



# Character & Fitness Rules and Procedures

Relating to the [OPC Canons of Ethical Conduct](#)

FINAL

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## Article I. Responsibility and Objectives of the OPC Professional Practice Sub Committee

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### Section 1.01 Objectives

The fundamental objective of the Professional Practice Sub Committee (Committee) is to enforce the Character and Fitness Rules and Procedures and the Canons of Ethical Conduct (Canons) to ensure that Certified Orthotists, Certified Prosthetists, Registered Technicians, residents and interns (OPC Credential Holders) are practicing in accordance with industry and community standards and to protect the public against unprofessional and unethical conduct by the OPC Credential Holders.

The Professional Practice Sub Committee is solely responsible for ensuring that the OPC's Standards and Canons are adhered to by OPC Credential Holders, and applying independent mechanisms to investigate and discipline members who breach them.

### Section 1.02 Rules

The Committee may review and analyze the Canons and shall propose recommendations regarding the Canons for adoption by the Board of Directors (Board) of OPC.

### Section 1.03 Conduct

The Committee is responsible for receiving, reviewing and, if appropriate, investigating and adjudicating complaints of unprofessional conduct or alleged violations of the Canons.

### Section 1.04 Resolution of Complaints

The Committee shall resolve all complaints of unprofessional and unethical conduct or alleged violations of the Canons, including without limitation findings, conclusions and sanctions, if warranted.

### Section 1.05 Reports

Upon the Board's request, the Committee shall deliver a summary report to the Board identifying the Committee's activities.

### Section 1.06 Procedures

Subject to the review of the Board, the Committee may adopt procedures and safeguards governing the functions of the Committee to ensure that all current and prospective OPC Credential Holders and the Committee are in full compliance with the Canons and these Rules and Procedures.

### Section 1.07 Time

The timelines provided in this document are objectives and guidelines but may need to be adjusted at the discretion of the Chair, Professional Practice Sub Committee. Failure of the Committee or any party to comply with the time periods shall in no event prevent the continuation or conclusion of a proceeding by the Committee.

### Section 1.08 Appointment of the Committee \*

*(\* see appendix 1 for descriptions of roles)*

Members of the Professional Practice Sub Committee will be appointed in accordance with the OPC Committee policies, as approved by the Board in accordance with the bylaws. The Committee shall consist of a minimum of 3 and no more than 5 members, including the Chair. The Chair of the Committee is appointed by the OPC Board President.

Each member's term of office shall be for a period of three years, which may be renewed by the OPC Board to a maximum of two consecutive terms

### Section 1.09 Volunteer Pool

A pool of up to 14 respected OPC credential holders will be established for the purposes of drawing upon to form Peer Review Panels (to investigate) and Character & Fitness Committees (to adjudicate) complaints, when required.

### Section 1.10 Participant Bias

At the sole discretion of the Committee Chair, if/when an apprehension of bias may be present, the Chair has the power to remove a Committee member(s) from that specific case and replace that member(s) with another member from the volunteer pool. If it is the Committee Chair who has an apprehension of bias then he/she must remove his/her self from that case. A member of the Committee would then assume responsibilities of the Chair for that specific case only.

## Article II. Complaint Intake

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A complaint (Complaint) against any current or prospective OPC Credential Holder may be submitted by: (i) any party claiming to have been harmed by the unethical or unprofessional conduct of the OPC Credential Holder; (ii) any professional or provincial or regional association of which the OPC Credential Holder is a member or practices in the region; (iii) any credentialing authority; (iv) OPC; or (v) the Committee. The Complaint must be in writing, signed and must contain complete and accurate information as required by the OPC Complaint form and the Committee.

### Section 2.01 Disclosure of Previous Actions

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

### Section 2.02 Committee Complaint

The Committee may proceed on its own initiative, when a current or prospective OPC Credential Holder appears to have violated the Canons, by initiating an investigation or requesting information from the member or by submitting a formal Complaint.

### Section 2.03 Anonymous or Oral Complaint

The Committee may not act solely on the basis of an anonymous or oral Complaint.

### Section 2.04 Additional Information

The Committee or OPC National Office with approval from the Committee) may, through correspondence or otherwise, seek supplementary information from the Complainant or any other party, when necessary, in order to completely evaluate the substance of the allegations. In the event that the Committee determines that additional information is necessary but the Complainant refuses to provide such information, the Committee may determine that the case should be closed.

### Section 2.05 Initial Determination of Merit

Upon receipt of the complaint, the Committee reviews the complaint and determines if the complaint has merit and should be considered further. If the complaint is deemed not to have merit because it does not relate to a breach of ethics, then OPC National Office prepares communications to the complainant and involved member under Chair's signature informing them of the decision.

If complaint has merit, it shall be referred to a Peer Review Panel for investigation. Determinations of merit should be made within 10 business days of the complaint being received at the OPC National Office.

## Article III. Investigation

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### Section 3.01 Peer Review Panel

The Committee shall have the power to, but shall not be obligated to, establish a Peer Review Panel to investigate all allegations of unprofessional and unethical conduct that may be harmful to colleagues or to the public, or that may be otherwise contrary to the objectives of the Canons or OPC, provided that such allegations are made in writing. The Committee's powers do not extend to addressing economic issues as they relate to legitimate marketplace competition. The Peer Review Panel shall be established within 15 business days from the determination of merit date.

The Committee Chair will identify 3 individuals from ethics volunteer pool to form a Peer Review Panel.

Individuals will be selected based on:

- a) Appropriate disciplines
- b) Level of experience
- c) Geographical diversity
- d) Gender, if appropriate

The Chair, Professional Practice Sub Committee will canvass the Peer Review Panel members selected to ensure there is no bias, nor likely any apprehension of bias, with respect to their hearing the matter. If any member has any relationship with any of the parties which would likely cause an apprehension of bias, that member(s) shall be relieved from sitting on the matter, and another member from the ethics pool of volunteers shall be appointed, and determined to be bias free.

### Section 3.02 Investigative Process

The Peer Review Panel shall meet within 15 business days of being formed, to discuss the case and identify pertinent information that needs to be gathered and corresponds with the complainant and involved member under signature of the Committee Chair.

Peer Review Panel prepares a report of its recommendations regarding the complaint for the Committee Chair for review and approval or amendment. Peer review panel report should be completed within 60 business days of being formed.

If the Peer Review Panel recommends that there are sufficient grounds for the complaint to proceed, the Committee Chair will assign the complaint to a Character & Fitness Committee for adjudication.

In the course of its deliberations, if the Peer Review Panel determines that it may be possible to resolve the complaint through correspondence to the satisfaction of the complainant, it shall have the authority, subject to the approval of the Committee Chair, to resolve the matter through the use of appropriate correspondence with the complainant and the involved member. Correspondence of next steps, if any, should be sent to complainant and involved member within 10 business days of report recommendations determinations by Chair, Professional Practice Sub Committee.

### Section 3.03 Response to Complaint

The OPC involved member is required to provide to the Committee and personally sign his/her/it's written response within 15 business days from the date of the notification sent by the Committee. The involved member's response must be complete, accurate and fully responsive to the Complaint and any and all Committee inquiries. Failure to respond, or any other unwarranted delay by the involved member, or the lack of the cooperation from the involved member, shall in no way prevent the continuation or conclusion of the proceedings by the Committee as it deems fit.

## Article IV. Adjudication

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### Section 4.01 Character & Fitness Committee

When determination is made to refer to a Character & Fitness Committee, the Chair shall identify three individuals from the volunteer pool to form a Character & Fitness Committee who are different from those who made up the Peer Review Panel for this complaint. The Character & Fitness Committee should be formed within 15 business days following the receipt of the Peer Review Panel report. The Chair determines whether any bias may exist as per the process identified in section 3.01.

The Character & Fitness Committee reviews documentation from the investigation and reviews any prior ethics cases involving the member as well as any information related to other charges, if relevant to the matters at issue. It assesses the severity of the alleged breach(es) and identifies appropriate sanctions, if any, in line with the severity of the breach.

The Character & Fitness Committee may recommend to:

- issue an order dismissing the complaint;

- issue an order that the involved member cease the particular conduct;
- issue an order for supervision of the involved member;
- apply appropriate sanction(s) to the involved member
- issue a reprimand to the involved member;
- determine the involved member be on probation and subject to monitoring by the Professional Practice Sub Committee. Subject to the laws of Canada and the laws of the province of the involved member, the Committee shall have the power to examine patient records during an involved member's probation, with appropriate patient consent.
- determine what, if any, information is to be provided to other professional associations, both national and provincial, and/or to provincial licensing or certifying authorities;
- determine what, if any, information is to be provided to authorities for criminal prosecution;
- recommend suspension or permanent revocation of the involved member's certified status and refer the recommendation to the board of directors for its approval; and/or
- make such order of costs as the Character & Fitness Committee deems appropriate

The Character & Fitness Committee prepares a report within 30 business days of being formed or the conclusion of any hearing conducted, whichever is the latter, and communicates the recommendations to Chair, Professional Practice Sub Committee for review and approval or amendment.

#### Section 4.02 Right to a Hearing

If the complaint is forwarded to a Character & Fitness Committee the involved member may request that, prior to a final determination by the Character & Fitness Committee, he/she/it be afforded the opportunity to have a hearing before the Character & Fitness Committee and the Professional Practice Sub Committee so that he/she/it may present his/her/it's interpretation of the facts before the Committee. If the involved member desires to have a hearing, he/she/it must so notify the Committee, in writing, within 15 business days of the Committee's notification, as set out in the investigative process above. The involved member's failure to timely request a hearing shall be deemed a waiver by the involved member of the right to a hearing. All hearings shall be by telephone conference call unless, due to exceptional circumstances, the Committee determines in its sole discretion to conduct an in-person hearing. The Complainant shall be invited to be present during the hearing. If the Complainant is invited to be present during the hearing but does not attend, the hearing and investigation shall not be delayed or terminated.

The involved member may be accompanied by any third party, including legal counsel. However, the involved member personally, and not any other party including, without limitation, the involved member's legal counsel, shall make all presentations, responses and shall address all issues directly to the Committee.

If the involved member requests a hearing, the Committee shall, within 30 business days after receipt of the involved member's request, schedule a date for a hearing. The Committee shall notify the involved member and complainant of the date, time and, if applicable, place of the hearing. If the hearing is conducted by telephone conference call, the Committee, in its sole discretion, shall determine the date and time of the hearing. If the hearing is conducted in-person, the Committee, in its sole discretion, shall determine the location, date and

time of the hearing. The involved member and complainant shall each pay all of his/her/its own costs associated with participating in a hearing.

## Article V. Disposition of Complaints

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The written decision, together with the procedure for appealing the decision, shall be sent to the complainant and the involved member, under the signature of the Chair, Professional Practice Sub Committee, within 10 business days of the final decision rendered by the Character & Fitness Complaints Committee.

### Section 5.01 Confidentiality

All information disclosed to the Committee and all involved parties shall be maintained on a confidential basis, except that the Committee and all involved parties shall be permitted to disclose such information when compelled by a validly issued subpoena, when otherwise required by law, to law enforcement officers or government agencies if warranted and as determined by OPC or the Committee in its sole discretion, or to parties essential to the review and investigation of the alleged unethical or unprofessional conduct. Public information shall not be considered confidential information for purposes of this Rule.

### Section 5.02 Record Keeping

OPC shall establish reasonable procedures to ensure that confidentiality is maintained with respect to the handling, storage, maintenance and destruction of records.

## Article VI. OPC Credential Holders Convicted of or Charged with a Serious Crime or Disciplined in Other Authorized Tribunals

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### Section 6.01 Conviction/Charge

If the committee finds that the involved member has been convicted of and/or pled guilty to a serious crime and such conviction is not under appeal, the Character & Fitness Committee shall have the right to review the record leading to the conviction and/or plea in accordance with the complaint adjudication process outlined above and determine what, if any, weight to give that information.

### Section 6.02 Other Memberships

If the committee finds that the involved member has been expelled or suspended for unethical or unprofessional conduct from a national, regional, or provincial professional association, or had his or her licence or certificate revoked on ethical grounds by a provincial licensing or certifying authority, the Character & Fitness Committee shall have the right to review the records leading to the sanctions in accordance with the adjudication process outlined above and determine what, if any, weight to give that information.

### Section 6.03 Malpractice

If the Character & Fitness Committee finds that the involved member has been found to have committed malpractice by a court, or an acknowledged peer group which shall be authorized to conduct peer reviews of

members, and such finding is not under appeal or is not currently being contested, the Character & Fitness Committee shall have the right to review the record leading to the findings in accordance with the complaint adjudication process outlined above and determine what, if any, weight to give that information.

## Article VII. Complaint Appeal Process

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### Section 7.01 Appeals

Complainants or involved members may appeal any decision of the Professional Practice Sub Committee. Either party shall send to the OPC National Office by certified mail or courier, setting out the grounds of the appeal, an appeal must be requested within 15 business days of receipt of the Professional Practice Sub Committee's decision.

### Section 7.02 Request for an investigation.

A complainant whose complaint is dismissed without an investigation may request that an investigation be conducted. This request shall be sent to the OPC National Office by certified mail or courier, within 15 business day of the complainant receiving the decision of the Professional Practice Sub Committee. Upon receipt of the request for an investigation, the Chair of the Professional Practice Sub Committee may refer the complaint to a Peer Review Panel in accordance with the complaint process as though the complaint was found to merit an investigation and the complaint process proceeds as described above.

A complainant whose complaint was investigated but not referred to a Character & Fitness Committee for adjudication may appeal the decision. This request shall be sent to the OPC National Office by certified mail or courier, within 15 business days of the complainant receiving the decision from the Professional Practice Sub Committee taken on advice from the Initial Review Panel that investigated the complaint. Upon receipt of the request for an investigation, the Chair of the Professional Practice Sub Committee may refer the complaint to a new Peer Review Panel, comprised of individuals not involved in the initial Peer Review Panel, for reconsideration. The appeal Peer Review Panel has all of its options available and can recommend that the complaint proceed to a Character & Fitness Committee or be resolved without proceeding to a Character & Fitness Committee.

An involved member may appeal a decision of the Professional Practice Sub Committee taken on advice from the Character & Fitness Committee by sending a Notice of Appeal to the OPC National Office by certified mail or courier, within 15 business days of the involved member receiving the decision from the Professional Practice Sub Committee.

### Section 7.03 Appeal Hearing

If the appeal request meets the timeline requirements, the appellant will be notified within 60 business days, from the date of the receipt of the appeal request, of a schedule for an appeal hearing. The hearing shall be conducted by conference call. If the appeal request is submitted by the involved member, the complainant need only appear if the Appeal Panel requires it. The involved member shall pay his/her own costs to participate in the appeal hearing. If the appeal request is submitted by the complainant, the involved member need only appear if the Appeal Panel requires it. The complainant shall pay his/her own costs to participate in the appeal hearing.

### Section 7.04 The Appeal Hearing Process

The appeal hearing shall be conducted by an Appeal Panel of five individuals that had no prior involvement related to the case in question, appointed by the Chair of the OPC Standards & Ethics Committee. The Appeal Panel may consider all available evidence, the record and any new evidence submitted at the appeal hearing. New evidence is limited to evidence that did not exist or was not available during the initial investigation.

### Section 7.05 Powers of the Appeal Panel

The Appeal Panel shall only overrule the Professional Practice Sub Committee's decision or dismiss the committee's recommendations in the event of the following:

- a) the Character & Fitness Rules or Canons of Ethical Conduct were incorrectly applied;
- b) that there was a breach of procedural fairness in the manner in which the complaint was investigated or adjudicated;
- c) the findings of fact by the committee were clearly erroneous;
- d) it would be unjust or unfair to implement the Sub Committee's decision;
- e) the procedures followed during the investigation or adjudication processes were in serious and substantial violation of the Character & Fitness Rules or Canons of Ethical Conduct or this protocol; and/or
- f) the disciplinary sanctions recommended by the committee were grossly disproportionate to the facts surrounding the violation.

### Section 7.06 Report

Within 30 business days of the appeal hearing, the Chair, Standards & Ethics Committee shall notify the complainant and the involved member of the Appeal Panel's decision which shall be final. The Panel's decision may not be appealed. Once the Panel's decision has been made, it shall notify the Professional Practice Sub Committee, which may implement the Panel's directives.

### Section 7.07 Assessing Costs

The decision of the Professional Practice Sub Committee or the Appeal Panel may include an award of costs against either the complainant or the involved member, and payable to OPC and/or the opposing party. The determination of whether costs should be awarded and in what amount shall be based on:

- a) expenses incurred in serving any documents or conducting any hearings;
- b) fees and expenses incurred as a result of an investigation;
- c) fees and expenses of the Professional Practice Sub Committee, Peer Review Panel, Character and Fitness, Appeal Panel or any legal advice for the aforementioned related to services performed in connection with any of the foregoing
- d) fees and expenses of counsel for the involved member or complainant, if applicable; and
- e) any other relevant factor.

## Article VIII. Publication of Sanction

The Professional Practice Sub Committee may report the names of the members who have been stricken from the rolls due to violations of the Character & Fitness Rules or Canons of Ethical Conduct. In addition, the OPC

National Office may notify all interested national, regional and provincial professional associations as well provincial licensing and certifying authorities, and on request, any interested person or public agency deemed necessary to protect the public and/or who maintains the standards of OPC.

## Article IX. Close of Case

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Once the final decision has been made by the Professional Practice Sub Committee or the Appeal Panel, the matter shall be closed and the files shall be retained in the OPC National Office.

## Article X. Request for Reinstatement of Credential

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### Section 10.01 Reinstatement Request

The OPC Board will consider all written reinstatement requests, which must include the following information: (i) the date of the final Committee or Appeal panel decision; (ii) a complete statement of reasons that the former OPC Credential Holder believes support the reinstatement request; and (iii) copies of all relevant documents and materials supporting the reinstatement request.

## Appendix 1 – See OPC PROFESSIONAL DISCIPLINE COMPLAINT FORM

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Please go to the OPC website for access to the **OPC PROFESSIONAL DISCIPLINE COMPLAINT FORM**

<http://www.opcanada.ca/english/the-profession/opc-canons-of-ethical-conduct.html>

## Appendix 2 – Roles & Responsibilities of Bodies Involved in the Ethics Complaint Process

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### Ethics Structure, Roles and Responsibilities

*Approved by the OPC Board February 1, 2016*

The following descriptions outline the structure and roles of the entities involved within the ethics development, administration, coordination, investigation and adjudication processes.

#### OPC Standards & Ethics Committee

##### **Purpose**

The OPC Standards and Ethics Committee is responsible for developing and maintaining standards of professional practice ("Standards"), a professional Canons of ethics ("Canons"), and providing a mechanism to investigate complaints and to discipline members who breach the Standards and Canons.

##### **Roles**

- Develop and maintain standards of professional practice including scope, ethics and Canons of conduct to ensure the safety of the general public/clients and members.
- The Standards & Ethics Committee shall review and analyze the Character & Fitness Rules and the Canons of Ethical Conduct (Canons) and shall propose recommendations for consideration by the OPC Board of Directors.
- Establishes investigation, discipline and enforcement processes to ensure standards are adhered to
- Collaborate with other OPC Standing Committees as required.
- Advise and assist Chair, Professional Practice Sub Committee as required.

#### Professional Practice Sub Committee

##### **Purpose**

The fundamental objective of the Professional Practice Sub Committee is to enforce the Character and Fitness Rules and Procedures and the Canons of Ethical Conduct (Canons) to ensure that Certified Orthotists, Certified Prosthetists, Registered Technicians, residents and interns are practicing in accordance with industry and community standards and to protect the public against unprofessional and unethical conduct by the OPC Credential Holders.

The Professional Practice Sub Committee is solely responsible for ensuring that the OPC's Standards and Canons are adhered to by OPC Credential Holders, and applying independent mechanisms to investigate and discipline members who breach them.

##### **Roles**

- Recruit 12-14 members to comprise the Ethics Investigation & Adjudication Pool of Volunteers.
- Determining validity of submitted complaints.

- Coordinating and overseeing the independent processes of investigation and adjudication.
- Selecting members of the Ethics Pool of Volunteers to make up Peer Review Panels, to investigate, or Character & Fitness Committees, to adjudicate, for each case as necessary.
- Determines the existence of an actual, perceived or potential bias of members of the Peer Review Panels and Character & Fitness Committees.
- Confirms and renders decisions including the application of sanctions as may be recommended by the Character & Fitness Committee.
- Provides guidance to the OPC National Office in the administration and communication required.
- Chair signs all correspondence sent to involved parties.

## Ethics Investigation and Adjudication Pool of Volunteers

### **Purpose**

To be available to populate Peer Review Panels and Character & Fitness Committees. To provide unbiased perspective in undertaking the function requested. Ensure confidentiality of any individual or organizations involved in an ethics complaint. Maintain anonymity of all ethics pool volunteers to the best of their ability.

### **Roles:**

- Agree to a 3 year term of appointment, with the option to renew.
- Participate in either the investigation, adjudication or appeal of complaints.
- Thoughtfully gather and analyse evidence.
- Consider all perspectives involved.
- Ensure accurate record keeping at all steps.

## Peer Review Panel

### **Purpose**

Review and investigate complaints of unprofessional conduct or violations of the Standards and/or Canons in the field of orthotics and prosthetics to determine if a breach has occurred and the extent of the breach.

### **Roles**

- To act as the consumer advocate for patients in their dealings with the prosthetic and orthotic profession.
- Assist the complainant in determining whether an investigation is further warranted.
- Gather information to determine if an ethical breach or unprofessional conduct has occurred and the extent of that ethical breach.
- Make recommendations to the Chair, Professional Practice Sub Committee with regard to whether a breach of ethics has occurred and it should be referred to the Character & Fitness Committee.
- When an ethical breach has been determined not to have occurred the Peer Review Panel can make other recommendations to help all parties arrive at a mutually acceptable resolution.
- Ensure accurate record keeping at all steps.

## Character & Fitness Committee

### **Purpose**

The committee shall determine appropriate actions to effectively adjudicate/resolve and enforce all complaints of unprofessional and unethical conduct or other violations of the Standards and/or Canons and, if necessary, shall recommend to the Professional Practice Sub Committee such other action as is necessary to achieve the objectives of the Character & Fitness Rules or Canons of Ethical Conduct.

### **Roles**

- Review information accumulated by the Peer Review Committee during the course of its investigation of the complaint.
- Review any additional information from previous ethics complaints involving the member and any criminal, malpractice or sanctions levied from other bodies.
- Determine appropriate actions for member to cease inappropriate behaviour and discourage future occurrences.
- Prepare a report to the Chair, Professional Practice Sub Committee which, includes recommendations on what actions are required to resolve a particular complaint.
- Ensure accurate record keeping at all steps.

## OPC National Office

### **Purpose**

The National office exists to support the administrative, coordination and communication needs of the ethics process.

### **Roles**

- Manage records and protect confidentiality of all involved parties.
- Prepare correspondence as required or requested.
- Support coordination of the various steps involved in the complaint process.
- Ensure accurate record keeping at all steps in the process.

## Appendix 3 – Complaint Process Flow Chart

### Ethics Complaint Process Flow Chart

\* all days noted refer to 'business days'

