained and that can be
235 legally performed by such individual in the member's jurisdiction.

236 **3.B. (iii)** Members with first-hand knowledge that a colleague is practicing
237 while chemically impaired shall urge such colleagues to seek treatment
238 and have an ethical responsibility to report such evidence to the
239 appropriate state or provincial regulatory body or dental board as required
240 by law.

241 **3.B. (iv)** Members should become familiar with signs of abuse and neglect
242 and must report suspected cases to the appropriate authorities in the
243 manner prescribed by state or provincial laws.

244 **3.C. (i)** Members shall refrain from inappropriate interpersonal
245 relationships or behavior within the orthodontic workplace and shall
246 promote mutual respect, professional communication and cooperative
247 efforts of all team members to enhance excellence in orthodontic care and
248 assure safe and professional relationships with and between employees
249 and patients.
250

251 **PRINCIPLE 4: DO GOOD (Beneficence)** Members have the duty to promote the
252 patient’s welfare.
253

254 **CODE OF PROFESSIONAL CONDUCT:**

255 **4.A.** Members shall be dedicated to providing the highest quality, evidence based
256 orthodontic care for their patients within the bounds of the clinical aspects of the
257 patient's condition, and with due consideration being given to the expressed
258 interest and desires of the patient.

259 **4.B.** Members shall seek to serve the public-at-large.
260

261 **ADVISORY OPINIONS:**

262 **4.A. (i)** Members must prescribe and directly supervise the work of all
263 auxiliary personnel in accordance with state/provincial regulations through
264 (a) being present in the orthodontic office when care is rendered, (b)
265 prescribing procedures to be performed and personally evaluating the
266 treatment status of the patient, and (c) except for imaging processes and
267 emergency removal of irritating or broken appliances, approving all
268 procedures performed by auxiliary personnel before dismissing the
269 patient.

270 **4.A. (ii)** Members shall make reasonable arrangements for emergency
271 care for their patients and should, when consulted for emergency care by
272 a patient not of record, make reasonable arrangements for emergency

273 care and advise that the patient should subsequently return to the original
274 provider unless the patient has a different preference.

275 **4.B. (i)** Members should, whenever practicable, offer orthodontic services
276 to charitable or educational institutions and other deserving individuals.

277 **4.B. (ii)** Members should, where practicable, participate in activities that
278 contribute to an improved community.

279

280

281 **PRINCIPLE 5: TRUTHFULNESS** (Veracity) Members have the duty to assure that
282 communications in all forms are expressed truthfully.

283

284 **CODE OF PROFESSIONAL CONDUCT**

285 **5.A.** Members shall be honest with patients, colleagues and third parties.

286

287

ADVISORY OPINIONS:

288 **5.A. (i)** Members shall not falsely represent the following: their credentials
289 or certifications, any non-educationally qualified person to be an
290 orthodontist, or non-member to be a member of this Association. The
291 burden of responsibility is upon every member to ensure that no person
292 associated with them as an employee or an associate, who is not a
293 qualified orthodontic specialist, is falsely announced or represented as
294 such. Members and those they employ shall represent their credentials,
295 certifications and licenses accurately. It shall be unethical to announce,
296 advertise or represent credentials or certifications as similar or
297 comparable to other non-comparable credentials or certifications. For
298 example, it is unethical to directly or indirectly represent or imply Board
299 certification (1) by, or as comparable to, the American Board of
300 Orthodontics when the certifying board is not the American Board of
301 Orthodontics or recognized by the American Dental Association; and/or (2)
302 in an area of dental practice that is not one of the recognized dental
303 specialties, unless Advisory Opinion 5.H.2 of the American Dental
304 Association's Principles of Ethics and Code of Professional Conduct,
305 incorporated herein by reference, has been satisfied.

306 **5.A. (ii)** Members may not announce certification in orthodontics and
307 dentofacial orthopedics from certifying boards not recognized by the
308 American Dental Association unless such announcement (1) complies
309 with all applicable laws, and (2) includes the following language: "[name of
310 certifying board] is not recognized as a certifying board for orthodontics
311 and dentofacial orthopedics by the American Dental Association."

312 **5.A. (iii)** Members shall neither give nor receive "rebates" or "split fees" in
313 relation to the referral or acceptance of patients. The terms "rebates"
314 and/or "split fees" refers to any substantial remuneration paid or received,
315 or the division of fees paid or received, in exchange for referring or
316 accepting a patient for orthodontic or other health care services; provided
317 that, to the extent permitted by applicable law and ethical rules, these
318 terms are not intended to include revenue sharing arrangements between

319 or among members and/or other dentists or allied healthcare practitioners
320 in an employer/employee, partnership, corporation or other similar legally-
321 recognized relationship where compensation is based on revenue
322 received.

323 **5.A. (iv)** Members shall not misrepresent the care being rendered to a
324 patient.

325 **5.A. (v)** Members who present educational or scientific information in an
326 article, seminar or other program must disclose to the readers or
327 participants, in the promotional material and the presentation, any
328 monetary or other beneficial interest the member may have in the
329 products promoted or endorsed in the presentation.

330 **5.A. (vi)** Members must properly disclose any enhancement, modification
331 or alteration of any photographs, computer images, radiographic images
332 or other visual images that are used in any presentation or publication to
333 patients, orthodontists, dentists or the public.

334 **5.A. (vii)** In addition to other rules, in any public statements,
335 announcements of services, and promotional activities, all claims made or
336 utilized by members must be supported by scientifically reliable evidence.

337 **5.A. (viii)** In all promotional activities and public announcements,
338 members may use and indicate only the following immediately after or
339 adjacent to their names:

340
341 (1) The title Doctor or Orthodontist, abbreviated dental degree(s)
342 and any other earned and/or attained advanced academic degrees
343 (e.g. PhD, JD, MS),

344 (2) Board certification, as long as such use and indication is in
345 accordance with this Principles of Ethics and Code of Professional
346 Conduct,

347 (3) Entity designations required by applicable law (e.g. LLC, Inc.),
348 and

349 (4) Orthodontic Specialist, Specialist in Orthodontics, or any similar
350 legally allowable variations thereof.

351
352 Members may list the names of fellowships, honorary degrees, certificates
353 of training or certifications in fields other than health-related disciplines
354 provided that:

355
356 (1) They are listed in their entirety,

357 (2) The listings are spelled out in their entirety in each and every
358 place used or referenced,

359 (3) The word "Honorary" will follow all honorary degrees listed, and

360 (4) They comply with all other provisions of this Principles of Ethics
361 and Code of Professional Conduct.

362
363 For purposes of this Advisory Opinion, "earned and attained advanced
364 academic degrees or honorary degrees" mean degrees awarded by an

365 educational institution accredited by a generally recognized accrediting
366 body after completion of all requirements for such degree.

367
368 **5.A. (ix)** Members must assure that their public statements with respect
369 to their practice or the specialty are true. Statements should be avoided
370 that contain a representation or implication regarding the quality of
371 orthodontic or other health care services, which (a) suggest superiority
372 relative to other practitioners, unless it is acknowledged that each
373 orthodontist uses different techniques based on training and experience,
374 and that such claim is the orthodontist's individual perspective, and/or (b)
375 are not susceptible to reasonable verification, by the public, and/or are
376 intended or likely to create an unjustified expectation about results that
377 can be achieved.

378
379 **5.A. (x)** Members whose practice is devoted exclusively to orthodontics
380 may announce that their practice "is limited to" that specialty.

381 **5.A. (xi)** Members may announce as a specialist to the public in any and
382 all areas of dentistry for which specialty recognition has been granted
383 under the standards required or recognized in the practitioner's
384 jurisdiction, provided the member meets the educational requirements
385 required for recognition as a specialist adopted by the American Dental
386 Association or accepted in the jurisdiction in which they practice.

387 **5.A. (xii)** Members announcing specialization should use "specialist in"
388 and shall devote a sufficient portion of their practice to orthodontics or
389 other announced specialties to maintain expertise in orthodontics and any
390 additional announced specialties.

391 392 **DISCIPLINARY PROCEEDINGS**

393 **DISCIPLINARY AND MEMBERSHIP PROCEEDINGS**

394 **A. GROUNDS FOR ACTION:**

395
396 This Association, on its own volition or upon receipt of a written complaint from any
397 other person, reserves the right to discipline any of its members (except honorary) for
398 cause. Non-disciplinary action may include a non-reportable Letter of Concern sent to a
399 member in the event that actions of the member demonstrate behavior of concern to the
400 Council on Membership, Ethics and Judicial Concerns COMEJC but which fail to
401 demonstrate clear and undeniable evidence of violation of these Principles of Ethics or
402 Code of Professional Conduct. Disciplinary action may include a letter of concern,
403 reprimand, suspension or expulsion from membership in the AAO. Violation of the
404 AAO's Bylaws or Principles, Code and Opinions, or any state or provincial lawful rule of
405 practice or any other conduct prejudicial to the interests of this Association, shall
406 constitute sufficient cause for disciplinary action hereunder. This Association, on its own
407 volition or upon appeal from an applicant for membership who has been denied
408
409

410 membership by this Association, further reserves the right to terminate the membership
411 of any member and affirm the denial of membership to such applicant.

412
413 Each Member and each Applicant hereby expressly waives the right to hold this
414 Association, its delegates, trustees, officers, members and employees, or any of its
415 constituent or component organizations responsible for any damage, pecuniary or
416 otherwise, as a result of disciplinary or membership proceedings against or involving
417 any member and or applicant.

418 This Association may, at its discretion, require complainants to provide a waiver of
419 medical privacy rights they may have under any and all applicable laws and regulations,
420 including, but not limited to, the Health Insurance Portability and Accountability Act of
421 1996 ("HIPAA")

422

423 B. DISCIPLINARY PROCEEDINGS:

424

425 1. Jurisdiction: This Association has jurisdiction to bring disciplinary proceedings
426 against, and to conduct membership proceeding as to, a member, which shall be
427 conducted by the Council on Membership, Ethics and Judicial Concerns
428 ("COMEJC").

429

430 2. The AAO administrative staff will receive and review formally submitted
431 complaints signed by an AAO member or non-member individual or individuals
432 relating to alleged violations of parameters set forth in these Principles of Ethics,
433 Code of Professional Conduct and Advisory Opinions. Such complaints should
434 encompass all pertinent and available information related to the facts of the
435 asserted violation including, but not necessarily limited to, a description of facts
436 related to events or activities, copies of pertinent documents, communications,
437 and when applicable, patient records (e.g., photographs, radiographs, etc.) if
438 available. Such materials shall become the property of the AAO and held in
439 confidence (with exceptions identified below) by the AAO and those designated
440 by the AAO including the COMEJC to examine and process for potential
441 evaluation and subsequent non-disciplinary or disciplinary proceedings or action.

442

443 a. Preliminary Rejection: Upon receipt and examination of complaints, the
444 Association's executive staff following consultation with the Chair of the
445 COMEJC may reject complaints that it deems to be clearly without merit,
446 patently retaliatory, or fail to include evidence sufficient for a valid
447 complaint.

448

449 3. Investigation: For those complaints which are not preliminarily rejected, the
450 investigation of disciplinary or membership complaints and/or appeals of
451 membership denials shall occur as follows:

452

453 a. The Chair of COMEJC shall select three of its members to comprise an
454 "Investigating Committee" to investigate any disciplinary or membership
455 complaints and/or appeals of membership denials. Committee members

456 selected must be unbiased and without conflicts. At a minimum, they must
457 not represent the Association's constituent organization, nor shall they be
458 from the same general geographic area, as the member they are charged
459 with investigating.

460 b. The Investigating Committee may conclude, in its sole discretion and
461 based upon a preliminary review of any complaint or record of
462 membership decision, that the complaint or record contains insufficient
463 information on which to base an investigation, or is patently frivolous or
464 inconsequential. In such case, the matter may be disposed of by written
465 notice to the complainant and his or her respective constituency
466 organization (in the case of active and retired members), as the case may
467 be.

468
469 c. If the Investigating Committee concludes that a complaint or record
470 constitutes a valid and actionable inquiry, the Investigating Committee
471 shall conduct a confidential investigation in order to determine whether
472 disciplinary or membership action is warranted. Such an investigation in
473 the case of disciplinary proceedings shall include contacting the accused
474 member and providing a copy of the complaint to the member as well as
475 the complainant, if necessary to gather all relevant facts. The investigation
476 of whether any non-disciplinary or disciplinary response, including
477 membership in this Association is warranted shall include contacting the
478 applicant or existing member as the case may be, as well as the
479 member's constituent organization (in the case of active and retired
480 members), and obtaining all relevant facts. Any "whistle blower"
481 complaint, however, submitted by a party who could potentially be subject
482 to retaliation may be considered for further investigation while holding the
483 complainant's identity in confidence by means of redaction of said name
484 and any other identifying materials from the complaint only if preliminary
485 evaluation by the Investigating Committee determines that a non-
486 reportable letter of concern is, or may be likely as the appropriate
487 disposition of said complaint. Should the Investigating Committee, as it
488 moves through its disciplinary process, later determine that a reportable
489 disciplinary action is instead likely, the subject member of the complaint
490 shall be entitled to know the identity of the complainant to enable the
491 accused member to respond specifically with knowledge of the origin of
492 the complaint. AAO staff, in communication with the complainant, would
493 determine if a willingness to reveal the whistle blower's identity is
494 acceptable to permit any disciplinary process to proceed in such cases. If
495 not, the complaint would be rejected. If the accused member refuses to
496 cooperate or provide information, the Investigating Committee may not
497 allow such refusal to influence its judgment concerning the merits of the
498 complaint. Members of the Investigating Committee shall not, at any time,
499 have any personal or "off the record" communications with the accused
500 member, or anyone advocating for the accused. All communications with
501 the accused member concerning the investigation shall be in writing, and

502 shall only be transmitted through AAO executive staff and shall, when
503 possible, be transmitted in such a way as to prove the sufficiency of the
504 communication (e.g., receipted delivery). The Investigating Committee
505 may, at its discretion, suspend its proceedings if it becomes aware that the
506 accused member is involved in litigation or other official proceedings, such
507 as a state dental board or provincial regulatory body investigation, on the
508 same or substantially similar complaint.

509
510 d. Subject to Disciplinary Proceedings B.3.f, below, the Investigating
511 Committee shall file its report and non-binding recommendations as to a
512 proposed penalty with the Chairman of COMEJC within a reasonable time
513 after notification of the complaint or membership issue.

514
515 e. If the Investigating Committee determines that no disciplinary action is
516 warranted or that membership should be maintained or granted, it shall
517 notify the member, as the case may be, the member's constituent
518 organization (in the case of active and retired members), the chairman of
519 COMEJC, and Secretary-Treasurer of this Association. The notice to such
520 member shall be in writing and sent via certified mail-return receipt
521 requested.

522
523 f. Public Statement Assurance: In the case of the first disciplinary
524 complaint against a member involving public statements, announcements
525 of services and promotional activities where the Investigating Committee
526 has determined that the complaint constitutes a valid and actionable
527 inquiry, the Investigating Committee may, in its sole and absolute
528 discretion, elect to advise the member of its finding and obtain a written
529 agreement from the member to cease the unethical activity and to waive
530 any further right of appeal from, or challenge to, such finding and
531 agreement. If the member enters into and complies with such an
532 agreement, the Investigating Committee shall file its report as to such
533 matter with the Chairman of COMEJC, and no disciplinary action shall be
534 warranted in relation to the Public Statement, announcement of services
535 or promotional activity that is the subject of such agreement.
536 Notwithstanding the foregoing, in the event of a subsequent complaint
537 against the same member involving any Public Statements,
538 announcements of services and promotional activities where the
539 Investigating Committee determines that the complaint constitutes a valid
540 and actionable inquiry, this section (Disciplinary Proceedings B.3.f) shall
541 be inapplicable, and the provisions Disciplinary Proceedings B.2.d and all
542 other related provision of these Disciplinary Proceedings shall apply.

543
544 4. If the Investigating Committee determines that disciplinary action is warranted or
545 that membership should be terminated or denied, COMEJC shall follow the
546 procedures set forth below:
547

548 a. Notice: The member shall be notified in writing of the charges including
549 a statement containing all of the actions about which have been
550 complained, including corresponding provisions of this Code that are
551 alleged to have been violated, and his/her right to a hearing before three
552 members of the COMEJC selected by the chairman thereof who shall not
553 be members of the Investigating Committee (the "Hearing Committee")
554 and who have no bias or conflicts in the matter as previously defined. The
555 accused member shall be given the names, states/provinces of members
556 of the Hearing Committee, and shall have the right to challenge any
557 member on the basis of bias or conflicts. In the event of such a challenge,
558 the Chair of COMEJC, in consultation with AAO executive staff, may
559 determine if a conflict does, in fact, exist. Such notification shall be sent by
560 certified mail, with receipted delivery, to the member's address of record.
561 In the event that a conflict or that a COMEJC member is ineligible to serve
562 on the Investigating or Hearing Committees, the Chair shall appoint an
563 alternative COMEJC representative to serve in his/her place. In the event
564 two alternate Council appointees are ineligible to serve, The Chair shall
565 serve on the designated Committee. If the Chair is unable to serve, the
566 AAO President shall appoint the Trustee Liaison to COMEJC or another
567 AAO Trustee to serve on the Investigating Committee or Hearing
568 Committee if the Trustee Liaison is ineligible. Such notification shall be
569 sent by certified mail, with return receipt requested, to the member's
570 address of record. The member shall be notified that he/she may request
571 a hearing before the Hearing Committee in order to appear and may
572 present evidence, and that he/she may be represented by legal counsel, if
573 desired, at his or her expense.

574
575 The Hearing Committee may, at its discretion, suspend its proceedings if it
576 becomes aware that the accused member is involved in litigation or other
577 official proceedings, such as a state dental board or provincial governing
578 body investigation, on the same or substantially similar complaint.

579
580 b. Hearing: Upon timely written request from the member, which must be
581 given within thirty (30) days of the notice to the member of the right to a
582 hearing, the member or applicant shall be entitled to a private hearing
583 before the Hearing Committee at which time he/she shall be given the
584 opportunity to present his/her response. The hearing shall be conducted in
585 accordance with the procedures adopted by this Association at a place
586 and time selected by the Hearing Committee in its sole discretion, and the
587 member shall be given reasonable advance notice of the date, time and
588 place of the hearing. The members of the Hearing Committee shall elect
589 from their number a Hearing Officer, who shall preside at the hearing and
590 issue any appropriate procedural or evidentiary rulings, and summarize
591 the results of the investigation and non-binding penalty recommendation
592 at the hearing for the other members. Formal rules of evidence or civil

593 procedure shall not be required. The Hearing Committee may consider
594 any relevant material.

595
596 At the Association's discretion, hearings may be offered to be held via
597 videoconference or teleconference.

598
599 Hearings should be limited to the facts in dispute, which have been
600 entered into the "record" of the case by the accused and complainant.

601
602 c. In the event no timely written request for a hearing is received from the
603 member, or if a hearing is requested but the respondent does not appear,
604 and no extenuating circumstances have influenced such delay, the
605 Hearing Committee shall render its decision without regard to said failure
606 to appear influencing its judgment concerning the merits of the complaint.

607
608 d. Decision: Every disciplinary and membership decision of the Hearing
609 Committee shall be in writing. Each decision shall specify the charges
610 made against the member, the facts which substantiate any or all of the
611 charges and if the member has been deemed exonerated or found in
612 violation. If in violation, the decision shall also include the facts which
613 substantiate any or all of the charges, the decision rendered by the
614 Hearing Committee, any penalty imposed in the case of disciplinary
615 proceedings, and in the event of penalty, the specific sections of the
616 Principles of Ethics, Code of Professional Conduct and Advisory Opinions
617 found to be in violation, the fact that the member has a right of appeal and
618 the time for filing a notice of appeal. The Hearing Committee may, in its
619 sole and absolute discretion, give consideration as to whether the case
620 involves a second complaint against the same member concerning public
621 statements, announcements of services and promotional activities if such
622 member entered into a written agreement with the Association pursuant to
623 B.3.f. Disciplinary Proceedings Section 3.f above, in relation to the
624 penalty assessed. Within ten (10) days of the date on which the decision
625 is rendered, a copy thereof shall be sent by certified mail, with return
626 receipt requested, to the Association's last known address of each of the
627 following parties: the member or applicant, the secretary of the constituent
628 organization of which he/she is a member (in the case of active and retired
629 members), the chair of the Council on Membership, Ethics and Judicial
630 Concerns of this Association and the Secretary-Treasurer of this
631 Association.

632
633 C. APPEALS:

634
635 The decision of the Hearing Committee as to applicants for AAO membership shall be
636 final with no right of appeal. An existing AAO member receiving an adverse decision
637 from the Hearing Committee shall have the right to appeal from such a decision by filing
638 a notice of appeal with the Secretary-Treasurer of this Association.

639

640 The notice of appeal must be in writing and filed with the Secretary-Treasurer of this
641 Association within thirty (30) days of receipt of the notice of the adverse decision.

642

643 Each party to an appeal shall be entitled to submit a brief in support of his/her or its
644 position. The member and the Hearing Committee shall submit his/her or its brief to the
645 Secretary-Treasurer of this Association via certified mail, return receipt requested,
646 within ninety (90) days of filing an appeal.

647 No decision shall become final while an appeal therefrom is pending or until the thirty
648 (30) day-period for filing notice of appeal has elapsed. Within thirty (30) days of the
649 receipt of a notice of appeal, the President of this Association will name and determine
650 their willingness to serve, three members to an Ad Hoc Appeals Panel and three
651 alternates, no one of whom shall have been a member of the COMEJC from the time
652 since the original complaint was received and disciplinary proceedings begun. The
653 members of the Ad Hoc Appeals Panel shall be without bias or conflict, and their
654 names, cities and states/provinces shall be made available to the accused member,
655 who may challenge members of the panel on the basis of bias or conflict. In the event
656 of such a challenge, the President of the Association, in consultation with the
657 Association's executive staff, must determine if a conflict or bias exists. The Secretary-
658 Treasurer of this Association will notify the member of the names of the three principals
659 via certified mail, return receipt requested. If the member shows good cause why any
660 named principal is unacceptable, an alternate(s) will be selected by the President of the
661 Association. This selection shall be final. The Panel shall notify the COMEJC and the
662 member of the time and place of the hearing, such notice to be sent by certified mail,
663 with return receipt requested, to the last known address of the parties to the appeal and
664 mailed not less than thirty (30) days prior to the date set for the hearing.

665

666 The Panel shall meet, either in person or via telephone conference, within a reasonable
667 time from the date the appeal was filed. The member may have one representative
668 appear, at his or her expense, before the Panel to make oral or written presentations
669 and to respond to questions from the Panel. The Hearing Officer shall designate a
670 representative to appear before the Panel to support the decision of the Hearing
671 Committee and to respond to questions of the Panel. Either party may be represented
672 by counsel; however, the proceedings shall be conducted on an informal basis.

673

674 The Panel shall be required to review the decision on appeal and determine whether the
675 charges involving the member support the decision and/or warrant the penalty imposed
676 and shall be based on any evidence about which the Hearing Committee grossly erred
677 with regard to the facts of the case or the law. This Appeal Process shall not be "from
678 scratch" or *de novo*. The Panel shall not be required to consider additional evidence
679 unless there is a clear and convincing showing that either party to the appeal will be
680 unreasonably harmed by failure to consider the additional evidence.

681

682 Every decision on appeal shall be reduced to writing and shall clearly state the
683 conclusion of the Panel and reasons for reaching the conclusion. The Panel shall have
684 the discretion to:

- 685
686 1. Uphold the decision of the Hearing Committee;
687
688 2. Reverse all or any part of the decision of the Hearing Committee and thereby
689 exonerate the member;
690
691 3. Deny an appeal because it fails to satisfy the requirements of these Bylaws.
692 Principles of Ethic, Code of Professional Conduct, Advisory Opinions and
693 associated disciplinary procedures;
694
695 4. Refer the case back to the Hearing Committee for a new proceeding, if the
696 rights of the member under all applicable Bylaws were not accorded him/her; or
697
698 5. Accept the findings of the Hearing Committee, but impose a different penalty
699 or decision.

700
701 Within a reasonable time from the date a decision on an appeal is rendered, a copy
702 thereof shall be sent by certified mail, with return receipt requested, to the Association's
703 last known address of each of the following parties: the member, the secretary of the
704 constituent organization of which he/she is a member (in the case of active and retired
705 members), the Chair of the COMEJC of this Association and the Secretary-Treasurer of
706 this Association.

707
708 D. RESIGNATION:

709
710 If a member who is the subject of a complaint or other disciplinary or membership action
711 by this Association resigns at any time during the proceeding, the matter shall be
712 dismissed and the member may not thereafter reapply for any class of membership.

713
714 E. REPORTING REQUIREMENT:

715
716 This Association shall report any information to such agency or agencies as may be
717 required or permitted by the Health Care Quality Improvement Act of 1986, in such
718 form, manner and frequency as may from time to time be required or permitted by the
719 Act.