

American Association of Oral and Maxillofacial Surgeons
CODE OF PROFESSIONAL CONDUCT
2008-2009

I. Introduction

As do all health care professions, the oral and maxillofacial surgery specialty holds a special position of trust within society. In recognition of their extensive scientific and clinical training, and healing mission, society grants oral and maxillofacial surgeons certain privileges, which are not available to the public at large. These include the right to diagnose and treat illness, perform surgery, and prescribe and administer prescription drugs within the scope of their licensure, training, education and expertise. In return, the specialty makes a commitment to society that its members will adhere to high ethical standards of conduct.

The *AAOMS Code of Professional Conduct* (the *Code*) is a compilation of those ethical obligations that have been identified and recognized by the specialty through the American Association of Oral and Maxillofacial Surgeons (AAOMS), the largest oral and maxillofacial surgery specialty society in the United States.

The *Code* is a product of the AAOMS House of Delegates, which consists of elected representatives of the AAOMS membership and is the official policy-making body of the AAOMS. All elements of the *Code* result from resolutions adopted by the AAOMS House of Delegates.

The *Code* is, in effect, a written expression of the obligations arising from the implied contract between the specialty and society. However, since the *Code* is the result of an ongoing dialogue between the oral and maxillofacial surgery specialty and the public, it is an evolving document. By its nature, the *Code* cannot be a complete articulation of all ethical obligations. In resolving ethical problems not explicitly covered by the *Code*, oral and maxillofacial surgeons should consider the ethical principles that the *Code* reflects, the patient's needs and interests, and any applicable law.

AAOMS fellows and members agree to abide by the *Code* as a condition of membership in the Association. They recognize that continued public trust in the oral and maxillofacial surgery specialty is based on the commitment of individual surgeons to high ethical standards of conduct.

To assist AAOMS fellows and members in participating in the *Code* decision process, this publication also includes official Guidelines for Filing a Complaint. The guidelines are designed to provide complainants with a reasonable opportunity to seek a resolution of complaints while protecting the confidentiality and rights of fellows and members accused of violating the *Code*.

II. Guidelines for Filing a Complaint of a Violation of the AAOMS Code of Professional Conduct

To help ensure that AAOMS fellows and members honor the *Code*, the AAOMS maintains a process by which violations of the *Code* by AAOMS fellows and members and AAOMS component societies may be alleged and decided. The AAOMS Commission on Professional Conduct (the commission) carries out this decision process. To ensure that complaints receive proper consideration, the commission recommends that the following guidelines be followed when filing a complaint.

Who may file a complaint: Any AAOMS fellow, member, candidate or resident, state or regional oral and maxillofacial surgery society or state dental or medical board or American Board of Oral and Maxillofacial Surgery (ABOMS) may file a complaint of unprofessional conduct or a violation of the *Code*; however, a current member of the commission who has a direct personal or financial interest in the matter of complaint should recuse himself or herself from any participation in the matter. The commission may act on its own motion, by majority vote, should a matter within its jurisdiction come to its attention from

any other source. This includes actions taken by the ABOMS, dental and medical board and criminal and civil court judgments.

Who a complaint may be filed against: A complaint may be filed against any oral and maxillofacial surgeon who holds any category of membership or prospective membership in the AAOMS. A complaint may also be filed against any state or regional oral and maxillofacial surgery society that is a component of the AAOMS. Complainants seeking action against non-members or other organizations will be referred to the state dental board or other appropriate body.

What a complaint may allege: Complaints must allege a violation of one or more provisions of the AAOMS Code or other professional or ethical misconduct related to the practice of oral and maxillofacial surgery by an oral and maxillofacial surgeon.

How to file a complaint: To ensure that the commission receives and is able to verify and evaluate complaints, and to ensure that confidentiality is maintained, all complaints must be:

- In writing. Complaints received by telephone alone will not be considered.
- Signed by the complainant and include an address where the commission may contact the complainant. Anonymous complaints will not be considered.
- Documented. At minimum, a statement or affidavit from the complainant detailing the facts and circumstances of the alleged misconduct is required. Any supporting documentation, such as patient records, bills, copies of correspondence, statements of witnesses or other relevant evidence, should be included.
- Submitted directly to the Chair of the Commission on Professional Conduct at the following address:

Dr. James W. Adams
Chair, Commission on Professional Conduct
c/o American Association of Oral and Maxillofacial Surgeons
9700 W. Bryn Mawr Ave.
Rosemont, IL 60018-5701

- Clearly marked as “Confidential” on the complaint letter and the envelope in which it is sent.

Who has access to complaints: Those filing complaints should understand that their identity, as well as the nature of the allegation, would be disclosed to the respondent. Other than such disclosure, all complaints and proceedings are kept confidential by the commission, the AAOMS Appeals Board and their respective agents until a final finding of fact and action are determined, and all appeals are complete.

What happens when a complaint is filed: The commission reviews all complaints within 90 working days of receipt, or at the commission’s next scheduled meeting. Based on the evidence presented in the complaint and the respondent’s answer to the complaint, the commission may take one or more of the following actions:

- Defer the complaint. The most common reason complaints are deferred is to await the outcome of litigation in a court or action by another governmental or relevant entity over the alleged violations.
- Dismiss the complaint. If the commission finds a complaint groundless or unsupported by documentation, it may dismiss the complaint.
- Request additional information from the complainant.

- Appoint a committee to investigate the complaint.
- Hold a hearing. The commission may, at its discretion, based on the nature and severity of the complaint, determine to hold a hearing and require both the complainant and respondent to attend such at hearing, at their own expense.

If, after investigating the complaint, the commission determines that a violation may have occurred, the respondent may request a hearing before the commission. The respondent may present additional evidence and interview witnesses at the hearing.

After the hearing the commission decides whether a violation has been shown.

If the respondent is found to have violated the *Code*, the commission determines a sanction. Sanctions may include:

- Letter of Counsel.
- Probation.
- Censure.
- Suspension of AAOMS membership.
- Expulsion from the AAOMS.

Letters of counsel and probation are actions aimed at bringing the respondent's behavior into compliance with accepted ethical norms. As such, these actions are kept confidential unless they occur along with a publishable sanction.

Censure, suspension and expulsion are more punitive actions. As such, they are reported in AAOMS publications. Disciplinary actions may also be reported to regulatory bodies, such as state dental and medical boards, state oral and maxillofacial surgery societies and to the American Board of Oral and Maxillofacial Surgery. The commission will report actions, as required by law, to the National Practitioners Databank.

It should be noted, however, that decisions by the commission are binding only over oral and maxillofacial surgeons' relationships with and privileges within the AAOMS. Commission findings have no official standing outside the AAOMS, though they may be recognized or considered by other organizations at the discretion of those organizations.

The commission retains the sole discretion to impose the discipline it sees fit, in full consideration of the facts, circumstances and any mitigating or extenuating factors it finds during the course of its investigation and adjudication processes.

Respondents found to have violated the AAOMS *Code* may also appeal the finding to the Appeals Board of the AAOMS Board of Trustees. The Appeals Board's decision is final.

III. Guidelines for seeking an interpretation of the *Code*

To assist oral and maxillofacial surgeons in avoiding and resolving ethical conflicts, the AAOMS Commission on Professional Conduct offers interpretations of the *Code* to AAOMS fellows and members. Interpretations are most frequently sought in the areas of advertising and marketing, and business arrangements, though the commission will examine any area of oral and maxillofacial surgery practice covered by the *Code of Professional Conduct*.

The commission encourages any oral and maxillofacial surgeon who has a question about whether a given practice or arrangement may violate the *Code* to seek an interpretation. To obtain an interpretation, address inquiries to:

Chair, Commission on Professional Conduct
c/o American Association of Oral and Maxillofacial Surgeons
9700 W. Bryn Mawr Ave.
Rosemont, IL 60018-5701

Requests should include enough information about the matter in question to allow the commission to reach an informed decision. Detailed information on the proposed or existing action, arrangement or practice, and any documentation, such as advertising copy, should be forwarded for the commission to review.

The commission will review the submitted materials within 90 working days, or at its next scheduled meeting and at that time will determine whether it wishes to issue an interpretation or official Advisory Opinion on the issue. At its own discretion, the commission may publish interpretations as Advisory Opinions in the *Code*.

Interpretations are meant to provide guidance to fellows and members in resolving uncertain ethical questions. However, obtaining an interpretation does not guarantee that the matter in question may not become the subject of a complaint or disciplinary proceeding. As with all complaints, the commission will consider complaints about matters on which it has issued an interpretation based on the facts and circumstances presented in the complaint process. The fact that an interpretation was obtained may be viewed as a mitigating factor in such proceedings.

IV. The AAOMS Commission on Professional Conduct

Under the *Constitution and Bylaws* of the AAOMS, the AAOMS Commission on Professional Conduct maintains and administers the *AAOMS Code of Professional Conduct* (the *Code*). It is the commission's responsibility to uphold the high ethical and moral standards that have been the hallmark of the specialty of oral and maxillofacial surgery and have distinguished the practice of the healing arts from ordinary commerce.

The commission's authority: The commission is appointed by the AAOMS Board of Trustees and functions as an independent body within the Association. The commission has the sole authority to interpret the *AAOMS Code*. The commission is authorized to investigate and adjudicate complaints of ethical violations by AAOMS fellows and members, and impose sanctions on those found to have violated the *AAOMS Code*.

Commission functions and powers: The commission's main duties and functions are as follows:

- Administering the *Code*. The commission is responsible for disseminating the *Code* to AAOMS fellows and members, and for providing a mechanism for filing complaints, comments, and requests for interpretations of the *Code*.
- Making decisions under the *Code*. The commission acts as a tribunal in determining the facts of complaints made against oral and maxillofacial surgeons, and whether those facts constitute a violation of the *Code*. The commission may levy sanctions against violators.
- Issuing Advisory Opinions and interpretations. Advisory Opinions are interpretations, opinions and statements accompanying the *Code* text. They are generally issued in response to specific issues or cases raised before commission, and act as a standard for interpreting the code in disciplinary proceedings. The commission continually reviews the opinions and may modify, expand or withdraw any element at any time to meet changing conditions and considerations in the practice of oral and maxillofacial surgery. Interpretations are opinions on the applicability of the *Code* in a specific circumstance, usually at the request of an oral and maxillofacial surgeon. At the commission's discretion, privately requested interpretations may be published as Advisory Opinions.

- Recommending changes to the *Code*. The commission is responsible for continually reviewing the *Code* and recommending changes to reflect changing circumstances. These recommendations must be adopted by the AAOMS House of Delegates to become part of the *Code*.
- Educating the membership about the high ethical and moral standards that have been the hallmark of the specialty of oral and maxillofacial surgery and have distinguished the practice of the healing arts from ordinary commerce.

Jurisdiction: The *Code* governs the commission in its consideration of complaints, and contains the ethical standards of the Association. The *Code* describes many of the matters over which the commission has jurisdiction and the sanctions the commission may levy. However, because the *Code* is an evolving document, the commission's jurisdiction is not limited solely to those matters explicitly referenced in the *Code*. The commission may examine and recommend sanctions relating to any action by an oral and maxillofacial surgeon that the commission determines to be an actual or potential violation of the ethical and moral duty oral and maxillofacial surgeons owe their patients, peers and society.

It should be noted, however, that the commission's jurisdiction is limited to AAOMS fellows and members and their relationships with and privileges within the AAOMS. Findings of ethical violations may be reported to other organizations or agencies, in accordance with the *Code*. They may be recognized and considered by outside entities only at the discretion of those entities.

Occasionally, the commission is asked to determine matters outside its jurisdiction. For example, matters that relate primarily to quality and standards of treatment, including fees, are, generally speaking, the purview of peer review committees and are to be resolved through the state or regional peer review mechanism. The commission may refer such matters to other appropriate authorities.

In the event the commission determines that an allegation should be referred to another agency, the complainant will be advised that their complaint falls outside the jurisdiction of the *Code* and the commission will then refer the complainant to a more appropriate authority.

The commission seeks to administer and enforce the *Code* in an objective and unbiased manner, and makes every attempt to treat respondents and complaints with the respect and fairness due fellow oral and maxillofacial surgeons. In keeping with these goals, commission members are expected to disclose any conflict or potential conflict or recuse themselves in matters where a conflict of interest or even the appearance of impropriety exists.

Confidentiality: Commission members shall keep confidential all information relating to their work on the commission. Breach of confidentiality by any member of the commission shall be grounds for removal from the commission.

V. AAOMS *Code of Professional Conduct* and Official Advisory Opinions

A. General principles of the AAOMS *Code of Professional Conduct*

A.1 The *Code of Professional Conduct* (the *Code*) is an expression of the House of Delegates of the American Association of Oral and Maxillofacial Surgeons (AAOMS). The Advisory Opinions are a basic compilation of interpretations, opinions and statements of the AAOMS Commission on Professional Conduct. The *Code* and the Advisory Opinions may be expanded, withdrawn or modified by the originating body at any time to meet changing conditions and considerations in the practice of oral and maxillofacial surgery practice.

The *Code of Professional Conduct* of the AAOMS is the ethical standard for fellows and members of the Association as they seek to achieve the highest level of ethical conduct in the relations with their patients, their peers and the public.

In all dealings with the public and profession, oral and maxillofacial surgeons should uphold the honor of their profession by acting in accordance with the letter and the spirit of the *Code*, as well as all applicable law and regulation. Oral and maxillofacial surgeons practicing under other professional designations and licenses must follow the ethical standards of the professions that apply.

In all cases, oral and maxillofacial surgeons should safeguard their patients, their profession and the public by ensuring that care is rendered only by persons who are professionally competent and of good moral character. Fellows and members of the Association have a moral and professional obligation to maintain a viable relationship with all appropriate segments of the health care community.

Advisory opinions

A.1.00 Observance: These ethical standards of professional conduct are the expressions of the AAOMS of its basic ethical principles. As a condition of membership, all fellows and members of the AAOMS are required to abide by the tenets of the *Code*.

A.1.01 Respect for Law and Individual Rights: The oral and maxillofacial surgeon should respect the rule of law and the rights of the individual.

A.1.02 Rights of the Public: While it is important that the rights of professional colleagues be protected, it is equally important to protect the rights of the public. In litigation, for example, fellows or members should feel free to act as expert witnesses when they believe their opinion would aid in the administration of justice.

A.2 **Pledge of the Association**: Each fellow and member of the Association shall be bound by the following Pledge, which shall become effective upon induction to membership:

Recognizing that the American Association of Oral and Maxillofacial Surgeons stands for the highest traditions of our specialty, I hereby pledge myself, as a condition for membership, to practice oral and maxillofacial surgery with honesty and to place the welfare of my patients above all else; to advance constantly in professional knowledge; and to render help willingly to my colleagues.

In solemn affirmation of my dedication and upon my honor, I declare that I will abide by the *Code of Professional Conduct* of the American Association of Oral and Maxillofacial Surgeons and that I will faithfully support its purposes and ideals and abide by its principles and regulations.

Reproduction of the Pledge for the purpose of public display is prohibited except for copies produced by the American Association of Oral and Maxillofacial Surgeons or its official designees.

A.3 All complaints, proceedings, communications, and records concerning alleged violations of the *Code* shall be kept confidential by members of the Commission on Professional Conduct, members of ad hoc investigative committees appointed by the commission, members of the AAOMS Board of Trustees reviewing appeals of findings of violations, AAOMS staff, and others affiliated with the AAOMS, except when sanctions are publishable under the Code or when disclosure of such information may be required by law.

B. Patient autonomy, self-determination and confidentiality

B.1 The oral and maxillofacial surgeon has a duty to respect the patient's rights to self-determination and confidentiality.

- B.2** The oral and maxillofacial surgeon should inform the patient of any proposed treatment and any reasonable alternatives, so that the patient is involved in his/her treatment decisions.

Advisory opinion

B.2.00 Oral and Maxillofacial Surgeon Responsibility and Patient Consent: The responsibility of the oral and maxillofacial surgeon includes preoperative diagnosis and care, the selection and performance of the operation and postoperative surgical care. It is unethical to mislead a patient as to the identity of the doctor who performs the operation. Because modern oral and maxillofacial surgery is often a team effort, oral and maxillofacial surgeons may delegate part of the care of their patients to associated oral and maxillofacial surgeons, residents, or assistants under their direction. However, oral and maxillofacial surgeons must not delegate or evade their responsibility for supervising assistants, and ensuring their patients are cared for according to accepted practice standards. It is not improper for the responsible oral and maxillofacial surgeon to permit an assistant to perform all or part of a given operation, provided the oral and maxillofacial surgeon is present and an active participant throughout the essential part of the operation. If a resident is to operate upon and take care of the patient, under the general supervision of the attending oral and maxillofacial surgeon who will not participate actively, the patient should be so informed and provide consent.

- B.3** Oral and maxillofacial surgeons should protect the confidentiality of patient records. Maintenance of patient records should provide for reasonable safeguards to protect the privacy and welfare of patients. At the request of a patient, another dentist or physician, the oral and maxillofacial surgeon should provide any information beneficial to the treatment of the patient.

Advisory opinion

B.3.00 Furnishing Copies of Records: An oral and maxillofacial surgeon has the ethical (and often legal) obligation to provide patient records (or copies or summaries of them), including x-rays and other imaging techniques (or copies of them) to either the patient or the patient's designated caregiver, at the request of the patient or the patient's subsequent caregiver. Oral and maxillofacial surgeons should provide such documents either at no charge or for a nominal fee that covers the cost of reproduction and time in presenting the records. Transfer of protected records should be done in accordance with the law and confidentiality regulations in place at that time.

C. Ensuring proper professional education, training and competence

- C.1 Limitation of Practice:** To ensure quality of professional care, oral and maxillofacial surgeons shall limit their practice to oral and maxillofacial surgery and any other ADA- or ABMS-recognized specialty for which they are educationally qualified, and which meet the standards of the ADA Commission on Dental Accreditation (CODA) and/or the Accreditation Council on Graduate Medical Education (ACGME).

Advisory opinions

C.1.00 Scope of practice: The *Code of Professional Conduct* recognizes that an oral and maxillofacial surgeon has both the right to practice to the full extent of his or her license, competence and abilities and the obligation to act in accordance with the letter and spirit of the *Code* and all applicable law and regulation.

The oral and maxillofacial surgeon is trained to evaluate, diagnose and treat diseases, injuries, disorders and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region. Cosmetic maxillofacial surgery encompasses those procedures designed to enhance and

improve form and appearance of the maxillofacial region and is performed on hard and soft tissues to correct maxillofacial adiposity and irregularities of the chin, maxillofacial contour, eyelids, nasal structures, soft tissues of face and neck, skin, surface contour, hair and ear or as described in the then current edition of the AAOMS publication *Parameters of Care (ParCare)*.

AAOMS considers the oral and maxillofacial region anatomically to include the mouth, teeth, jaws, face, scalp and neck. With the exception of harvesting tissue from other anatomical areas to use in the maxillofacial surgery site, surgery outside the oral and maxillofacial region would be considered outside the scope of practice of oral and maxillofacial surgery. To ensure quality of professional care, the *Code* provides that oral and maxillofacial surgeons shall limit their practice to oral and maxillofacial surgery and any other ADA- or ABMS- recognized specialty for which they are educationally qualified, and which meet the standards of the ADA Commission on Dental Accreditation (CODA) and/or the Accreditation Council on Graduate Medical Education (ACGME).

- C.1.01** An oral and maxillofacial surgeon must personally provide preoperative evaluation and diagnosis and postoperative care according to accepted treatment parameters.
- C.1.02** Auxiliary Personnel: Oral and maxillofacial surgeons have an obligation to protect the health of their patients by not delegating to a person less qualified any service or operation which requires the professional competence of an oral and maxillofacial surgeon. An oral and maxillofacial surgeon has the further obligation of prescribing and supervising the work of all auxiliary personnel in the interest of rendering the best service to the patient.
- C.2** **Continuing Education**: Oral and maxillofacial surgeons should continually improve themselves and their abilities through continuing education.
- C.3** **Professional Judgment and Quality of Care**: Oral and maxillofacial surgeons should treat their patients as they would wish to be treated in like circumstances. They should not disclose professional confidences unless compelled to do so by law. Their independent judgment should not be compromised.

Advisory Opinions

- C.3.00** An oral and maxillofacial surgeon must not practice oral and maxillofacial surgery on a scheduled basis in locations other than suitably equipped and staffed facilities, such as oral and maxillofacial surgery offices (as defined in C.3.01 and C.3.02), accredited hospitals, surgery centers, academic institutions, state or federal institutions, or in the military service. This provision should not prevent or discourage oral and maxillofacial surgeons from providing unscheduled urgent or emergency care as needed in any type of setting.
- C.3.01** An oral and maxillofacial surgery office is defined as a non-mobile facility that has passed the state general anesthesia or conscious sedation evaluation where required by state law, is represented by trained staff persons, displays the attending oral and maxillofacial surgeon's name, and provides 24-hour coverage by an oral and maxillofacial surgeon who is within a reasonable distance and/or response time of the facility for the administration of emergency care.
- C.3.02** Facilities meeting these criteria may be a part of an associated medical or dental clinic. Each oral and maxillofacial surgery facility must meet the appropriate statutes as set forth in the state Dental Practice Acts and comply with current AAOMS office anesthesia regulations, including the maintenance of drugs and equipment on the premises, and be subject to on-site evaluation where required.

C.3.03 Itinerant Surgery: In all conduct regarding their performance of elective treatment away from their usual clinical or training location, oral and maxillofacial surgeons shall uphold the standards of the profession, its standards of care, and the provisions of this *Code*, including but not limited to the provisions of Advisory Opinions 3.00 and 3.02 herein.

- a. Fellows and members are strongly discouraged from making itinerant surgery a major part of their practice or component of their training. An oral and maxillofacial surgeon must not perform elective surgery at a distance from the usual location where he or she operates without direct or at minimum supervisory determination of the diagnosis and of the adequacy of preoperative preparation. Postoperative care must be rendered by the operating surgeon unless it is delegated to another practitioner who is qualified to continue this essential aspect of total surgical care. It is the responsibility of the operating surgeon to establish communication to ensure that the patient receives proper continuity of care.
- b. This *Code* provision shall not prohibit the occasional performance by a fellow or member of surgery at a distant U.S. or foreign facility for the purposes of teaching, or treatment of a patient in need of care or procedures in which the fellow or member is particularly expert, provided the continuity of care requirements set forth in paragraph a. above are fulfilled.
- c. For purpose of this advisory opinion, the term “occasional performance” means the uncommon or infrequent occurrence of performing surgery at a distant U.S. or foreign facility. An “itinerant surgeon” is defined as a surgeon who travels from place to place to act as a primary surgeon in locations at a distance from his or her usual place of primary practice. The phrase “at a distance” is defined as a location so far removed from his or her primary practice location that a more local provider would be called upon to provide emergency coverage.
- d. The above provisions are not meant to prohibit or interfere with the ability of an oral and maxillofacial surgeon practicing in a less populated area to treat patients where no local surgeon is available.

C.4 Consultation: Consultation should be sought whenever the quality of care may be enhanced by consultation.

Advisory opinions

C.4.00 Advice and Counsel to Colleagues: Oral and maxillofacial surgeons, by virtue of their training and professional expertise, have the obligation to advise and assist their professional colleagues when their advice and counsel is sought. Their aim should be the ultimate in good patient care.

C.4.01 Confidentiality: Oral and maxillofacial surgeons serving as consultants should hold the details of their consultations in confidence between themselves and the attending practitioners.

D. Avoiding personal impairment

D.1 Personal Impairment: It is unethical for an oral and maxillofacial surgeon to practice while abusing controlled substances, alcohol or other chemical agents which impair the ability to practice.

D.2 All oral and maxillofacial surgeons have an ethical obligation to urge chemically impaired colleagues to seek treatment. Oral and maxillofacial surgeons with first-hand knowledge that a

colleague is practicing when so impaired have an ethical responsibility to report such evidence to the well being or equivalent committee of the state oral and maxillofacial surgery or dental society, or to the state dental board.

- D.3 Post-exposure, Blood-borne Pathogens:** All oral and maxillofacial surgeons, regardless of their blood-borne pathogen status, have an ethical obligation to immediately inform any patient who may have been exposed to blood or other potentially infectious material in the oral and maxillofacial surgery office of the need for post-exposure evaluation and follow-up and to immediately refer the patient to a qualified health care practitioner who can provide post-exposure services. The oral and maxillofacial surgeon's ethical obligation in the event of an exposure incident extends to providing information concerning the oral and maxillofacial surgeon's own blood-borne pathogen status to the evaluating health care practitioner, if the oral and maxillofacial surgeon is the source individual, and to submitting to testing that will assist in the evaluation of the patient. If a staff member or third person is the source individual, the oral and maxillofacial surgeon should encourage that person to cooperate as needed for the patient's evaluation.

Advisory opinion

D.3.00 Ability to Practice: An oral and maxillofacial surgeon who contracts any disease or becomes impaired in any way that might endanger patients or oral and maxillofacial surgery staff shall, with consultation from a qualified physician or other authority, limit the activities of practice to those areas that do not endanger patients or staff. An oral and maxillofacial surgeon who has been advised to limit practice activities should monitor the aforementioned disease or impairment and make additional limitations to practice as indicated.

E. Promote the welfare of patients and the community

- E.1 Professional Obligations:** Oral and maxillofacial surgeons should safeguard their patients, their profession and the public by ensuring that care is rendered only by persons who are professionally competent and of good moral character. Fellows and members of the Association have a moral and professional obligation to maintain a viable relationship with all appropriate segments of the health care community.
- E.2 Research and Development:** Oral and maxillofacial surgeons have the obligation to making the results and benefits of their investigative efforts available to all when they are useful in safeguarding or promoting the health of the public.
- E.3 Patents and Copyrights:** Patents and copyrights may be secured by oral and maxillofacial surgeons provided that such patents and copyrights shall not be used to restrict research or practice.
- E.4 Abuse and Neglect:** Oral and maxillofacial surgeons shall be obligated to become familiar with the signs of abuse and neglect and to report suspected cases to the proper authorities, consistent with state laws.
- E.5 Participate in the Governance of the Profession:** Every profession owes society the responsibility to regulate itself. Such regulation is achieved largely through the influence of professional societies. All oral and maxillofacial surgeons, therefore, have a dual obligation of making themselves a part of a professional society and of observing its rules of ethics.
- E.6 Community Relations:** Oral and maxillofacial surgeons should take an active role in community affairs, and conduct themselves with dignity and honor in their relations with the public.

F. Fairness and nondiscrimination in dealing with patients

- F.1 Quality of Care:** An oral and maxillofacial surgeon should not provide unnecessary or substandard treatment to a patient.

Advisory opinion

- F.1.00 Emergency Service:** The oral and maxillofacial surgeon should make a reasonable response to a request for service in an emergency.

- F.2 Patient Abandonment:** Once an oral and maxillofacial surgeon has undertaken a course of treatment the oral and maxillofacial surgeon should not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another oral and maxillofacial surgeon. Care should be taken to ensure that a patient's oral health is not jeopardized in the process.

Advisory opinion

- F.2.00 Termination of Services (Patient Abandonment):** Oral and maxillofacial surgeons are free to select whom they will treat. At the outset of the surgeon-patient relationship, the boundaries of the service that the surgeon intends to perform should be set forth clearly. The surgeon is responsible for performing with due care the surgery, postoperative care, treatment for any complications, discharge of the patient that is not premature and delivery of complete and adequate instructions to the patient upon discharge. Once services are commenced, the surgeon may discontinue such service only upon completion of care. The surgeon is not entitled to withdraw from the case as long as the patient still requires his or her services, unless adequate notice is provided the patient to seek the services of another practitioner or upon discharge by the patient. Adequate notice is understood to be long enough to permit the patient, with reasonable diligence, to obtain the services of another to provide the necessary care. Failure of the patient to pay for services generally does not justify withholding further needed services, nor does lack of cooperation on the part of the patient justify such termination except in extreme cases. In situations of practitioner illness, withdrawal from the case is not justified without adequate notice to the patient.

- F.3 Non-Discrimination:** While oral and maxillofacial surgeons may exercise reasonable discretion in selecting patients for their practices, oral and maxillofacial surgeons may not refuse to accept patients into their practices or deny service to the patient because of their race, creed, color, sex or religion. Refusal to treat a patient solely because that patient has or may have an infectious disease is unethical.

Advisory opinion

- F.3.00** An oral and maxillofacial surgeon has the general obligation to provide care to those in need. A decision not to provide treatment to an individual because the individual has AIDS or is HIV seropositive, based solely on that fact, is unethical. Decisions with regard to the type of treatment provided or referrals made or suggested, in such instances should be made on the same basis as they are made with other patients, that is, whether the individual oral and maxillofacial surgeon believes he or she has need of another's skills, knowledge, equipment or experience and whether the oral and maxillofacial surgeon believes, after consultation with the patient's physician, if appropriate, the patient's health status would be significantly compromised by the provision of dental treatment.

G. Fairness in dealing with colleagues

- G.1** The oral and maxillofacial surgeon should respect the rule of law and the rights of their colleagues.

Advisory opinions

- G.1.00** Right to Practice: Oral and maxillofacial surgeons will not interfere with another's right to practice to the full extent of his or her license, competence and abilities.
- G.1.02** Emergency Consultation: An oral and maxillofacial surgeon consulted in an emergency by the patient of another practitioner should treat the emergency condition and refer the patient to his or her doctor. An oral and maxillofacial surgeon should inform the doctor of the condition found and the treatment provided.
- G.1.03** Second Opinions: Oral and maxillofacial surgeons should not discourage a second opinion if a patient requests one. A second opinion is defined as an evaluation of a patient with a specific problem in oral and maxillofacial surgery, where that fellow or member has knowledge that a peer has previously evaluated the patient for the problem. Oral and maxillofacial surgeons should render second opinions from a practice independent of the initial evaluator, where possible.

When outside agencies request second opinions regarding patient care, and this is the only reason a patient is seeking a second opinion, the oral and maxillofacial surgeon rendering the second opinion must provide the initial evaluator with a copy of the second opinion sent to the agency in a timely manner, provided the patient provides consent to do so.

Patients have the ultimate right to choose their doctor for their primary care. Before initiating treatment, an oral and maxillofacial surgeon should inform any health care practitioner who previously rendered an opinion on the same oral and maxillofacial surgery problem, provided the patient provides consent to do so.

When a patient seeks a second or additional opinion on their own, without requirements from an outside agency, for ongoing treatment, and the second or additional examiner is aware that he or she is rendering another opinion, the oral and maxillofacial surgeon should provide this information to the initial practitioner, provided the patient provides consent to do so.

When a patient seeks a second or additional opinion on their own, without requirements from an outside agency, for treatment not yet rendered, there is no requirement to report the encounter to the initial practitioner.

When a patient seeks a second or additional opinion to fulfill a requirement of an outside agency or payer, and the second or additional examiner is aware that he or she is rendering another opinion, the oral and maxillofacial surgeon should provide this information to the initial practitioner, provided the patient provides consent to do so.

- G.1.04** Peer Review: Oral and maxillofacial surgeons should cooperate and support the principle of peer review when one's professional peers conduct such a review.
- G.1.05** Cooperation with Duly Constituted Bodies of the AAOMS and AAOMS Component Societies: An oral and maxillofacial surgeon must comply in a timely manner with requests for information from duly constituted bodies of the AAOMS or AAOMS component societies. Failure to respond to such requests will be considered a violation of the *Code* and may be subject to disciplinary sanction.
- G.1.06** Service on Investigating Committees: Oral and maxillofacial surgeons shall serve on investigating committees and the Commission on Professional Conduct when appointed, unless special circumstances prevent their serving.

G.1.07 Violations: An oral and maxillofacial surgeon should refer evidence of any violation of the *Code of Professional Conduct* by an oral and maxillofacial surgeon or AAOMS component society to the Chair of the Commission on Professional Conduct. However, if, during the commission's review and/or investigation of the allegations of violation of the *Code of Professional Conduct* and *Advisory Opinions*, it becomes evident that the complainant has been malicious or fraudulent, the complainant will be subject to appropriate disciplinary action within the *Governing Rules and Regulations*. If such fraudulent or malicious allegations have been presented by an oral and maxillofacial surgeon as part of a commentary on the suitability of a candidate for membership, the Committee on Membership and the Commission on Professional Conduct may initiate appropriate action against the oral and maxillofacial surgeon within the *Governing Rules and Regulations*.

G.1.08 Expert Witness Testimony: Oral and maxillofacial surgeons should be encouraged to serve as expert witnesses but should not be advocates or partisans. An oral and maxillofacial surgeon who acts as an expert witness must show demonstrated competence through experience in the specific area of oral and maxillofacial surgery in question in the legal proceeding.

a. Qualifications for the Oral and Maxillofacial Surgeon Expert Witness:

1. Oral and maxillofacial surgeons should be encouraged to serve as expert witnesses to champion what is believed to be the truth, but should not be advocates or partisans.
2. An oral and maxillofacial surgeon who acts as an expert witness must have direct clinical experience in the specific area of oral and maxillofacial surgery in question in the legal proceeding.
3. The oral and maxillofacial surgeon expert witness should be a diplomate of the American Board of Oral and Maxillofacial Surgery.
4. Expert testimony should reflect not only the opinions of the individual, but also honestly describe where such opinions may vary from common practice. The expert should not present their own views as the only correct ones, if they differ from what might be done by other oral and maxillofacial surgeons.
5. An expert must be a surgeon who is still engaged in the active practice of oral and maxillofacial surgery or can demonstrate enough familiarity with present practices to warrant designation as an expert witness.
6. The oral and maxillofacial surgeon expert witness must have a current, valid and unrestricted license to practice oral and maxillofacial surgery in the state in which he or she practices.
7. The oral and maxillofacial surgeon must not accept a contingency fee as an expert witness.
8. The oral and maxillofacial surgery expert witness should be prepared to document the percentage of time he or she spends in service as an expert witness as well as the time spent in the practice of oral and maxillofacial surgery.
9. Oral and maxillofacial surgeons who wish to serve as expert witnesses must not do so in cases for which they also served as one of the patient's treating doctors.

b. Standards of Behavior for the Oral and Maxillofacial Surgeon Expert Witness:

1. The oral and maxillofacial surgeon expert witness must review the medical-dental information in the case, and testify to its content fairly and impartially.
2. The oral and maxillofacial surgeon expert witness must review the standards of practice prevailing at the time of occurrence.
3. The oral and maxillofacial surgeon expert witness must be prepared to state the basis of the testimony presented. Important alternate methods and views should be fairly presented and discussed.
4. Compensation of the oral and maxillofacial surgeon expert witness should be reasonable and commensurate with the time and effort given to preparing for deposition and court appearance. It is unethical for an oral and maxillofacial surgeon expert witness to link compensation to the outcome of the case.
5. The oral and maxillofacial surgeon expert witness must be aware that transcripts of deposition and courtroom testimony are public records, subject to independent peer review.

G.1.09 Insurance Consultants: An oral and maxillofacial surgeon may serve as a consultant to an insurance company. An oral and maxillofacial surgeon must maintain the academic credentials and the current clinical experience necessary to evaluate any procedure or treatment of oral and maxillofacial surgery upon which he or she gives an insurance consultation. In all conduct regarding his or her activities as an insurance consultant, a fellow or member shall uphold the standards of the profession, its standards of care, and the provisions of this *Code*.

a. Definitions: As used in this section, the following terms shall have the following meanings:

1. "Insurance Company:" An insurance company shall include any party obliged or contracted to act as a third-party payer for the treatment of another, including but not limited to an insurer, reinsurer, underwriter, managed care agency, health maintenance company, or risk retention group.
2. "Insurance Consultant:" An insurance consultant is a person who reviews, reports, or renders an opinion upon a course of treatment, procedure or the cost thereof for an insurance company, with or without compensation or consideration of any kind. This term shall include a person who provides consultation upon the treatment of a specific patient, general practices and community standards of care, or coverage and payment policies.

b. Qualifications:

1. Oral and maxillofacial surgeons are encouraged to serve as insurance consultants to promote the best interests of patients and fair insurance claims practices based upon knowledge of oral and maxillofacial surgery.
2. An oral and maxillofacial surgeon who acts as an insurance consultant must maintain the academic credentials and the experience necessary to evaluate any procedure or treatment of oral and maxillofacial surgery upon which he or she gives an insurance consultation.

3. An oral and maxillofacial surgeon who acts as an insurance consultant must have a current and unrestricted license to practice dentistry or medicine. An oral and maxillofacial surgeon who acts as an insurance consultant must be currently engaged in the practice of oral and maxillofacial surgery, or have demonstrable academic expertise and experience in the current standards of care of oral and maxillofacial surgery. An oral and maxillofacial surgeon who acts as an insurance consultant is not required by this section to maintain a valid license in every state in which a matter occurs upon which he or she gives an insurance consultation, except as may be required by law.
 4. An oral and maxillofacial surgeon who serves as an insurance consultant should render opinions that are consistent with the current accepted standards of care, and in the best interest of the patient. Insurance consultants should not present their views as the only correct ones if they differ from what might be done by other oral and maxillofacial surgeons, and should include in their opinions an honest recitation of reasonable alternative methods of treatment, diagnostic opinions and case views.
- c. Standards of Conduct for the Oral and Maxillofacial Surgeon Insurance Consultant: The standards of care of oral and maxillofacial surgery and this *Code* should govern the oral and maxillofacial surgeon in all his or her professional conduct. This section offers specific standards. These standards are not exclusive or exhaustive of the ethical considerations that should be made by an oral and maxillofacial surgeon.
1. The oral and maxillofacial surgeon may not prejudice any claim as an insurance consultant. Each claim should be considered on its individual facts, merits and clinical circumstances, including but not limited to a full and unbiased review of the case history and records of the patient for whom a claim is at issue.
 2. The oral and maxillofacial surgeon insurance consultant should be knowledgeable of, and review each claim upon, the standards of care and customary practice prevailing at the time, and in the community where the treatment at issue is performed.
 3. The oral and maxillofacial surgeon insurance consultant should be prepared to state the basis of his or her decision on a claim, and the extent to which the decision is based on experience, specific clinical references and generally accepted opinion in the specialty field. Important alternative methods and views should be fairly presented and discussed.
 4. Compensation of an oral and maxillofacial surgeon should be reasonable and commensurate with the time and effort given to reviewing each claim. Compensation of a fellow or member for services as an insurance consultant may not be a quotient of claims paid or denied, or bear a relationship of any kind to the outcome of claims upon which he or she provides services.

G.2 Sexual Harassment: Sexual harassment may be defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) such conduct interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive work or academic environment or (2) accepting or rejecting such conduct affects or may be perceived to affect employment decisions or academic evaluations concerning the individual. Sexual harassment is unethical.

G.3 Officer Election Campaign Obligations: Association fellows and members participating in the campaign and election process for elective officers shall abide by the principles of fairness and

the standing rules of procedure of the House of Delegates regarding officer election campaign activities.

Advisory Opinion

G.3.00 Undue Influence: Vote trading, reprisals, patronage and undue influence by fellows and members, including those representing outside agencies, whether actual or attempted, shall be considered as being improper and unethical in AAOMS officer elections.

H. Honesty and Truthfulness

H.1 Oral and maxillofacial surgeons have a duty to be truthful and honest in their communications.

H.2 **Financial Responsibilities:** In financial relations with patients, the oral and maxillofacial surgeon shall neither pay nor accept any fee except for those professional services actually provided to the patient.

Advisory opinions

H.2.00 Billing Responsibilities: An oral and maxillofacial surgeon who submits any billing for services rendered or to be rendered which is fraudulent, deceitful, or misleading is engaged in unethical conduct.

H.2.01 Over-billing: It is unethical for an oral and maxillofacial surgeon to increase a fee to a patient solely because the patient is covered under a dental or medical benefits plan.

H.2.02 Waiver of Co-payment: An oral and maxillofacial surgeon who accepts a payment from a third party, as payment in full without disclosing to the third party that the patient's portion will not be collected is engaged in over-billing.

H.2.03 Falsifying Claims: An oral and maxillofacial surgeon who submits a claim to a third party reporting incorrect treatment dates or services rendered for the purpose of assisting patients in obtaining benefits from the third party which, otherwise, would be disallowed, is engaged in making unethical, false or misleading representations to such third party.

H.2.04 Fee-Splitting: An oral and maxillofacial surgeon shall not engage in "fee-splitting", kickbacks, or "finder's fees" for the referral of patients to their practice. If an oral and maxillofacial surgeon has any vested financial interest in another corporate, solo or specialty practice for which some form of payment, interest or dividend will be received for the referral of a patient, and refers a patient into that practice, they must inform the patient of their financial interest at the time of the referral.

H.2.05 Gifts to Oral and Maxillofacial Surgeons or Offers of Inducement: Oral and maxillofacial surgeons should make treatment decisions, and prescribe drugs, devices, and other treatments, based solely upon medical considerations and patient needs, and not on the basis of gifts or inducements received or offered from outside sources.

H.3 **Obligations to Avoid Exploiting Relationship With Patient for Financial Gain:** Oral and maxillofacial surgeons who engage in or employ auxiliaries in the marketing or sale of products or procedures to their patients must take care not to exploit the trust inherent in the oral and maxillofacial surgeon-patient relationship for their own financial gain. Oral and maxillofacial surgeons should not induce their patients to buy products or undergo procedures by misrepresenting the product's value, the necessity of the procedure or the oral and maxillofacial surgeon's professional expertise in recommending the product or procedure. It is not enough for the oral and maxillofacial surgeon to rely on the manufacturer's or distributor's representations

about the product's safety and efficacy. The oral and maxillofacial surgeon has an independent obligation to inquire into the truth and accuracy of such claims.

- I. Advertising:** An oral and maxillofacial surgeon shall not improperly solicit patients in a false, fraudulent, misleading, deceptive or inappropriate manner. In their announcement of availability, they should be most circumspect and act only in a professionally acceptable manner. An oral and maxillofacial surgeon should report advertising that is false, fraudulent, misleading or deceptive to their State Dental Board for appropriate action. The following sections of the *Code of Professional Conduct* related to advertising issues will be solely advisory in nature. Any complaint brought to the AAOMS Commission on Professional Conduct related to advertising will be answered with an advisory letter recommending remedial action, if necessary, and explaining the need for members to comply with applicable state law. The commission reserves the right to apply disciplinary actions to advertising-related complaints when the conduct is egregious.
- I.1. Definition:** Advertising to the public includes, but is not limited to, letterhead, mailing envelopes, business cards, referral forms, office forms, appointment cards, signage-both inside and outside of your office(s), brochures, pamphlets, office mailings, ads placed in phonebooks, magazines, newsletters or any other type of print media, flyers, billboards and directories available to the public, websites and Internet directories or listings.

Advisory Opinions

- I.1.00 Definition of "Improperly Solicit":** The term "improperly solicit" means the attempt to obtain patients by:
- a. Misrepresentation of fact;
 - b. Misleading or deceiving because in context it makes only a partial disclosure of relative facts;
 - c. Utilization of patients' laudatory statements;
 - d. Intending to create false or unjustified expectations of favorable results;
 - e. Implying unusual circumstances;
 - f. Misrepresenting fees which do not disclose all variables and other relevant factors;
 - g. Intending to imply or to guarantee extraordinary results.
- I.1.01 Fellowship Designations:** An oral and maxillofacial surgeon shall abide by all state laws, rules and regulations of regulatory agencies, and rules set forth by the entity which granted the fellowship/membership designation in advertising of fellowship or membership designations to the public. An oral and maxillofacial surgeon shall also comply with all rules related to the advertising of fellowship designations set forth by the entity that granted the fellowship designation.
- I.1.02 Advertising and Display of Credentials and Degrees:** An oral and maxillofacial surgeon shall not intentionally mislead the public in the display of his credentials and degrees and shall not imply superiority or provide any information which is false or misleading in any advertising. In all advertising, an oral and maxillofacial surgeon shall clearly identify himself as practicing the specialty of oral and maxillofacial surgery.

The use of an unearned academic degree, for example an honorary degree, is prohibited in all general announcements to the public by oral and maxillofacial surgeons.

An oral and maxillofacial surgeon, like any regulated professional, shall abide by all state laws and regulations related to the advertising of degrees and credentials. An oral and maxillofacial surgeon shall also abide by all applicable advertising rules and regulations set forth by regulatory bodies, including dental and/or medical boards.

In all matters pertaining to advertising an MD/DO or DDS/DMD, fellows and members must abide by the state law in which they practice. When state law is silent on the issue, fellows and members must have a valid state license in a U.S. state or territory for any degree to be advertised.

In all matters pertaining to one's function and identification as an oral and maxillofacial surgeon, all health care degrees for which a fellow/member holds a valid license or as allowable by state law must be listed on professional stationery, letterhead, business cards, advertising, publications, interior and exterior signs, Internet or other electronic advertisements or Web pages.

- I.1.03** Advertising of an Area Within the Oral and Maxillofacial Surgery Scope of Practice and Advertising of a Dental or Medical Specialty Other Than Oral and Maxillofacial Surgery: A fellow/member who identifies himself as an oral and maxillofacial surgeon may advertise an area of practice which falls within the recognized scope of practice for an oral and maxillofacial surgeon as long as such advertising is in accord with state law and rules and is not false, deceptive or misleading to the public.

Should a fellow/member wish to list himself as a specialist in another dental or medical specialty (other than oral and maxillofacial surgery), the fellow/member must have successfully completed the training requirements required by the Commission on Dental Accreditation (CODA) or the Accreditation Council for Graduate Medical Education (ACGME) and the American Board of Medical Specialties (ABMS) for that specialty.

- I.1.04** Advertisement of ABOMS Status: The commission will apply the standards adopted by the American Board of Oral and Maxillofacial Surgery (ABOMS) in determining that the term "board certified" or "diplomat of" the American Board of Oral and Maxillofacial Surgery is the only acceptable term to be properly used.

- J.** **Reproduction of AAOMS Seal:** The seal of the American Association of Oral and Maxillofacial Surgeons is the official service mark of the Association. The AAOMS seal is trademarked and the property of the AAOMS and all rights to the AAOMS seal belong to the AAOMS. The seal, when used with the appropriate identifying phrase, is the official collective mark that may be used by AAOMS fellows, members and official component societies. Any use or reproduction thereof by anyone not a member of the Association, or by any fellow, member or official component society in a manner that does not conform to that described herein, is specifically prohibited.

Advisory Opinions

- J.1.00** Use of AAOMS Seal by Fellows and Members: Fellows and members may reproduce the seal to identify themselves as fellows and members on:

professional stationery;
letterheads;
business and referral cards;
interior and exterior doors and windows only in all-AAOMS fellow/member offices;
plaques hung in all-AAOMS member offices; and
Personal or all-AAOMS fellows/members Office Internet web sites.

In these instances, the seal shall never be used alone and must always be accompanied by the phrase, "Fellow(s) (or Member[s]) of the American Association of Oral and Maxillofacial Surgeons".

The AAOMS seal will be available to fellows and members via a PDF file from the AAOMS. Fellows and members in all AAOMS member offices wishing to display the AAOMS seal on interior and exterior doors and windows shall contact the AAOMS for a

copy of the AAOMS seal that may be affixed to glass. The AAOMS seal shall only be used exactly as provided by the AAOMS, including the ® symbol in the lower right hand corner of the seal. Failure to include the ® symbol with the AAOMS seal fails to properly give the public notice of the fact that the AAOMS has trademarked the seal and maintains the exclusive right to govern the use of the seal. Fellows or members who fail to include the ® symbol are in violation of the rules of use for the seal and may be subject to disciplinary sanction. The seal can only be printed in black, blue (PMS 653) or white (reverse).

The seal shall only be used on Web sites maintained by AAOMS fellows or members for the purposes of advertising, marketing or informing the public of oral and maxillofacial services available through their practice. The seal may only be used once per member or office web site, either on the home page or the first page, to establish membership in the AAOMS. The AAOMS seal shall not be used for any commercial endorsement, or in any way that implies a commercial endorsement by or partnership with the AAOMS, without the express written consent of the AAOMS Board of Trustees or its designates.

At all times, use of the seal shall comply with all federal and state advertising laws and regulations. It shall not be altered in any way and shall never be used in conjunction with any other membership designations or affiliations with any other organization or entity, except for indications of diplomate status in the American Board of Oral and Maxillofacial Surgery (ABOMS), and only then if the ABOMS symbol does not appear in immediate proximity to the AAOMS mark.

The seal shall not be imprinted or stamped on any educational literature, including postoperative instructions, even if such is reproduced on the fellow's or member's stationery. The seal shall not be imprinted or stamped on fellows' or members' patient files, patient forms or x-rays.

The AAOMS seal shall not be utilized, imprinted, copied or transferred onto any personal belongings, clothing product or any other type of product or merchandise by any fellow or member. Only the AAOMS or companies and/or products endorsed by the AAOMS, which have been granted written authorization from the AAOMS, may reproduce the AAOMS seal and then only in accordance with the written authorization granted by the AAOMS.

The seal may also be used on all approved items listed above for a partnership or professional corporation conducting an oral and maxillofacial surgery practice, but only when all owners, principals and associates of the practice are full fellows or members of the AAOMS. In this instance only the plural "fellows" or "members" is permissible; whichever indicates the membership status of all parties involved.

No fellow or member shall make any abridgement or alteration of the AAOMS seal or use any elements of the design of the AAOMS seal in the development of their personal or corporate practice insignia or mark.

J.1.01 Use of AAOMS Seal by Official Component Societies: Official component societies may reproduce the AAOMS seal to advise their members and the public that they are an official component of the AAOMS. The seal can never be used alone and must always be accompanied by the phrase "Official Component Society of the American Association of Oral and Maxillofacial Surgeons." Official component societies can use the AAOMS seal on (1) Professional stationery; (2) Letterhead; and (3) an official component society web site.

The AAOMS seal will be available to official component societies via a PDF file. The AAOMS seal can only be used exactly as provided by the AAOMS, including the ®

symbol in the lower right hand corner of the seal. Failure to include ® symbol with the AAOMS seal fails to properly give the public notice of the fact the AAOMS has trademarked the seal and maintains the exclusive right to govern the use of the seal. Official component societies that fail to include the ® symbol are in violation of the rules of use for the seal and may be subject to disciplinary action by the commission. The seal can only be printed in black, blue (PMS 653) or white (reverse).

The seal may only be used on web sites maintained by official component societies for the purpose of informing their membership about issues relating to the practice of oral and maxillofacial surgery and the activities of the official component societies and the AAOMS and/or for the purpose of informing the public about the practice of oral and maxillofacial surgery. The seal may only be used once per official component society web site, either on the home page or the first page, to establish their relationship to the AAOMS.

No component society shall make any abridgement or alteration of the AAOMS seal or use any elements of the design of the AAOMS seal in the development of their own insignia or mark.

- J.1.02** Seeking the Guidance of the Commission: The AAOMS seal is trademarked and the property of the AAOMS. The AAOMS maintains the exclusive right to govern the use of the AAOMS seal. Any fellow, member or official component society of the AAOMS that has a question regarding the use of the AAOMS seal or the rules governing the use of the AAOMS seal should seek the guidance of the commission before using the AAOMS seal. Failure by a fellow, member or official component society to seek such guidance from the commission may result in a commission or AAOMS action against the party to protect the AAOMS seal.

VI. Procedures for Handling Complaints and Requests for Interpretation

A. Confidentiality

All submissions, files, discussions, reports and minutes of the commission shall be considered confidential and treated as confidential by all those directly involved with the commission. Members of the commission will keep copies of commission agendas, commission reports, complaint records and all materials related to their work with the commission confidential and will destroy copies of all records after a case has been closed or when they are no longer a member of the commission.

AAOMS fellows and members who serve on investigating committees and appeals boards in relation to actions of the commission are bound by the same confidentiality requirements as members of the commission.

AAOMS fellows and members who serve as complainants and receive notification of the commission's final decision regarding their complaint are bound by the same confidentiality requirements as members of the commission concerning the content of such notification.

As consideration for receiving notification of the commission's final decision regarding his or her complaint, the complainant shall execute a confidentiality agreement prepared by the commission. The complainant shall sign this confidentiality agreement prior to the commission releasing its decision. Failure to maintain confidentiality of the commission's decision is grounds for sanction under the *Code*.

B. Interpretations of the *Code of Professional Conduct*

1. **Requests for Interpretation:** Requests for interpretation of the *Code of Professional Conduct* shall be in writing and shall describe the matter to be interpreted in sufficient detail to enable members of the commission to evaluate the request in all its aspects.
2. **Interpretations Initiated by the Commission:** The commission on its own motion may render an opinion concerning interpretation or application of the *Code of Professional Conduct*.
3. **Discretionary Power:** The commission may, in its own discretion, refuse to consider requests for interpretation of the *Code of Professional Conduct* which in the opinion of the commission should be resolved by a component society, state association, the courts or other governmental entity.
4. **Publication of Interpretation:** The commission may, in its own discretion, publish its interpretations as Advisory Opinions. The Advisory Opinions would be published in a manner, which will not identify the source of inquiry, or circumstances under which the inquiry was presented. The Advisory Opinion will be a statement of the interpretation and clarification of the *Code*.

C. Complaint Submission and Review Process

1. **Filing a Complaint:** Any AAOMS fellow or member, state or regional oral and maxillofacial surgery society or State Dental or Medical Board may file a complaint alleging a violation of the *Code of Professional Conduct*. The commission may also act on its own motion, by majority vote, should a matter within its jurisdiction come to its attention from any other source.

- a. The AAOMS fellow or member, state or regional oral and maxillofacial surgery society or State Dental or Medical Board filing the complaint shall furnish documentation of that complaint to the extent available at the time the complaint is filed.

The complaint must be in writing, signed by the complainant(s) and directed to the commission at the Association's headquarters at the following address:

Chair, Commission of Professional Conduct
c/o American Association of Oral and Maxillofacial Surgeons
9700 W. Bryn Mawr Ave.
Rosemont, IL 60018-5701
Confidential

- b. Complaints will be forwarded promptly by the headquarters to members of the commission.
 - c. In cases where the commission accepts a complaint against an American Association of Oral and Maxillofacial Surgeons component society, the complaint will also be forwarded to the American Association of Oral and Maxillofacial Surgeons President. The American Association of Oral and Maxillofacial Surgeons' President is then bound by the confidentiality requirements of the *Code*.
2. **Notice to Respondent:** A copy of the complaint shall be sent to the respondent by UPS or FedEx mail along with a letter informing the respondent of the complaint review process.
 3. **Notice to Complainant:** A letter shall be sent to the respondent by a certified mailing, acknowledging the commission's receipt of their complaint and informing the complainant of the complaint review process.

4. **Answer:** The respondent has 30 working days from the date they receive notice of the complaint to file a written answer. Failure to file a written answer will be grounds for sanction under the *Code*. (See Section V. 1.05)
5. **Review of Complaint by Commission:** Complaints shall be reviewed within 90 working days of their receipt by the commission or at the commission's next scheduled meeting.

In its review of the complaint, the commission has the authority to take any one or combination of the following actions:

- a. **Defer Complaint:** The commission may, on its own motion, defer or hold in abeyance proceedings on any complaint, at any stage of the review process, in any matter where the commission believes the subject matter of the complaint is or may be the subject of litigation pending in any court or administrative hearing body of competent jurisdiction. The commission shall issue any decision to defer or hold a matter in abeyance in writing. A decision by the commission to defer or hold a matter in abeyance is not subject to appeal under the *Code*.
- b. **Dismiss Complaint:** Upon reviewing the complaint, supporting documentation and respondent's answer the commission may decide that there is insufficient basis for further proceedings, in which case the complaint shall be dismissed with a finding of an "insufficient basis for a violation" decision. The respondent will be notified of such in writing via certified mail. The complainant will be notified in accordance with the confidentiality requirements of Chapter VI, Section A.
- c. **Request Additional Information:** If upon review of the complaint, supporting documentation and respondent's answer the commission decides it needs additional materials to reach its decision in this matter they may request additional materials from either or both of the parties.
- d. **Appoint an Investigating Committee:** If upon review of the complaint, supporting documentation and respondent's answer the commission determines there is sufficient need for an investigating committee, notice shall be sent to the respondent by the commission within 30 working days, together with a description of the procedures that will be followed in the investigation of the complaint.
 - i. **Members of Investigating Committee:** Investigating Committees shall consist of three fellows or members of the Association and shall be appointed by the chair of the commission. The chair shall designate one of the three (3) members as chair of the committee.

Efforts shall be made by the Chair of the commission to conduct a random selection of committee members, except to exclude fellows or members with any interest in the case. A fellow or member shall disqualify himself from serving on a particular investigation committee if that individual has any interest in the case.

The Chair of the commission has complete discretion in appointing members to the investigating committee, including filling any vacancies.

Once the assignment of the committee members has been finalized, the committee and the respondent will be given notice, via certified mail, of the date the investigation will begin. In addition the respondent will be informed of their right to submit additional evidence in writing to the committee.

- ii. **Duties of the Investigating Committee:** The investigating committee shall investigate complaints of violations of the *Code* or other conduct constituting grounds for discipline

referred to it by the Chair of the commission, in accordance with the instructions given by the commission.

The committee members are bound by the confidentiality parameters of the *Code* and shall be informed of these parameters at the time of their appointment. The committee shall maintain decorum and objectivity at all times.

The committee will receive a complete copy of the case file, including the complaint, answer and all correspondence. The committee shall use its best efforts to collect additional evidence pertinent to the allegations of the complaint. The role of the committee is limited to fact-finding. It is not a decision-making body.

The committee shall limit itself to the investigation of the specific complaint referred to it by the commission. If, however, during the course of their investigation, the committee uncovers other actions, which may subject the respondent to discipline, these actions and supporting evidence shall be reported to the commission.

- iii. **Report of Findings:** The committee shall submit a written report to the commission within 60 working days of the start of the investigation. The report shall contain all material gathered in the investigation. It may contain a recommendation from the committee, as to whether further investigation is warranted. Each member of the committee must sign a copy of the report.
 - iv. **Disbanding of Committee:** After submission of its written report, the committee members will remain available to the commission, to answer any questions they may have regarding the investigation. The committee will disband at the discretion of the chair.
 - v. **Notify Respondent of Their Right to a Hearing:** If upon review of the complaint, supporting documentation and the respondent's answer the commission finds cause for a letter of counsel or censure, probation, suspension or expulsion, the commission shall advise the respondent of his/her right to a hearing before the commission. The commission may also determine that a hearing with both parties is necessary to issue a final decision in the matter. Both the respondent and complainant must be present at such a hearing. If either party declines to attend or fails to appear at a set hearing, the commission may take appropriate action, including, but not limited to, dismissal of hearing, holding the hearing and/or taking any other warranted action based on the documentation or other relevant materials and information before it.
- e. **Hold a Hearing:** The commission has the discretion to hold a hearing on any matter before it. Hearings are most often held for one of the following reasons:
- After reviewing the case file, the commission requires additional information on a case and determines that a hearing with the respondent and complainant present is the best way to obtain the needed information.
 - A respondent requests a hearing after the commission determines there may be cause for a letter of counsel or censure, probation, suspension or expulsion based on a review of the case file. The commission is required to notify respondents in writing of such a determination, along with an account of the disputed issues of fact or reason for discipline, a notice that failure to respond to the allegations will likely result in a finding against the respondent, and a notice that the respondent has a right to a hearing before the commission.

The hearing process is outlined below:

- i. **Request for Hearing:** The respondent has the right to appear at a hearing before the commission and to submit additional materials for review during the hearing. A written request for a hearing must be received by the commission within 30 working days of the respondent's receipt of notice of their right to request a hearing. If a written request for a hearing is not received within 30 working days of the respondent's receipt of notice, the respondent will be deemed to have waived their right to a hearing and the right to submit additional materials for review at that hearing.
- ii. **Notice of Hearing:** If the respondent submits a timely written request for a hearing, the commission shall notify the respondent of the date, place and time of the hearing within 30 working days. The commission shall schedule the hearing within 90 working days of the respondent's request and the respondent shall receive not less than 30 days of notice of the hearing. The commission shall provide the complainant with no less than 30 days notice of the hearing. The commission shall provide copies of all the relevant supporting documentation not otherwise privileged or protected by law by UPS or FedEx mail to all parties, not less than 30 working days prior to the date of the hearing.
- iii. **Attendance at Hearing:** Attendance at the hearings may be limited to the members of the commission, appropriate or designated AAOMS staff and counsel, any witnesses who agree to be called, the parties and counsel or a representative of the respondent and complainant, who may speak on their behalf.

The commission may hear from appropriate witnesses presented by the respondent, but has no power to compel the attendance of witnesses at a hearing. The respondent shall provide the commission with written notice of the identification of any witnesses expected to be called within 10 working days prior to the hearing.

The respondent and complainant's counsel or representatives must file a written notice of appearance with the commission no later than 10 working days prior to the hearing. Failure to file such notice constitutes a waiver of the respondent and complainant's right to be represented during the appeals hearing.

Counsel or a representative shall not appear in lieu of the respondent. Should the respondent or complainant fail to appear, the commission may take appropriate action, including, but not limited to, dismissal of hearing, holding the hearing and/or taking any other warranted action based on the documentation or other relevant materials before it.

A member of the commission may on his/her own motion withdraw from the hearing.

- iv. **Continuance of Hearing:** The commission may continue a hearing by giving written notice of the continuance to the parties involved not less than 15 working days prior to a scheduled hearing.

A request for a continuance by the respondent or complainant must be submitted in writing, by certified mail, not less than 15 working days prior to a scheduled hearing. Continuances are granted at the sole discretion of the commission. A decision by the commission to deny a continuance is not subject to appeal under this *Code*.

- v. **Evidence and Argument:** The commission shall not be bound by technical legal rules of evidence and may accept any evidence or information deemed reliable or relevant.

vi. **Record:** A written transcript of the hearing may be made at the discretion of the commission. If such written transcript is made, the respondent may request in writing a copy and have it made at their expense.

vii. **Hearing Expenses:** The commission shall bear costs of the setting up and conducting the hearing, including the cost of a written transcript, if one is made. Every attempt possible will be made to hold hearings in conjunction with other commission or AAOMS meetings to reduce costs and to make the meeting time and place as convenient as possible for all parties. All expenses associated with the respondent and complainant's travel to and from the hearing, the respondent's defense and the respondent and complainant's representation at the hearing shall be borne by the respondent and complainant.

viii. **Decision of Commission on the Hearing:** The commission shall, within 30 working days of the hearing, reach a decision. If the respondent has waived their right to a hearing, the commission will issue their decision within 60 working days of that waiver. The date of the waiver will be considered to be the date the commission received written notice from the respondent that they did not wish to submit additional materials or participate in a hearing. If the respondent did not give notice, the date will be considered to be 30 working days after the respondent's receipt of notice of their right to request an appeal.

The commission shall notify the respondent in writing, via certified mail, of its decision within 15 working days of reaching its decision. Where a violation of the *Code* is found the sections of the *Code* and/or the Advisory Opinions violated, any discipline imposed and the procedure for appeal of the decision shall be included in the notification.

6. Issuing of Decision by Commission

In viewing its decision, the commission shall decide each case on the documentation and other relevant information before it. Previous actions taken by the commission against any party in another case shall not be a consideration in their determination of whether or not a violation has occurred in the current case.

After the commission reviews the complaint and takes the course of action they have deemed appropriate (see Section 5 for options available to the commission), the commission shall reach a decision in the case. Once the commission has reached a decision, the commission shall notify the respondent in writing, via certified mail, of its decision within 30 working days. Where a violation of the *Code* is found, the sections of the *Code* and/or the Advisory Opinions violated, any discipline imposed and the procedure for appeal of the decision shall be included in the notification.

Discipline imposed by the commission shall not take effect until 30 working days from the respondent's receipt of notification, to ensure the respondent's right to an appeal before any discipline is imposed.

D. Actions Taken By Other Parties

1. **Actions Taken by Regulatory Boards and Agencies or Courts:** The CPC staff will monitor actions taken against any AAOMS fellow or member by a regulatory agency, such as a dental or medical board, or the courts, and will provide this information to the commission once a final disposition of the case has been rendered. In circumstances where the regulatory body or court has made a final ruling involving an AAOMS fellow or member, with no further possibility for appeal, the commission reserves the right to mirror the final action of the agency or court or to act on its own discretion to initiate a disciplinary action, but only in cases where the fellow's or

member's conduct is egregious. In such cases the information from the regulatory body shall serve as the complaint against the fellow or member and the fellow or member will be treated as a respondent to a commission action.

2. Actions Taken by the American Board of Oral and Maxillofacial Surgery (ABOMS): The CPC staff will monitor actions taken against any AAOMS fellow or member by the American Board of Oral and Maxillofacial Surgery, per the advice and consent of the ABOMS. Once a final disposition of the case has been rendered, with no further possibility for appeal, the commission shall reserve the right to coordinate with the ABOMS and reserve the right to mirror the final action of the ABOMS or to act on its own discretion to initiate a disciplinary action, in conjunction with the ABOMS. In such cases the information from the ABOMS shall serve as the complaint against the fellow or member and the ABOMS shall serve as the complainant. In such a complaint involving the ABOMS, the fellow or member shall be treated as a respondent to a commission action.

E. Discipline: Discipline only becomes a consideration once the commission has reached a decision that a violation has occurred in the case before it. Once the commission has reached a decision, they shall decide what disciplinary action to impose as a result of the violation. In the event an unrelated potential violation comes to the commission's attention while the respondent is subject to a prior disciplinary action, the commission shall treat the new matter as a separate complaint and the respondent shall have all of the procedural rights including a hearing as provided in Chapter VI of the *Code*.

1. Types of Discipline: The commission, or, when applicable, the Appeals Board, may impose the following discipline:

a. Compliance Actions: The goal of these actions is to encourage oral and maxillofacial surgeons to bring their activities into compliance with the *Code*. They are kept confidential unless they are imposed in conjunction with a publishable sanction.

i. Letter of Counsel: A statement to the respondent, informing them of a need for guidance in professional conduct has been recognized.

ii. Probation: A trial period of stated length in which the respondent is under the supervision of the commission and their fitness for membership in the American Association of Oral and Maxillofacial Surgeons is tested. During the period of probation, the respondent's conduct is under periodic scrutiny and the respondent is expected to demonstrate improved personal and/or professional deportment or provide evidence that the actions or circumstances that resulted in their violation of the *Code* have been corrected. If during the period of probation the commission finds that any of the conditions for probation have been violated, the commission shall have the power to extend or increase the sanction subject to the respondent's right to a hearing as provided in Chapter VI, Section C of the *Code*. There shall be no right of appeal from a finding that the conditions of probation have been violated. The commission at its discretion may reduce the period of probation or a reporting requirement without the necessity of holding a hearing.

b. Penalty Actions: These actions are intended to be punitive in nature. Notice of these actions shall be published in AAOMS media as detailed in Section VI.C.3 below.

i. Censure: A formal written statement expressing disapproval or criticism of the respondent's action or conduct sent to the respondent.

ii. Suspension: Denial of all rights and privileges of membership in the American Association of Oral and Maxillofacial Surgeons for a stated period of time.

iii. **Expulsion:** Loss of membership and denial of all rights and privileges of membership in the American Association of Oral And Maxillofacial Surgeons for a stated period of time. An expelled fellow or member may reapply for membership after three (3) years has elapsed from the date of the final decision.

2. **Considerations When Imposing Discipline:** The commission has broad discretion in imposing sanctions on AAOMS fellows and members found to violate the *Code*. The factors the commission may consider when determining an appropriate disciplinary action include, but are not limited to, the following:

- a. The seriousness of the offense. The commission may adjust the severity of sanctions based on its assessment of how serious the infraction in question is or was.
- b. Previous offenses by the respondent and the disciplinary actions taken in those cases. A history of previous commission findings of ethical violations by the respondent, particularly violations similar in nature to the current case, may result in the commission imposing sanctions more severe than it might otherwise impose. The commission may, at its own discretion, impose progressively increasing discipline for repeat offenses and offenders.
- c. The commission's judgment that a given practice or activity must be deterred. The commission may impose harsher sanctions in cases where it seeks to deter an individual in a given case, or when it determines a more severe punishment may deter a practice among oral and maxillofacial surgeons generally, or both.

3. Record of Discipline

- a. A record of any discipline imposed shall be maintained in the confidential files of the commission.
- b. A record of any suspension or expulsion shall be entered into the membership files. Any requests for membership status by the media, general public and other fellows or members shall be answered only as to the current status of the fellow or member. The answer will either be that the person is a fellow or member in good standing or they are not currently a fellow or member if they have had their membership suspended or they have been expelled from the AAOMS. Records of disciplinary actions shall be removed from membership files when the time period of the imposed sanction has elapsed.
- c. A record of any discipline imposed may be provided to licensing, regulatory or disciplinary authorities at the discretion of the majority of the commission. A record of any discipline imposed may also be provided to state or regional oral and maxillofacial surgery societies at the discretion of the majority of the commission. All such requests must be in writing and sent to the Chair of the commission.
- d. The commission will report actions as required by law to the National Practitioners Data Bank.

4. Publication of Discipline

- a. In the case of censure, suspension or expulsion, the matter shall be reported in the AAOMS media and as an action of the commission in its annual report to the membership. In the case of probation, the matter shall be reported in the AAOMS media and as an action of the commission in its annual report to the membership when it is imposed in conjunction with censure, suspension or expulsion. This report shall contain the full name of the fellow or member, the city and state of their primary membership listing, the section(s) and/or Advisory Opinion(s) they have been found in violation of and the sanction imposed. Any publishable action may also be published by state or regional oral and maxillofacial surgery societies at

the discretion of the commission; such a request must be in writing and sent to the Chair of the commission.

- b. In the case of suspension and expulsion, a statement shall also be provided to the Board of Directors of the American Board of Oral and Maxillofacial Surgery (ABOMS), disclosing the fact that this discipline has been imposed. This statement will include the particular reasons for the imposition of the discipline and will be sent to the ABOMS via UPS/FedEx mailing upon publication AAOMS media.
- c. In the case of a fellow or member who resigns from the Association after the commission has made a determination that they may be in violation of the *Code*, but before the decision becomes final or before the discipline has been imposed, resignation shall be treated as an expulsion for purposes of reapplication.

F. Appeal to the Appeals Board of the Board of Trustees (Appeals Board)

1. Right to an Appeal

- a. Except as provided in Chapter VI, Section E.1.a.ii, if the commission imposes discipline, the respondent has the right to appeal the decision and the discipline to the Appeals Board.
- b. The complainant has no right to an appeal.

2. Members of the Appeals Board

- a. The Appeals Board shall consist of three (3) members of the Board of Trustees appointed annually by the President of the Association. One member of the Appeals Board shall be designated chair. Two alternates also are appointed annually by the President of the Association.
- b. A member of the Appeals Board residing in the same district as the respondent shall be disqualified from hearing that appeal and shall be replaced by an alternate.

- 3. **Request for an Appeal:** The respondent must request an appeal within 30 working days of receipt of notice of the commission's decision. The request for an appeal must be in writing, contain a succinct statement of the alleged error(s) and the reason(s) why the commission erred in its decision and state whether or not the respondent will be filing a more detailed brief on the matter with the Appeals Board. If the respondent requests an appeals hearing before the Appeals Board, such request must also be in writing and must state specifically why a hearing is necessary to provide information that could not otherwise be provided in written materials or a written brief to the Appeals Board.

The appeal shall be limited to consideration of only the errors alleged in the respondent's request.

- 4. **Filing of Briefs:** If the respondent wishes to file a more detailed brief, they shall submit the brief to the Appeals Board within 60 working days of their receipt of the commission's decision in their case. If the respondent files a brief, the commission shall receive a copy of the brief and be given the opportunity to file a reply brief with the Appeals Board. The commission must file its reply brief within 60 working days of receipt of the respondent's brief.

If the respondent does not wish to file a brief and expressly states so in their request for an appeal or fails to file a brief within the time required, the commission will be notified in writing of this and will be given 60 working days from receipt of that notice to file a brief with the Appeals Board.

- 5. Determination on Status of Hearing:** Within 90 working days of receipt of the respondent's request for an appeals hearing, the Appeals Board shall consider the complete record of the case, the record of the commission's proceedings, the respondent's statement(s) submitted with the notice of appeal and any briefs filed and make a determination as to whether the request for an appeals hearing will be granted.

If either the respondent or the commission has given notice of intent to submit a more detailed brief, the Appeals Board will not review the case until all briefs have been submitted or the time restrictions in which the parties can do so have lapsed. If for any reason the Appeals Board does not receive the complete case file for their review within 90 working days (i.e., a filing extension was requested and granted to one of the parties who wished to submit a brief), after receipt of the respondent's request for an appeal, they shall have 60 working days from receipt of the complete case file to issue their decision as to whether an appeals hearing will be held.

- 6. Notice of Appeal Hearing:** If a hearing is to be held, a date shall be set by the Appeals Board no later than 90 working days after the Appeals Board makes the determination to hold a hearing. The respondent and complainant shall receive written notice of the time and place of the hearing, by certified mail, no later than 30 working days prior to the date of the hearing. Such notice shall inform the respondent of their right to appear with or without a representative.
- 7. Attendance at Appeals Hearing:** Attendance at the hearings may be limited to the members of the Appeals Board, designated AAOMS staff and counsel, any witnesses who agree to be called, the parties and counsel or a representative of the respondent and complainant, who may speak on their behalf.
- a. The respondent and complainant's counsel or representatives must file a written notice of appearance with the Appeals Board no later than 10 working days prior to the hearing. Failure to file such notice constitutes a waiver of the respondent's right to be represented during the appeals hearing.
 - b. Counsel or a representative shall not appear in lieu of the respondent or complainant. Should the respondent or complainant fail to appear, the Appeals Board may take appropriate action, including, but not limited to dismissing the hearing, holding the hearing and/or taking any other warranted action based on the documentation or other relevant materials before it.
 - c. Should the Appeals Board, within its sole discretion, choose to conduct an appeals hearing, such hearings shall be conducted in conformance with the same standards set forth above for commission hearings, subject to any modifications deemed appropriate by the Appeals Board.
- 8. Continuance of Appeal Hearing:** The Appeals Board may continue a hearing by giving written notice of the continuance to the parties involved not less than 15 working days prior to a scheduled appeals hearing.

A request for a continuance by the respondent or complainant must be in submitted in writing, by certified mail, not less than 15 working days prior to a scheduled hearing. Continuances are granted at the sole discretion of the Appeals Board. A decision by the Appeals Board to deny a continuance is not subject to appeal under this *Code*.

- 9. Evidence and Argument:** The Appeals Board shall not be bound by technical legal rules of evidence. Submission of materials to the Appeals Board, other than the brief and materials considered by the commission is not favored. The respondent does not have the right to submit additional materials. The Appeals Board, at its discretion, may consider additional material submitted to the board by the respondent.

10. Record: A written transcript of the hearing shall be made, the cost to be borne by the Appeals Board. Copies of the transcript will be provided to the respondent at their expense.

11. Hearing Expenses: The Appeals Board shall bear costs of the setting up and conducting the hearing, including the cost of a written transcript. Every attempt possible will be made to hold hearings in conjunction with other AAOMS meetings to reduce costs and to make the meeting time and place as convenient as possible for all parties. All expenses associated with the respondent and complainant's travel to and from the hearing, the respondent's defense and the respondent and complainant's representation at the hearing shall be borne by the respondent and complainant.

12. Decision of Appeals Board: The Appeals Board may reverse or uphold or modify the decision of commission. The Appeals Board may also remand part of or all of the case to the commission with direction, if the board finds that there may have been substantive errors that deprived the respondent of any right, including the right to a fair hearing, or that the discipline was inappropriate.

The Appeals Board shall render its decision within 60 working days after the conclusion of the hearing or, if no hearing is held, within 60 working days of its deliberations. The Appeals Board shall notify the respondent in writing, via certified mail, of its decision within 15 working days of reaching their decision. Where a violation of the *Code* is upheld, the notification shall include the sections of the *Code* and/or the Advisory Opinions violated and any discipline imposed

The decision of the Appeals Board shall be final and not subject to further review or appeal within the Association.

13. Additional Time for Commission or Appeals Board Action: Notwithstanding the various time limits set forth for actions of either the commission or the Appeals Board, the commission or Appeals Board, in their sole discretion, can extend time limits as either body deems appropriate.

VII. Definitions

Advisory Opinion – Official interpretations, opinions and statements of the AAOMS Commission on Professional Conduct by the AAOMS Commission on Professional Conduct. Advisory opinions generally apply the *Code* to specific situations. They are intended to provide detailed standards to oral and maxillofacial surgeons on following the *Code*, and are published along with the sections of the *Code* they illuminate.

Affiliate Member -- An individual who resides and practices or is engaged in an administrative or research position in a country other than the United States and, if applicable, is recognized as an oral and maxillofacial surgeon by the country's appropriate agencies; has specialty training in oral and maxillofacial surgery equivalent to that required of candidates for AAOMS fellowship or membership; and holds and maintains membership in the country's oral and maxillofacial surgery organization, or, if none exists, other such evidence which verifies that the individual is functioning within the professional, moral and ethical framework of the profession of dentistry/medicine.

American Association of Oral and Maxillofacial Surgeons (AAOMS, the Association) – The primary national professional organization representing oral and maxillofacial surgeons in the United States.

American Board of Oral and Maxillofacial Surgery (ABOMS, the Board) -- The certifying board for oral and maxillofacial surgeons, which establishes criteria for competence and the knowledge base that determines a sufficient and acceptable performance for safe practice of the specialty. The ABOMS examines qualified candidates to determine if they have demonstrated the requisite training, experience

and knowledge of the specialty to achieve status as a diplomate. The Board's mission includes examination and certification of candidates and re-certification of diplomates.

Candidate -- An individual who has completed training in an ADA-accredited training program in oral and maxillofacial surgery in the United States, whose application has been provisionally approved by the Committee on Membership, and who has met all eligibility requirements, including submission of all supporting documentation. A candidate must complete the application process within three years from the date designated to this status

The Code – AAOMS Code of Professional Conduct. The *Code* is the ethical standard of conduct for oral and maxillofacial surgeons.

The commission – The AAOMS Commission on Professional Conduct.

Commission on Professional Conduct (CPC, the commission) – The body authorized under the AAOMS *Bylaws* to maintain, administer and adjudicate the AAOMS *Code of Professional Conduct*.

Fellow -- An individual who is a graduate of an accredited dental school and has completed an advanced oral and maxillofacial surgery educational program accredited by the American Dental Association (ADA) Commission on Dental Accreditation; has a license or permit in dentistry or medicine in the state and oral and maxillofacial surgery specialty licensure, where applicable; resides and practices in the United States or its possessions; maintains membership in the American Dental Association (ADA) or other such evidence which verifies he/she is functioning within the professional, moral and ethical framework of the specialty of oral and maxillofacial surgery; complies with American Association of Oral and Maxillofacial Surgeons *Code of Professional Conduct* and Official Advisory Opinions; holds membership in the AAOMS component oral and maxillofacial surgery state society in the state in which he/she practices (excludes those who meet the grandfather provision of the *Bylaws*, and individuals in the federal dental services) (effective September 27, 1991); presents written evidence of qualifications as requested; and is certified by the American Board of Oral and Maxillofacial Surgery (ABOMS).

Honorary Fellow -- An individual who holds no other class of membership in the AAOMS or who is a non-USA member who has made distinguished contributions to the specialty of oral and maxillofacial surgery.

Inactive Fellow and Member -- A fellow, member or affiliate member who derives no income from the practice of oral and maxillofacial surgery. Active practice is the performance of any activities requiring licensure or permit in dentistry or medicine in the state or oral and maxillofacial surgery specialty licensure, where applicable.

Insurance Company -- An insurance company shall include any party obliged or contracted to act as a third party payer for the treatment of another, including but not limited to an insurer, reinsurer, underwriter, managed care agency, health maintenance company, or risk retention group.

Insurance Consultant -- An insurance consultant is a person who reviews, reports, or renders an opinion upon a course of treatment, procedure or the cost thereof for an insurance company, with or without compensation or consideration of any kind. This term shall include a person who provides consultation upon the treatment of a specific patient, general practices and community standards of care, or coverage and payment policies.

Life Fellow and Member -- A fellow, member or affiliate member shall automatically be transferred to life fellowship or life membership upon completion of 30 dues paying years and reaching the age of 65 or upon completion of 35 dues paying years.

Member -- An individual with the same qualifications as a fellow except certification by ABOMS.

National Practitioners Data Bank (NPDB) – The NPDB, a national register of physicians, dentists and other health care practitioners, was established by the federal government in response to provisions of the Health Care Quality Improvement Act (HCQIA) of 1986. It began operations in 1989. It tracks and reports incidents of low-quality care related to individual practitioners. The NPDB operates under a contract on behalf of the federal Department of Health and Human Services and is managed by its Division of Quality Assurance. Federal law requires organizations that evaluate and monitor the work of health care professionals to report adverse actions relating to clinical competence or professional misconduct involving a physician (Doctor of Medicine or MD or Doctor of Osteopathic Medicine or DO or dentist (Doctor of Dental Surgery or DDS or Doctor of Dental Medicine [DMD])) to its individual state licensing agency within 15 days of the action.

Oral and Maxillofacial Surgeon (OMS) -- A practitioner who has successfully completed four years of dental school and an additional four years of residency training in oral and maxillofacial surgery who performs any oral and maxillofacial surgery activity requiring licensure or permit in dentistry or medicine and the state oral and maxillofacial surgery specialty licensure, where applicable.

Oral and Maxillofacial Surgery – The specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

Peer Review – A process by which the actions of health care professionals are reviewed by a panel of their peers for the purpose of improving quality or assessing medical or dental necessity.

Provisional Fellow or Member -- A provisional fellow or member is an AAOMS candidate who meets all requisites for active membership except the fulfillment of an on-site office anesthesia evaluation

Resident Member -- Individuals in training in an American Dental Association's (ADA) Commission on Dental Accreditation (CODA) accredited training program in oral and maxillofacial surgery in the United States or in Canada are resident members.

Retired Fellow and Member -- A fellow, member or affiliate member who has completely retired from the practice of oral and maxillofacial surgery. To qualify for retired status, a fellow, member or affiliate member must have paid dues for 20 years or be disabled and unable to engage in active practice. Active practice is the performance of any activities requiring licensure or permit in dentistry or medicine in the state or oral and maxillofacial surgery specialty licensure, where applicable.

Second Opinion -- An evaluation of a patient with a specific problem in oral and maxillofacial surgery, where that member or fellow has knowledge that a peer has previously evaluated the patient for the problem.

Third Party Payer -- Any party to a dental or medical payment contract that may collect premiums, assume financial risk, pay claims and/or provide administrative services.

Working Days – Working days are defined as days during which the AAOMS headquarters is regularly scheduled for business. Generally, these days are Monday through Friday of every week, except for designated holidays as determined annually by the AAOMS Board of Trustees and management. A calendar of these designated holidays is available from the AAOMS headquarters.

Note: The AAOMS House of Delegates has the power to adopt, amend, revise and repeal the *Code of Professional Conduct* and *Guidelines for Filing a Complaint of Violation*. The Advisory Opinions are subject to change by the Commission on Professional Conduct and to review and approval by the Board of Trustees. Earlier editions of the *Code of Professional Conduct* can be obtained by contacting the office of the Commission on Professional Conduct at AAOMS Headquarters at 1-800-822-6