Principles of Ethics and Code of Professional Conduct
of the American Association of Orthodontists
PRINCIPLES OF ETHICS AND CODE OF PROFESSIONAL CONDUCT

Adopted May 1994
Amended through May 2009

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

The primary purpose and goal of the AAO's Principles of Ethics and Code of Professional Conduct is to protect the public.

PREAMBLE

Membership in the American Association of Orthodontists is voluntary. By accepting membership, all members assume an obligation of self-discipline above and beyond the requirements of laws and regulations, in accordance with these Principles.

These Principles express the recognition of members' responsibilities to the public, patients, other health care professionals and colleagues. These Principles guide members in the performance of their professional responsibilities and express the basic tenets of ethical and professional conduct. They call for an unwavering commitment to honorable behavior, without regard to personal advantage.

The related Advisory Opinions are as equally binding as the Principles. They are intended to augment the Principles and further guide ethical behavior.

Advisory Opinions that are most relevant to certain Principles are set forth at the end of each such Opinion. However, the Principles and Advisory Opinions may, but are not intended to, apply solely on an individual basis. All of the Principles and Advisory Opinions taken together shall measure ethical behavior of the member. Accordingly, the placement of an Advisory Opinion in relation to a specific ethical Principle does not foreclose such Opinion from being interpretive of or augmenting any other Principle.

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

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

Expulsion from membership is the maximum penalty that may be imposed by the Association on a member who violates the Principles or Advisory Opinions. However, the Association may also have an obligation to report to the appropriate governmental agency and/or state board of dental examiners certain violations of these Principles or Advisory Opinions.
Acquittal or exoneration of a member charged with illegal conduct in civil or criminal action does not foreclose the Association's right to initiate a disciplinary proceeding against a member with reference to the conduct that was the subject of such action. However, such acquittal or exoneration may be considered in relation to whether a violation of these Principles has occurred and/or the penalty to be imposed.

PRINCIPLES AND ADVISORY OPINIONS

I. Members shall be dedicated to providing the highest quality orthodontic care to their patients within the bounds of the clinical aspects of the patient's condition, and with due consideration being given to the needs and desires of the patient.

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

B. Members shall make reasonable arrangements for emergency care for their patients and should, when consulted for an emergency by a patient not of record, make reasonable arrangements for emergency care and return the patient to the orthodontist of record unless the patient expressly indicates a different preference.

C. Members shall make treatment decisions and render all related opinions and recommendations based on the best interest of the patient without regard to a member's direct or indirect financial or beneficial interest in a product or service, or direct or indirect relationship with the manufacturer or supplier of such product or service.

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

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

F. Patients should be informed of their oral health status without disparaging comments about the patient's prior treatment which are not supported by known facts.

G. Members should inform their patients of any proposed treatment and any reasonable alternatives, so that the patient understands their treatment decisions.
H. Members should avoid interpersonal relationships with their patients that could impair their professional judgment or risk the possibility of exploiting the confidence placed in them by a patient.

I. It is unethical to engage, or aid and abet, in treatment which is dangerous and/or has no scientific basis.

II. Members shall seek to maintain and improve their orthodontic knowledge and skill.

A. Members should obtain continuing orthodontic education.

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

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

B. Members shall maintain the confidentiality of patient records. Upon request of a patient or another practitioner acting on behalf of the patient, and regardless of whether the patient owes an outstanding balance, members shall provide any information (including copies of appropriate records) that may be beneficial to the future treatment of that patient. Reasonable costs for duplicating such records may be charged to the patient, and additional credit need not be extended therefor.

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

D. Members shall not practice while abusing controlled substances, alcohol or other chemical agents which impair their ability to practice, and shall urge chemically impaired colleagues to seek treatment. Members with first-hand knowledge that a colleague is practicing when so impaired have an ethical responsibility to report such evidence to the appropriate state or provincial society or dental board.

E. Members should become familiar with signs of abuse and neglect, and must report suspected cases to the appropriate authorities in the manner prescribed by state laws.

F. Members with first-hand knowledge that a colleague rendered faulty treatment or is engaged in illegal actions must report such matter to the appropriate agency, as required by law.

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

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

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

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

D. Members shall not misrepresent the care being rendered to a patient.

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

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

(1) The title Doctor or Orthodontist, abbreviated dental degree(s) and any other earned
and/or attained advanced academic degrees (e.g. PhD, JD, MS),
(2) Board certification, as long as such use and indication is in accordance with this
Principles of Ethics and Code of Professional Conduct, and
(3) Entity designations required by applicable law (e.g. LLC, Inc.); and
(4) Orthodontic Specialist, Specialist in Orthodontics, or any similar ethically permissible
variations thereof.

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

(1) Are listed in their entirety,
(2) The listings are spelled out in their entirety in each and every place used or
referenced,
(3) The word “Honorary” will follow all honorary degrees listed and
(4) Comply with all other provisions of this Principles of Ethics and Code of Professional
Conduct.
For purposes of this Advisory Opinion, “earned and attained advanced academic degrees or honorary degrees” mean degrees awarded by an educational institution accredited by a generally recognized accrediting body after completion of all requirements for such degrees.

V. Members shall ensure that their public statements, announcements of services and promotional activities for providing information to aid the public, patients and/or other health care providers in making informed decisions, are not false, deceptive or misleading in any material respect.

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

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

C. Orthodontic advertising which includes fees should clearly state all anticipated fees in the same size type and font.

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

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

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

B. It is not unethical to withdraw from treating a case when the option exists, provided that advance written notice to the patient or responsible party is given to allow for another orthodontist to be secured.

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

D. It is not unethical to accept for treatment or complete treatment on a patient who has an outstanding balance with a previous practitioner.

E. It is not unethical to remove appliances from, or to continue treatment of, a patient not of record upon request by that patient; provided, that substantial effort should be made to determine the reason for the request from the patient and, with the patient's consent, consult with the patient's practitioner prior to such removal or continuation.
of treatment. If such consent is not obtained, the patient need not be accepted for
treatment unless an emergency situation is presented.

F. Members should whenever practicable offer orthodontic services to charitable or
educational institutions and other deserving individuals.

G. Members should, where practicable, participate in activities that contribute to an
improved community.

DISCIPLINARY PROCEEDINGS

ARTICLE XVII — DISCIPLINARY AND MEMBERSHIP PROCEEDINGS

A. GROUNDS FOR ACTION:

This Association, on its own volition or upon receipt of a written complaint from
any other person, reserves the right to discipline any of its members (except
honorary) for cause. Disciplinary action may include reprimand, suspension or
expulsion. Violation of the AAO’s Bylaws or Principles of Ethics, or any lawful
rule of practice duly adopted by this Association, or any other conduct prejudicial
to the interests of this Association, shall constitute sufficient cause for
disciplinary action hereunder. This Association, on its own volition or upon
appeal from an applicant for membership who has been denied membership by
this Association, further reserves the right to terminate the membership of any
member and affirm the denial of membership to such applicant.

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

B. DISCIPLINARY PROCEEDINGS:

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

2. Investigation: The investigation of disciplinary or membership
complaints and/or appeals of membership denials shall occur as follows:

a. The chairman of COMEJC shall select three of its members (the
   “Investigating Committee”) to investigate any disciplinary or
   membership complaints and/or appeals of membership denials.

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

c. If the Investigating Committee concludes that a complaint or record constitutes a valid and actionable inquiry, the Investigating Committee shall conduct a confidential investigation in order to determine whether disciplinary or membership action is warranted. Such an investigation in the case of disciplinary proceedings shall include contacting the accused member and the complainant, if any, and gathering all relevant facts. The investigation of whether membership in this Association is warranted shall include contacting the applicant or existing member as the case may be, as well as the member’s constituent organization (in the case of active, affiliate and retired members), and obtaining all relevant facts.

d. Subject to Article XVII.B.2.f, below, the Investigating Committee shall file its report and non-binding recommendations as to a proposed penalty with the Chairman of COMEJC within a reasonable time after notification of the complaint or membership issue.

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

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

3. If the Investigating Committee determines that disciplinary action is warranted or that membership should be terminated or denied, COMEJC shall follow the procedures set forth below:

a. Notice: The member or applicant shall be notified in writing of the charges and his/her right to a hearing before three members of the COMEJC selected by the chairman thereof who shall not be members of the Investigating Committee (the “Hearing Committee”). Such notification shall be sent by certified mail, with return receipt requested, to the member’s address of record. The member or applicant shall be notified that he/she may request a hearing before the Hearing Committee in order to appear and may present evidence, and that he/she may be represented by legal counsel, if desired, at his or her expense.

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

c. Decision: Every disciplinary and membership decision of the Hearing Committee shall be in writing. Each written decision shall specify the charges made against the member or applicant, the facts which substantiate any or all of the charges, the decision rendered by the Hearing Committee, the penalty imposed in the case of disciplinary proceedings, the fact that the member or applicant has a right of appeal and the time for filing a notice of appeal. The Hearing Committee may, in its sole and absolute discretion, give consideration as to whether the case involves a second complaint against the same member concerning public statements, announcements of services and promotional activities if such member entered into a written agreement with the Association pursuant to Article XVII.B.2.f, above, in relation to the penalty assessed. Within ten (10) days of the date on which the decision is rendered, a copy thereof shall
be sent by certified mail, with return receipt requested, to the Association’s last known address of each of the following parties: the member or applicant, the secretary of the constituent organization of which he/she is a member (in the case of active, affiliate and retired members), the chair of the Council on Membership, Ethics and Judicial Concerns of this Association and the Secretary-Treasurer of this Association.

C. APPEALS:

The decision of the Hearing Committee as to applicants shall be final with no right of appeal. A member receiving an adverse decision from the Hearing Committee shall have the right to appeal from such a decision by filing a notice of appeal with the Secretary-Treasurer of this Association.

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

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

No decision shall become final while an appeal therefrom is pending or until the thirty (30) day-period for filing notice of appeal has elapsed. Within thirty (30) days of the receipt of a notice of appeal, the President of this Association will name and determine their willingness to serve, three members to an Ad Hoc Appeals Panel and three alternates, no one of whom shall have been a member of the COMEJC. The Secretary-Treasurer of this Association will notify the member of the names of the three principals via certified mail, return receipt requested. If the member shows good cause why any named principal is unacceptable, an alternate(s) will be selected by the President of the Association. This selection shall be final. The Panel shall notify the COMEJC and the member of the time and place of the hearing, such notice to be sent by certified mail, with return receipt requested, to the last known address of the parties to the appeal and mailed not less than thirty (30) days prior to the date set for the hearing.

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

The Panel shall be required to review the decision on appeal and determine whether the charges involving the member support the decision or warrant the penalty imposed. The Panel shall not be required to consider additional evidence unless there is a clear and convincing showing that either party to the appeal will be unreasonably harmed by failure to consider the additional evidence.
Every decision on appeal shall be reduced to writing and shall clearly state the conclusion of the Panel and reasons for reaching the conclusion. The Panel shall have the discretion to:

1. Uphold the decision of the Hearing Committee;
2. Reverse all or any part of the decision of the Hearing Committee and thereby exonerate the member;
3. Deny an appeal because it fails to satisfy the requirements of these Bylaws;
4. Refer the case back to the Hearing Committee for a new proceeding, if the rights of the member under all applicable Bylaws were not accorded him/her; or
5. Accept the findings of the Hearing Committee, but impose a different penalty or decision.

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

D. RESIGNATION:

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

E. REPORTING REQUIREMENT:

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