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

Adopted April 2017
Amended May 2018
Principles of Ethics, Code of Professional Conduct and Advisory Opinions of the American Association of Orthodontists

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

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

PREAMBLE

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

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

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

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

The term “ethical,” as used in the Principles, Code and Opinions, means the highest principles and practices, customs and usages of the orthodontic specialty. It may, but
does not necessarily, involve issues of morality in the practice of orthodontics. The term “unethical” means conduct which fails to conform to such standards, customs and usages or policies, and thereby violates these Principles, Code and Advisory Opinions.

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

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

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

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

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

**CODE OF PROFESSIONAL CONDUCT**

1.A. PATIENT INVOLVEMENT.
Members have the duty to respect patients’ rights to self-determination and confidentiality.

1.B. PATIENT RECORDS
Members have the duty to safeguard patient records and their confidentiality.

**Advisory Opinions:**

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

1.A (ii) Members should avoid interpersonal relationships with their patients that could impair the provider’s professional judgment or risk the
possibility of exploiting the patient’s confidence placed in the orthodontic provider by the patient.

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

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

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

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

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

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

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

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

**CODE OF PROFESSIONAL CONDUCT**
2.A. Members shall be dedicated to providing the highest quality orthodontic and
dental care to their patients within the bounds of the clinical aspects of the
patient’s condition, and with due consideration being given to the needs and
expressed interests of the patient.

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

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

ADVISORY OPINIONS:

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

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

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

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

2.A. (v) All opinions and treatment related recommendations, regardless if
provided during initial examination, second opinions or at other times,
must disclose any aspect of the opinion or recommendation which might
be construed as a benefit to the member in any tangible or intangible way
regarding a direct or indirect financial or other beneficial interest in a
product or service, or is motivated by a relationship with the manufacturer
or supplier of such product or service. Any second opinion must further
disclose any perceived or real conflict of interest related to any
recommendation that unnecessarily alters technique, adversely alters
treatment time, expense, anticipated outcome or any other aspect of
patient care.
2.A. (vi) Members shall not practice while abusing controlled substances, alcohol or other chemical agents which impair their ability to practice.

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

2.A (viii) Patients should be informed of their oral health status without defamatory comments about the patient's prior treatment.

2.A (ix) It is unethical to engage, or aid and abet, in treatment which is dangerous and/or has no scientific basis.

2.C. (i) Members should seek to enter into Mutual Assistance Agreements or other similarly intended arrangements with like-minded orthodontists to guard against patient abandonment in the event of unforeseen events such as temporary disability or death.

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

CODE OF PROFESSIONAL CONDUCT:

3.A. Members shall be dedicated to generating public confidence in the orthodontic specialty by improving the quality and availability of orthodontic and dental care to the public.

3.B. Members shall recognize and abide by the laws that apply to the practice of dentistry and orthodontics in their jurisdiction.

3.C. Members shall provide a workplace environment devoid of harassment or inappropriate behavior and a workplace that upholds respectful and cooperative relationships for all employees and patients.

ADVISORY OPINIONS:

3.A. (i) Members may exercise discretion in selecting a patient into their practice, provided that they shall not refuse to accept a patient because of the patient's race, creed, color, sex, national origin, disability, HIV seropositive status, or other legally recognized protected class.

3.A. (ii) Members should pursue changes in laws, requirements, rules and/or regulations within their jurisdiction that are contrary to the best interests of patients.

3.A. (iii) It is ethical to accept for treatment or complete treatment for a patient who has an outstanding balance with a previous practitioner.

3.A. (iv) It is ethical to remove appliances from, or to continue treatment for, a patient not of record upon request by that patient; provided, that all reasonable effort should be made to determine the reason for the request from the patient. It is advisable to consult with the patient's practitioner, if possible, prior to such removal or continuation of treatment.

3.A. (v) It is ethical to withdraw from treating a patient of record, provided that advance written notice to the patient or responsible party is given in accordance with state/provincial laws so as to allow for another provider to be secured.
3.A. (vi) It is ethical for members to provide dental care other than orthodontics unless announcing a practice that “is limited to” orthodontics.

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

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

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

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

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

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

CODE OF PROFESSIONAL CONDUCT:
4.A. Members shall be dedicated to providing the highest quality, evidence based orthodontic care for their patients within the bounds of the clinical aspects of the patient’s condition, and with due consideration being given to the expressed interest and desires of the patient.

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

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

4.A. (ii) Members shall make reasonable arrangements for emergency care for their patients and should, when consulted for emergency care by a patient not of record, make reasonable arrangements for emergency
care and advise that the patient should subsequently return to the original provider unless the patient has a different preference.

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

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

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

CODE OF PROFESSIONAL CONDUCT

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

ADVISORY OPINIONS:

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

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

5.A. (iii) Members shall neither give nor receive "rebates" or "split fees" in relation to the referral or acceptance of patients. The terms "rebates" and/or "split fees" refers to any substantial remuneration paid or received, or the division of fees paid or received, in exchange for referring or accepting a patient for orthodontic or other health care services; provided that, to the extent permitted by applicable law and ethical rules, these terms are not intended to include revenue sharing arrangements between...
or among members and/or other dentists or allied healthcare practitioners in an employer/employee, partnership, corporation or other similar legally-recognized relationship where compensation is based on revenue received.

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

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

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

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

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

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

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

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

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

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

(1) They are listed in their entirety,

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

(3) The word “Honorary” will follow all honorary degrees listed, and

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

For purposes of this Advisory Opinion, “earned and attained advanced academic degrees or honorary degrees” mean degrees awarded by an
5.A. (ix) Members must assure that their public statements with respect to their practice or the specialty are true. Statements should be avoided that contain a representation or implication regarding the quality of orthodontic or other health care services, which (a) suggest superiority relative to other practitioners, unless it is acknowledged that each orthodontist uses different techniques based on training and experience, and that such claim is the orthodontist's individual perspective, and/or (b) are not susceptible to reasonable verification, by the public, and/or are intended or likely to create an unjustified expectation about results that can be achieved.

5.A. (x) Members whose practice is devoted exclusively to orthodontics may announce that their practice “is limited to” that specialty.

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

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

DISCIPLINARY PROCEEDINGS

DISCIPLINARY AND MEMBERSHIP PROCEEDINGS

A. GROUNDS FOR ACTION:

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

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

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

B. DISCIPLINARY PROCEEDINGS:

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

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

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

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

   a. The Chair of COMEJC shall select three of its members to comprise an
"Investigating Committee" to investigate any disciplinary or membership
complaints and/or appeals of membership denials. Committee members
selected must be unbiased and without conflicts. At a minimum, they must not represent the Association’s constituent organization, nor shall they be from the same general geographic area, as the member they are charged with investigating.

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

c. If the Investigating Committee concludes that a complaint or record constitutes a valid and actionable inquiry, the Investigating Committee shall conduct a confidential investigation in order to determine whether disciplinary or membership action is warranted. Such an investigation in the case of disciplinary proceedings shall include contacting the accused member and providing a copy of the complaint to the member as well as the complainant, if necessary to gather all relevant facts. The investigation of whether any non-disciplinary or disciplinary response, including membership in this Association is warranted shall include contacting the applicant or existing member as the case may be, as well as the member’s constituent organization (in the case of active and retired members), and obtaining all relevant facts. Any “whistle blower” complaint, however, submitted by a party who could potentially be subject to retaliation may be considered for further investigation while holding the complainant’s identity in confidence by means of redaction of said name and any other identifying materials from the complaint only if preliminary evaluation by the Investigating Committee determines that a non-reportable letter of concern is, or may be likely as the appropriate disposition of said complaint. Should the Investigating Committee, as it moves through its disciplinary process, later determine that a reportable disciplinary action is instead likely, the subject member of the complaint shall be entitled to know the identity of the complainant to enable the accused member to respond specifically with knowledge of the origin of the complaint. AAO staff, in communication with the complainant, would determine if a willingness to reveal the whistle blower’s identity is acceptable to permit any disciplinary process to proceed in such cases. If not, the complaint would be rejected. If the accused member refuses to cooperate or provide information, the Investigating Committee may not allow such refusal to influence its judgment concerning the merits of the complaint. Members of the Investigating Committee shall not, at any time, have any personal or “off the record” communications with the accused member, or anyone advocating for the accused. All communications with the accused member concerning the investigation shall be in writing, and
shall only be transmitted through AAO executive staff and shall, when possible, be transmitted in such a way as to prove the sufficiency of the communication (e.g., receipted delivery). The Investigating Committee may, at its discretion, suspend its proceedings if it becomes aware that the accused member is involved in litigation or other official proceedings, such as a state dental board or provincial regulatory body investigation, on the same or substantially similar complaint.

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

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

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

4. If the Investigating Committee determines that disciplinary action is warranted or that membership should be terminated or denied, COMEJC shall follow the procedures set forth below:
a. Notice: The member shall be notified in writing of the charges including a statement containing all of the actions about which have been complained, including corresponding provisions of this Code that are alleged to have been violated, and his/her right to a hearing before three members of the COMEJC selected by the chairman thereof who shall not be members of the Investigating Committee (the “Hearing Committee”) and who have no bias or conflicts in the matter as previously defined. The accused member shall be given the names, states/provinces of members of the Hearing Committee, and shall have the right to challenge any member on the basis of bias or conflicts. In the event of such a challenge, the Chair of COMEJC, in consultation with AAO executive staff, may determine if a conflict does, in fact, exist. Such notification shall be sent by certified mail, with receipted delivery, to the member’s address of record. In the event that a conflict or that a COMEJC member is ineligible to serve on the Investigating or Hearing Committees, the Chair shall appoint an alternative COMEJC representative to serve in his/her place. In the event two alternate Council appointees are ineligible to serve, The Chair shall serve on the designated Committee. If the Chair is unable to serve, the AAO President shall appoint the Trustee Liaison to COMEJC or another AAO Trustee to serve on the Investigating Committee or Hearing Committee if the Trustee Liaison is ineligible. Such notification shall be sent by certified mail, with return receipt requested, to the member’s address of record. The member shall be notified that he/she may request a hearing before the Hearing Committee in order to appear and may present evidence, and that he/she may be represented by legal counsel, if desired, at his or her expense.

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

b. Hearing: Upon timely written request from the member, which must be given within thirty (30) days of the notice to the member of the right to a hearing, the member or applicant shall be entitled to a private hearing before the Hearing Committee at which time he/she shall be given the opportunity to present his/her response. The hearing shall be conducted in accordance with the procedures adopted by this Association at a place and time selected by the Hearing Committee in its sole discretion, and the member shall be given reasonable advance notice of the date, time and place of the hearing. The members of the Hearing Committee shall elect from their number a Hearing Officer, who shall preside at the hearing and issue any appropriate procedural or evidentiary rulings, and summarize the results of the investigation and non-binding penalty recommendation at the hearing for the other members. Formal rules of evidence or civil
procedure shall not be required. The Hearing Committee may consider any relevant material.

At the Association’s discretion, hearings may be offered to be held via videoconference or teleconference.

Hearings should be limited to the facts in dispute, which have been entered into the “record” of the case by the accused and complainant.

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

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

C. APPEALS:

The decision of the Hearing Committee as to applicants for AAO membership shall be final with no right of appeal. An existing AAO member receiving an adverse decision from the Hearing Committee shall have the right to appeal from such a decision by filing a notice of appeal with the Secretary-Treasurer of this Association.
The notice of appeal must be in writing and filed with the Secretary-Treasurer of this Association within thirty (30) days of receipt of the notice of the adverse decision.

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

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

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

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

Every decision on appeal shall be reduced to writing and shall clearly state the conclusion of the Panel and reasons for reaching the conclusion. The Panel shall have the discretion to:
1. Uphold the decision of the Hearing Committee;

2. Reverse all or any part of the decision of the Hearing Committee and thereby exonerate the member;

3. Deny an appeal because it fails to satisfy the requirements of these Bylaws, Principles of Ethic, Code of Professional Conduct, Advisory Opinions and associated disciplinary procedures;

4. Refer the case back to the Hearing Committee for a new proceeding, if the rights of the member under all applicable Bylaws were not accorded him/her; or

5. Accept the findings of the Hearing Committee, but impose a different penalty or decision.

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

D. RESIGNATION:

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

E. REPORTING REQUIREMENT:

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