



# **Code of Professional Conduct for Disability Management Specialists**

**With Standards, Rules, Procedures and Penalties**

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**ADOPTED BY THE COMMISSION™**

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## PREAMBLE

Disability management is a collaborative and interdisciplinary professional practice guided by the Code of Professional Conduct (the Code).

The objective of the Code is to protect the public interest. The Code consists of Principles and Rules of Conduct, as well as the CDMS Code of Professional Conduct Procedures for Processing Complaints and Self-Reports.

The Principles provide normative guidelines and are advisory in nature. The Rules of Conduct prescribe the level of conduct required of every Board-Certified Disability Management Specialist ("CDMS®"). Compliance with these levels of conduct is mandatory. Board-Certified Disability Management Specialists (CDMS) who become aware of unethical behavior of others are obligated to report such alleged infractions. Enforcement will be through the CDMS Procedures for Processing Complaints and Self-Reports. In addition, Board-Certified Disability Management Specialists (CDMS) who face ethical dilemmas regarding their own practice and/or ethical challenges that arise in the course of professional practice are encouraged to consult the Code frequently for advice.

In this document, the term, "client," is used to refer to the individual and/or organization to whom a Board-Certified Disability Management Specialist provides services. Board-Certification refers to certification as a Board-Certified Disability Management Specialist (CDMS). "Payor" is used to refer to the Board-Certified Disability Management Specialist's (CDMS) or the Client's reimbursement source.

Board-Certified Disability Management Specialists (CDMS) recognize that their actions or inactions can aid or hinder clients in achieving their objectives. Board-Certified Disability Management Specialists (CDMS) accept responsibility for their behavior. Board-Certified Disability Management Specialists (CDMS) may be called upon to provide a variety of services and they are obligated to do so in a manner that is consistent with their education, skills, moral character, and within the boundary of their competence and experience. In providing services, Board-Certified Disability Management Specialists (CDMS) must adhere to the CDMS Code of Professional Conduct as well as the professional code of ethics for their specific professional discipline.

Special consideration to the principles of ethical behavior must be given because of the unique service provider/individual client relationship, and because the Board-Certified Disability Management Specialist is in a position to potentially impact decisions made in favor of or against the individual client.

## ETHICAL ISSUES

A code of professional conduct cannot guarantee ethical behavior. Moreover, a code of professional conduct cannot resolve all ethical issues or disputes or capture the richness and complexity involved in providing professional input within a moral community. Rather, a code of conduct sets forth values and ethical principles to which professionals aspire and by which their actions can be judged. Disability management specialists' ethical behavior should result from their personal commitment to engage in ethical practice. The Code reflects the commitment of all disability management specialists to uphold the profession's values and to act ethically. Principles and rules of conduct must be applied by individuals of integrity who

discern moral questions and, in good faith, seek to make reliable ethical judgments. Board-Certified Disability Management Specialists (CDMS) who become aware of unethical behavior are obligated to report such alleged infractions.

The Commission recognizes that many Board-Certified Disability Management Specialists may hold more than one professional license or certification. It is the intent of The Commission that the CDMS Code of Professional Conduct, which offers the greatest amount of protection for all parties, be in effect at any given time. At the same time, The Commission recognizes that it would not be appropriate to presume to enforce the codes of professional conduct or the code of ethics of any other certifying agency or any legal jurisdiction affecting a Board-Certified Disability Management Specialist. For that reason, The Commission will not review any allegations or violations of codes of ethics or professional conduct of any other certifying agency or legal jurisdiction.

## PRINCIPLES

The fundamental spirit of caring and respect with which the Code is written is based upon five principles of ethical behavior. These include autonomy, beneficence, nonmaleficence, justice, and fidelity, as defined below:

**Autonomy:** To honor the right to make individual decisions.

**Beneficence:** To do good to others.

**Nonmaleficence:** To do no harm to others.

**Justice:** To act or treat justly or fairly.

**Fidelity:** To adhere to fact or detail.

### PRINCIPLE 1:

Board-Certified Disability Management Specialists shall endeavor to place the public interest above their own at all times.

### PRINCIPLE 2:

Board-Certified Disability Management Specialists shall respect the integrity, dignity, and protect the welfare of those persons or groups with whom they are working.

### PRINCIPLE 3:

Board-Certified Disability Management Specialists shall always maintain objectivity in their relationships with clients.

### PRINCIPLE 4:

Board-Certified Disability Management Specialists shall act with integrity and dignity in dealing with other professionals.

### PRINCIPLE 5:

Board-Certified Disability Management Specialists shall keep their technical competency at a level that ensures their clients will receive the benefit of the highest quality of service the profession can offer.

### **PRINCIPLE 6:**

Board-Certified Disability Management Specialists shall honor the integrity of the CDMS credential and respect the limitations placed on its use.

### **PRINCIPLE 7:**

Board-Certified Disability Management Specialists shall obey all laws and regulations, avoiding any conduct or activity that could harm others.

### **PRINCIPLE 8:**

Board-Certified Disability Management Specialists shall help maintain the integrity of the CDMS Code of Professional Conduct.

The Principles are fundamental assumptions to guide professional conduct. They are aspirational in nature and their intent is to guide and inspire disability management specialists toward the very highest ethical ideals of the profession. They are not intended to release Board-Certified Disability Management Specialists from their obligation to be aware, stay current with, and follow the applicable laws and regulations that govern their practice.

## **DEFINITIONS**

Throughout this document, and for the purposes of this document, the following words are defined as:

### **BOARD-CERTIFIED DISABILITY MANAGEMENT SPECIALIST:**

One who holds an active Board-Certified Disability Management Specialist (CDMS) credential.

### **CLIENT:**

Individual and/or organization to or for whom disability management services are provided. These individuals may include patients, beneficiaries, injured workers, claimants, insured individuals, or persons with disabilities of any age group. The organization may include public, private and/or not-for-profit entities that engage the services of a Board-Certified Disability Management Specialist. This term includes all of surrounding support of the individual or organization as well.

### **CONSULTATIVE OR INDIRECT SERVICES:**

Provision of expert or professional information, advice, and/or testimony related to disability management.

### **DIRECT CONTACT:**

Any written, oral, electronic, or face-to-face interaction (with recognition of regulatory protections).

### **DIRECT SERVICES:**

Provision of disability management services for a client, not purely consultative in nature.

### **DISABILITY MANAGEMENT SERVICES:**

The prevention and minimization of the human and economic impact of illness and disability for the employee/employer to optimize the quality of care, productivity, organizational health, and regulatory compliance. Disability management provides and facilitates obtaining necessary services, using appropriate resources in order to promote the ill or injured individual's optimal medical and functional recovery. Disability management services may include the following activities: case management; disability assessment and evaluation; stay-at-work/return-to-work intervention; labor market analysis; career exploration and counseling; and disability management reporting (plan development and report preparation).

### **ELECTRONIC TECHNOLOGY:**

Devices and tools including but not limited to: laptops; personal computers; smartphones and tablets; hotel, library, or other public workstations and Wireless Access Points (WAPs); Virtual Private Networks (VPNs); USB flash drives and memory cards; CDs; DVDs; backup media; email; smart cards; remote access devices (including security hardware); and software.

### **EXPERT WITNESS:**

A person qualified by education, experience, occupation, present position, degrees held, publications, and professional organization membership that establishes their credibility to give professional opinions.

### **FORENSIC EVALUATION:**

Acting as an expert on matters to assist the courts, parties to legal matters, attorneys, or agencies, on matters proceeding to adjudication.

### **GROSS NEGLIGENCE:**

Willful, wanton, or reckless disregard of the Board-Certified Disability Management Specialist's obligations and responsibilities.

### **HARASSMENT:**

Behavior that is threatening, abusive, or demeaning to persons with whom one interacts.

### **HARM:**

A negative consequence to a client.

### **INDIRECT CONTACT:**

Providing disability management services without direct contact with the client.

### **INDIRECT OR CONSULTATIVE SERVICES:**

Provision of expert or professional advice and/or testimony related to disability management.

### **PAYOR:**

Any individual or organization that has the financial obligation to pay for the services provided by the Board-Certified Disability Management Specialist, which may or may not be a third party.

## RECORDS:

Any documentation regarding a client, whether written, recorded, computerized, or stored in any other medium.

## SEXUAL HARASSMENT:

Sexual harassment is sexual solicitation, physical advance, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the Board-Certified Disability Management Specialist's activities or role as a disability management specialist, and that either (1) is unwelcome, is objectively or subjectively offensive, or creates a hostile environment or (2) is sufficiently severe, persistent or pervasive, or intends to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

# RULES OF PROFESSIONAL CONDUCT

The primary obligation of the Board-Certified Disability Management Specialist is to exercise independent judgment in offering appropriate recommendations that consider the client's needs and the parameters of the applicable disability management system. Regardless of whether direct client contact occurs or whether indirect services are provided, Certified Disability Management Specialists are obligated to adhere to the Code. The RPCs prescribe the level of professional conduct required of every Board-Certified Disability Management Specialist. These rules shall apply to all modes of communication including, but not limited to, written, oral, electronic, telephonic, and Internet communications. Compliance with this level of conduct is mandatory and will be enforced through the Procedures for Processing Complaints and Self-Reports.

The Rules of Professional Conduct (RPCs) are divided into three sections:

**Section I** – Relationship with All Parties

**Section II** – Provision of Services to Individual Clients

**Section III** – Provision of Services to Organizational Clients

## SECTION 1 – RELATIONSHIP WITH ALL PARTIES

### RPC 1.01 – REPRESENTATION OF PRACTICE

Board-Certified Disability Management Specialists shall practice only within the boundaries of their competence, based on their education, training, appropriate professional experience, and other professional credentials and/or licenses. They shall not misrepresent their role or competence. They shall not attribute the possession of the certification to a depth of knowledge, skills, and professional capabilities greater than those demonstrated by achievement of certification.

### RPC 1.02 – REPRESENTATION OF QUALIFICATIONS

Board-Certified Disability Management Specialists shall neither claim nor imply professional qualifications that exceed those possessed. A CDMS shall take all necessary steps to correct any misrepresentation of these qualifications. A Board-Certified Disability Management Specialist who becomes aware of a misstatement of credentials by another Board-Certified Disability Management Specialist shall inform The Commission.

### **RPC 1.03 – COMPETENCE**

#### **a. Negligence**

Board-Certified Disability Management Specialists shall not manage a case or behave in a manner that the Board-Certified Disability Management Specialist's conduct constitutes gross negligence.

#### **b. Impairment**

Board-Certified Disability Management Specialists shall refrain from accepting cases and/or providing professional services when their own physical, mental, or emotional impairments would jeopardize their objectivity and thus potentially cause harm to a client or others. Board-Certified Disability Management Specialists are to be alert to the signs of their own impairment and to seek assistance for problems. If necessary, they should limit, suspend, or terminate their professional responsibilities.

### **RPC 1.04 – DESCRIPTION OF SERVICES**

Board-Certified Disability Management Specialists shall explain services to be provided such that the client can understand and use the information to make informed decisions, understand the purpose, techniques, rules, procedures, expected outcomes, billing arrangements, and limitations of the services rendered.

### **RPC 1.05 – LEGAL COMPLIANCE**

Board-Certified Disability Management Specialists shall stay current in their knowledge of and act in accordance with applicable federal, state, and local laws and regulations. This will include procedures related to the scope of their practices regarding client consent, confidentiality, and the release of information.

### **RPC 1.06 – BENEFIT SYSTEM REQUIREMENTS**

Board-Certified Disability Management Specialists shall work in accordance with the unique requirements of the various reimbursement systems involved.

### **RPC 1.07 – TESTIMONY**

When providing testimony in a judicial or non-judicial forum, Board-Certified Disability Management Specialists shall be impartial and limit testimony to their specific field(s) of expertise.

### **RPC 1.08 – OBJECTIVITY**

Board-Certified Disability Management Specialists shall maintain objectivity in their professional relationships and shall not impose their values on their clients.

### **RPC 1.09 – REPORTS**

Board-Certified Disability Management Specialists shall be accurate, honest, unbiased, and timely in reporting the results of their professional activities to appropriate third parties.

### **RPC 1.10 – RECORDS**

This rule applies only to those records for which Board-Certified Disability Management Specialists have responsibility during the course of their employment or practice.

#### **a. Maintenance**

Board-Certified Disability Management Specialists shall maintain records necessary for rendering professional services to their clients and as required by applicable laws and/or regulations.

**b. Storage and Disposal**

Board-Certified Disability Management Specialists shall maintain records after the file has been closed for the number of years consistent with jurisdictional requirements or for a longer period during which maintenance of such records is necessary or helpful to provide reasonably anticipated future services to the client. After that time, records shall be destroyed in a manner assuring preservation of confidentiality and as required by applicable laws and/or regulations.

**c. Confidentiality**

Board-Certified Disability Management Specialists shall maintain any and all client medical records and/or documents, whether written or recorded using electronic technology or audio/video devices, using administrative, physical and technical safeguards to assure the confidentiality, integrity, and availability of protected health and personal identification information in compliance with federal state and other jurisdictional laws [e.g. Health Insurance Portability and Accountability Act (HIPAA), Americans with Disabilities Act Amendments Act (ADAAA), Genetic Information Nondiscrimination Act (GINA), etc.].

**d. Security**

Board-Certified Disability Management Specialists must ensure that any material or device that contains confidential information be secured at all times.

**RPC 1.11 – RESEARCH**

**a. Legal Compliance**

Board-Certified Disability Management Specialists shall plan, design, conduct, and report research in a manner consistent with the ethical principles of autonomy, beneficence, nonmaleficence, justice, and fidelity, and federal and state laws and regulations, including those governing research with human subjects.

**b. Subject Confidentiality**

Board-Certified Disability Management Specialists who make original data available, report research results, or contribute to research in any other way shall protect the confidentiality of the client/ subject unless appropriate authorization has been obtained.

**RPC 1.12 – MISCONDUCT**

Board-Certified Disability Management Specialists shall not engage in professional misconduct. Professional misconduct may include:

- a. knowingly assisting or inducing another to violate or attempt to violate the Code, or doing so through the acts of another;
- b. committing a criminal act that reflects adversely on the Board-Certified Disability Management Specialist's honesty or trustworthiness;
- c. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- d. engaging in conduct involving discrimination against a client because of age, appearance, disability, ethnicity, gender, geographic location, marital status, nationality, professional level or practice setting, race, religion, sexual orientation, and socioeconomic status.
- e. failing to maintain appropriate professional boundaries with the client;
- f. engaging in sexually intimate behavior with a client; or accepting as a client an individual with whom the Board-Certified Disability Management Specialist has been sexually intimate.
- g. Inappropriately disclosing information about a client by any means (including via social media).

## **RPC 1.13 – HUMAN RELATIONS**

### **a. Discrimination**

Board-Certified Disability Management Specialists shall:

1. demonstrate respect for clients with diverse populations regardless of age, color, culture, disability, ethnicity, gender, gender identity, race, national origin, religion/spirituality, sexual orientation, marital status/partnership, language preference, or socioeconomic status.
2. develop and adapt interventions and services to incorporate consideration of barriers clients may face that may interfere with achieving effective outcomes (including, but not limited to, cultural, religious, economic, social, disability, etc.).
3. not condone or engage in discrimination based on age, gender, gender identity, race, ethnicity, culture, national origin, religion/spirituality, sexual orientation, disability, language, or socioeconomic status.

### **b. Harassment**

Board-Certified Disability Management Specialists shall not knowingly engage in harassment based on factors such as those persons' age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status. The CDMS shall also not engage in sexual harassment.

## **RPC 1.14 – CONFLICT OF INTEREST**

Board-Certified Disability Management Specialists shall fully disclose an actual or potential conflict of interest to all affected parties. If, after full disclosure, an objection is made by any affected party, the Board-Certified Disability Management Specialist shall withdraw from further participation in the case. Board-Certified Disability Management Specialists shall refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to (1) impair their objectivity, competence, or effectiveness in performing their functions as disability management specialists or (2) expose the person or organization with whom the professional relationship exists to harm or exploitation.

## **RPC 1.15 – ADVERTISING**

Board-Certified Disability Management Specialists who describe/advertise services shall do so in a manner that accurately informs the public of the services, expertise, and techniques being offered. Descriptions/advertisements by a Board-Certified Disability Management Specialist shall not contain false, inaccurate, misleading, out-of-context, or otherwise deceptive material or statements. If statements from former clients are to be used, the Board-Certified Disability Management Specialist shall have a written, signed, and dated release from the former clients. All advertising shall be factually accurate and shall not contain exaggerated claims as to costs and/or results.

## **RPC 1.16 – SOLICITATION**

Board-Certified Disability Management Specialists shall neither solicit nor accept commissions, rebates, or any form of remuneration for the referral of clients for professional services or goods.

## **RPC 1.17 – RELATIONSHIPS WITH BOARD-CERTIFIED DISABILITY MANAGEMENT SPECIALISTS' EMPLOYERS**

Board-Certified Disability Management Specialists shall alert their employers to conditions that may be potentially disruptive or damaging to the Board-Certified Disability Management Specialist's professional responsibilities or that may limit their effectiveness.

In those instances where Board-Certified Disability Management Specialists believe their employers' policies are in violation of the Code, they shall attempt to affect change through constructive action within the organization. Where such change cannot be affected, Board-Certified Disability Management Specialists shall take appropriate further action, which may include referral to appropriate certification, accreditation, or state licensure organizations for an advisory opinion. Under all circumstances, adherence to the Code of Professional Conduct is mandated.

### **RPC 1.18 – FEES**

Board-Certified Disability Management Specialists shall advise the payor of their fee structure in advance of rendering any services and shall also furnish, upon request, detailed, accurate records of professional activities.

### **RPC 1.19 – COMPLAINT PROCEEDINGS**

#### **a. Reporting Misconduct**

Board-Certified Disability Management Specialists possessing personal knowledge not protected as confidential concerning a violation or any perceived violation of the Code by a fellow Board-Certified Disability Management Specialist shall report such information to The Commission. Board-Certified Disability Management Specialists (CDMS) should promptly self-report to The Commission their own potential violation of the Code and are obligated to promptly self-report to The Commission their own non-compliance with Rules 1.01, 1.02, 1.03, and 1.05 of the CDMS Rules of Professional Conduct and/or any other change in circumstances that would adversely affect the individual's eligibility for CDMS designation or maintenance of CDMS Certification.

#### **b. Compliance with Proceedings**

Board-Certified Disability Management Specialists shall assist in the process of enforcing the Code by cooperating with investigations, participating in proceedings, and complying with the directives of the Ethics and Professional Conduct Committee.

#### **c. Frivolous Complaints**

Board-Certified Disability Management Specialists shall not initiate, participate in, or encourage the filing of complaints that are malicious, unwarranted, or without a basis in fact.

### **RPC 1.20 – USE OF CDMS CREDENTIAL**

The Board-Certified Disability Management Specialist (CDMS) is a professional credential, and the initials "CDMS" may be used only by a current certified individual. The credential or initials may not be utilized as part of a company, partnership, corporate name, trademark, or logo.

### **RPC 1.21 – SUPERVISION AND CONSULTATION**

#### **a. Limitations**

A Board-Certified Disability Management Specialist, through ongoing evaluation and appraisal, must be aware of the academic and personal limitation of supervisees that may impede performance. The Board-Certified Disability Management Specialist will assist supervisees to secure remedial assistance when needed and will discontinue supervision of individuals unable to provide competent disability management services due to professional, academic, or personal limitations. The Board-Certified Disability Management Specialist will seek professional consultation and supervision themselves and document their decisions to dismiss or refer supervisees for assistance.

**b. Professional Growth and Development**

As a Board-Certified Disability Management Specialist, professional development and growth is necessary for maintenance and building of professional skills and competencies. A Board-Certified Disability Management Specialist who employs or supervises other Board-Certified Disability Management Specialists and applicants will encourage and support professional development activities and opportunities as well as conduct timely performance evaluations and consultations as necessary. Board-Certified Disability Management Specialists will also be aware of their own professional growth and development needs and seek continuing education to maintain ongoing certification, training, supervision, and consultation.

**c. Supervision of Applicants and Supervisees**

A Board-Certified Disability Management Specialist who is responsible for the supervision of an applicant or another Board-Certified Disability Management Specialist will conduct themselves in a professional manner.

**d. Supervision Preparation**

A Board-Certified Disability Management Specialist will supervise others only within the boundaries of their competence, based on their education, training, professional experience, and credentials.

**e. Ethical Practice**

When a Board-Certified Disability Management Specialist has reason to believe that he/she is faced with an ethical dilemma, they are required to seek out peer-to-peer consultation and take appropriate action.

**f. Endorsement**

A Board-Certified Disability Management Specialist will not endorse an applicant or supervisee for certification, licensure, or employment if they believe that the applicant or supervisee is not qualified for the endorsement.

## SECTION 2 – PROVISION OF SERVICES TO INDIVIDUAL CLIENTS

### RPC 2.01 – DUAL RELATIONSHIPS-

All dual relationships must be disclosed. Board-Certified Disability Management Specialists who provide services to an individual client at the request of a third-party payor shall disclose the nature of their dual relationship by describing their role and responsibilities to each party involved in the dual relationship. Dual relationships, other than payor/client, include but are not limited to familial, social, financial, business, close personal relationships with individual clients, or volunteer or paid work within an office in which the client is actively receiving services.

### RPC 2.02 – BUSINESS RELATIONSHIPS WITH CLIENTS

Board-Certified Disability Management Specialists shall not enter into a commercial enterprise with any individual client.

### RPC 2.03 – CONFIDENTIALITY

**a. Disclosure**

Board-Certified Disability Management Specialists shall inform the individual client at the outset of the Board-Certified Disability Management Specialist/ client relationship that any information obtained through the relationship may be disclosed to third parties. Disclosure of information shall be limited to what is necessary and relevant,

except that the Board-Certified Disability Management Specialist must reveal information to appropriate authorities, as soon as and to the extent that the Board-Certified Disability Management Specialist reasonably believes necessary, to prevent the individual client from (1) committing acts likely to result in bodily harm or imminent danger to the individual client or others or (2) committing criminal, illegal, or fraudulent acts.

**b. Recording**

Board-Certified Disability Management Specialists shall obtain appropriate written permission from individual clients prior to electronically recording a client using audio and/or video technology.

**c. Contagious Diseases**

Board-Certified Disability Management Specialists shall be aware of and follow the applicable legal requirements for disclosure of contagious diseases.

**d. Client Identity**

Board-Certified Disability Management Specialists shall omit the identity of the individual client when using data for training, research, publication, and/or marketing unless a written release is obtained from the individual client.

**e. Technology**

It is recommended that Board-Certified Disability Management Specialists utilize the most secure technology available to protect a client's confidential health and personal information.

**f. Transmitting Confidential Information**

Board-Certified Disability Management Specialists shall take precautions by using the most secure measures available to ensure the confidentiality of information transmitted through the use of telecommunication and electronic technologies.

## **RPC 2.04 – INTERRUPTION OF SERVICES**

Board-Certified Disability Management Specialists, in the event of unforeseen circumstances, such as disaster, illness, disability, or death shall have a plan to ensure continuity of services.

## **RPC 2.05 – TERMINATION OF SERVICES**

Prior to the discontinuation of disability management services, Board-Certified Disability Management Specialists will document notification of discontinuation to all relevant parties consistent with applicable statutes and regulations.

# **SECTION 3 – PROVISION OF SERVICES TO ORGANIZATIONAL CLIENTS**

## **RPC 3.01 – FORENSIC EVALUATION**

When providing forensic evaluations for an individual or organization, the primary obligation of Board-Certified Disability Management Specialists shall be to produce objective findings and opinions that can be substantiated based on information and techniques appropriate to the evaluation, and as required by applicable case law within the appropriate jurisdiction, which may include assessment of the individual and/or review of records. Board-Certified Disability Management Specialists shall define the limits of their reports or testimony, always acknowledging whether or not an assessment of the individual has been conducted.

### **RPC 3.02 – INDIRECT SERVICE PROVISION**

When Board-Certified Disability Management Specialists are employed for indirect services only, they shall fully disclose the roles and limits of the relationship for which they are hired. When providing indirect services only, Board-Certified Disability Management Specialists shall provide unbiased, objective opinions.

## **THE COMMISSION'S PROCEDURES FOR PROCESSING COMPLAINTS AND SELF-REPORTS**

The Commission has adopted the following Procedures for Processing Complaints and Self-Reports ("Procedures") to govern Complaints and Self-Reports (as defined below) submitted to its Ethics and Professional Conduct Committee ("Committee") that relate to alleged violation(s) of the CDMS Code of Professional Conduct ("Code") by an individual board-certified by The Commission as a Certified Disability Management Specialist.

### **RELEASE OF INFORMATION**

A Client (as defined below) who files a Complaint or on whose behalf a Complaint is filed is required to grant permission to the Board-Certified Disability Management Specialist to release records of communications and interactions between the Board-Certified Disability Management Specialist and Client to the Committee and to answer all questions the Committee may have concerning such communications and interactions. A Complainant (as defined below) who is not a Client, but discloses Client information in connection with a Complaint, or a Self-Reporter (as defined below) who discloses Client information in connection with a Self-Report must submit with the Complaint or Self-Report written authorization from the Client to disclose such information or remove all such information from the materials submitted to the Committee. A Complainant is required to grant permission to allow the Committee to send copies of all materials submitted in conjunction with a Complaint to the Certified Disability Management Specialist about whom the complaint pertains.

### **HIPAA RELEASE**

Complaints or Self-Reports which include information protected by HIPAA or state privacy laws must be accompanied by an authorization signed by the Client.

### **THIRD-PARTY COMPLAINANTS**

If the complainant is a third-party acting on behalf of a Client, in addition to any necessary authorizations that might be required under state and federal privacy laws, such third-party may be asked to provide sufficient and appropriate evidence of authority to act on behalf of the Client. This may include, without limitation, power of attorney, letters of office, or letters of appointment.

### **INDEMNIFY AND HOLD HARMLESS**

A Complainant or Self-Reporter is required to indemnify and hold The Commission, including, without limitation, Committee members, Board Members, The Commission staff and other persons acting for or on behalf of The Commission or the Committee, harmless from any and all claims or actions by or on behalf of a client, the Complainant, or Self-Reporter arising out of

or relating to the processing of a Complaint or Self-Report and/or decisions made by the Committee in connection therewith.

## STATEMENT OF PURPOSE

The Commission is dedicated to promoting the certification of disability management specialists through credentialing to advance the quality of disability management services provided to Clients. In furthering its objectives and through the Committee, The Commission administers the Code that has been developed and approved by The Commission. The intent of The Commission is to monitor the professional conduct of Board-Certified Disability Management Specialists to promote sound ethical practices. The Commission does not, however, warrant the performance of any Board-Certified Disability Management Specialist. These Procedures facilitate the work of The Commission and the Committee by specifying procedures for processing claims of alleged violation of the Code by a Board-Certified Disability Management Specialist and sanctioning Board-Certified Disability Management Specialists found to have violated the Code.

## SECTION A – DEFINITIONS

As used in these Procedures, the following terms have the meanings set forth below:

1. **“Certificant”** means a Board-Certified Disability Management Specialist who is alleged to have violated the Code.
2. **“Client”** means an individual who has received case management services from a Board-Certified Disability Management Specialist.
3. **“Code”** means the CDMS Code of Professional Conduct consisting of principles and rules of professional conduct.
4. **“Complainant”** means either a Client, a Board-Certified Disability Management Specialist, or other person who files a Complaint against a Board-Certified Disability Management Specialist.
5. **“Complaint”** means the Complaint Form attached to these Procedures that is filed by a Complainant for alleged violation of the Code by a Board-Certified Disability Management Specialist.
6. **“Rules”** means the CDMS Rules of Professional Conduct as set forth in the Code.
7. **“Self-Report”** means the Self-Report form attached to these Procedures that is filed by a CDMS for their own potential violation of the Code.
8. **“Self-Reporter”** means a CDMS who files a Self-Report.

## SECTION B – ETHICS AND PROFESSIONAL CONDUCT COMMITTEE

1. **Membership** – The Ethics and Professional Conduct Committee (previously defined as “Committee”) is a standing committee of The Commission consisting of a minimum of four (4) members appointed by the Chair of The Commission. A quorum of three (3) members of the Committee is necessary to conduct a hearing or take any other action with respect to the processing of a Complaint or Self-Report unless provided otherwise herein.
2. **Disqualification** – In the event that any member of the Committee has a personal, financial or other conflict of interest with respect to matters raised in a Complaint or Self-Report or has any knowledge of the facts underlying a Complaint or Self-Report other than what has been provided to all Committee members by the Complainant, or

Board-Certified Disability Management Specialist, or Self-Reporter they will withdraw from participating in the case. In the event that the Chair of the Committee (“Committee Chair”) is required to withdraw, the Chair of The Commission will appoint another Committee member to act as Committee Chair for purposes of the particular case.

3. **Replacements** – If a member of the Committee excuses themselves from participating in a case and insufficient Committee members are available to constitute a quorum, the Chair of The Commission will appoint a former Board Member to act as a Committee member. In the event that no former Board Member is available, the Chair of The Commission will appoint a Board-Certified Disability Management Specialist to act as a Committee member until a sufficient number of members is obtained to constitute a quorum.
4. **General Responsibilities** – The members of the Committee have an obligation to act in a fair, impartial and unbiased manner, to work expeditiously, to safeguard the confidentiality of the matters raised in a Complaint or Self-Report and to protect the rights of Complainants, Board-Certified Disability Management Specialists (CDMS), or Self-Reporters in accordance with these Procedures.
5. **Jurisdiction** – The Committee has jurisdiction to consider whether a Board-Certified Disability Management Specialist has violated the Code if The Commission receives a Complaint or Self-Report within twelve (12) months of the alleged violation of the Code. Should a Board-Certified Disability Management Specialist or Self-Reporter relinquish their CDMS certification once a Complaint has been filed against them, or after submitting a Self-Report, the Committee reserves the right in its discretion to terminate proceedings or continue the matter for a final determination in accordance with these Procedures.
6. **Legal Advice** –The Committee and/or Committee Chair may consult with and obtain legal advice or assistance from legal counsel at any point during the Complaint or Self-Report process.

## SECTION C – ETHICS COMPLAINTS

1. **Persons Who May File** – The Committee will accept Complaints alleging that a Board-Certified Disability Management Specialist has violated one or more Rules of Professional Conduct from any of the following:
  - a. A Board-Certified Disability Management Specialist or members of the general public who have reason to believe that a Board-Certified Disability Management Specialist has violated the Rules.
  - b. Clients or a person(s) acting on behalf of Clients pursuant to a power of attorney who have reason to believe that a Board-Certified Disability Management Specialist has violated the Rules.
  - c. The Committee Chair to the extent the Committee has reason to believe through reliable information received or obtained by it that a Board-Certified Disability Management Specialist has violated the Rules.
2. **Complaints** – The Committee will accept only signed, notarized written Complaints on the Complaint Form attached to these Procedures. The Complaint must not exceed ten (10) pages exclusive of supporting documentation.
3. **Correspondence on Complaints** – All correspondence related to a Complaint must be in writing, marked “CONFIDENTIAL” and addressed to the Ethics and Professional Conduct Committee, The Commission, 1120 Route 73, Suite 200, Mt. Laurel, New Jersey 08054.

4. **Timelines** – Except as set forth in Subsection B.5 and Subsections C.8, E.1, and G.2, the timelines set forth in these Procedures are guidelines only and have been established to provide a reasonable framework for processing Complaints. The Committee may grant an extension of a deadline requested by a Complainant or Board-Certified Disability Management Specialist when justified by unusual circumstances. The Committee may, in its discretion, delay, postpone or terminate its review of a Complaint as provided for in these Procedures.
5. **Initial Administration of Complaints** – The responsibilities of the Committee with respect to the receipt of a Complaint include the following:
  - a. Review Complaints that have been received within the time set forth in Subsection B.5;
  - b. Determine whether the alleged conduct, if true, would violate the Rules and, if so, whether the Committee should accept the Complaint under these Procedures;
  - c. If the Committee determines that a Complaint contains insufficient information to make a determination as to whether the conduct alleged in the Complaint would be cause for action by the Committee, the Committee may request additional proof and/or further written information or supporting documentation from the Complainant; and
  - d. Notify the Complainant where a Complaint does not comply with these Procedures or where, upon its review, no further action will be taken; or, if action is to be taken, notify the Complainant and Board-Certified Disability Management Specialist where the Committee has accepted the Complaint for further consideration.
6. **Withdrawal of Complaints** – A Complainant may withdraw a Complaint at any time. Notwithstanding such withdrawal, the Committee reserves the right in its discretion to terminate proceedings or continue the matter for a final determination in accordance with these Procedures if available evidence is sufficient to do so.
7. **Failure to Cooperate** – Complainants and Board-Certified Disability Management Specialists are expected to cooperate with the Committee in connection with the processing of a Complaint. In the event of an uncooperative Complainant, the Committee reserves the right in its discretion to terminate proceedings or continue the matter for a final determination in accordance with these Procedures if available evidence is sufficient to do so.
8. **Board-Certified Disability Management Specialist Response** – If the Committee accepts a Complaint, the Board-Certified Disability Management Specialist will be notified in writing and given thirty (30) days from receipt of such notice to respond in writing and to submit any additional supporting documentation, records or other materials they wish to be considered by the Committee. The response must not exceed ten (10) pages exclusive of supporting documentation. Failure to respond will not support a determination that the Board-Certified Disability Management Specialist violated the Rules. Should the Committee request further written information or supporting documentation from the Board-Certified Disability Management Specialist, they will be given at least fifteen (15) business days from the date of the request to respond.
9. **Preliminary Disposition of Complaint** – After receiving a written response from the Board-Certified Disability Management Specialist or the time to receive such a response has lapsed, the Committee will discuss the Complaint, response (if any) and any supporting documentation properly submitted by the Complainant and Certified Disability Management Specialist. On the basis of those submissions, the Committee may act as follows:

- a. If the Committee determines that the submissions do not provide reasonable basis for a violation of the Rules or where there is good cause to terminate its review of a Complaint, the case will be closed, and the Complainant and Board-Certified Disability Management Specialist will be notified of such in writing; or
- b. If the Committee determines that the submissions provide reasonable basis for a violation of the Code, the Complainant and Board-Certified Disability Management Specialist will be notified of such in writing. Such notice will include the alleged Code violations at issue.
- c. If the Committee determines that a Complaint should be processed as a Self-Report, the Complainant and Certified Disability Management Specialist (CDMS) will be notified of such in writing and the Committee shall proceed in accordance with Section D below.

## SECTION D – SELF-REPORTS

1. **Persons Who May File:** The Committee will accept Self-Reports from a Certified Disability Management Specialist setting forth their own potential violation of one or more Rules or Standards.
2. **Self-Report:** The Committee will accept only signed, written Self-Reports on the Self-Report Form attached to these Procedures. The Self-Report must not exceed ten (10) pages exclusive of supporting documentation.
3. **Correspondence on Self-Reports:** All correspondence related to a Self-Report must be in writing, marked “CONFIDENTIAL” and addressed to the Ethics and Professional Conduct Committee, The Commission, 1120 Route 73, Suite 200, Mt. Laurel, New Jersey 08054
4. **Timelines:** Except as set forth in Subsection B.5 and G.2, the timelines set forth in these Procedures are guidelines only and have been established to provide a reasonable framework for processing Self-Reports. The Committee may grant an extension of a deadline requested by a Self-Reporter when justified by unusual circumstances. The Committee may, in its discretion, delay, postpone or terminate its review of a Self-Report as provided for in these Procedures.
5. **Administration of Self-Reports:** The responsibilities of the Committee with respect to the receipt of a Self-Report include the following:
  - Review Self-Reports that have been received within the time set forth in Subsection B.5 and determine whether the described conduct may violate the Code.
  - If the Committee determines that a Self-Report contains insufficient information to make a determination as to whether the described conduct would be cause for action by the Committee, the Committee may request additional written information or supporting documentation from the Self-Reporter and/or conduct an interview of the Self-Reporter; Should the Committee request additional written information or supporting documentation, the Self-Reporter will be given at least fifteen (15) business days from the date of the request to respond.
  - Notify the Self-Reporter where a Self-Report does not comply with these Procedures or where, upon its initial review, no further action will be taken or that an interview has been requested.
6. **Referral to Another Committee or Task Force of The Commission:** The Committee shall have the right to refer any Self-Report to another committee or task force of The Commission for disposition to the extent the Self-Report raises matters outside of compliance with the Code. In such event, The Commission committee delegated to

process the Self-Report shall follow the procedures set forth herein applicable to the Committee. The Commission committee or task force receiving the referral may consult with the Ethics Committee Chair regarding these Procedures. The Committee reserves the right to act further in accordance with these Procedures following disposition of a Self-Report by another committee or task force of The Commission.

7. Failure to Cooperate: Self-Reporters are expected to cooperate with the Committee in connection with a Self-Report. In the event of an uncooperative Self-Reporter, the Committee reserves the right in its discretion to terminate the matter or proceed to a final determination in accordance with these Procedures if available evidence is sufficient to do so.
8. Interview or Appearance:
  - The Committee may in its discretion request an interview of a Self-Reporter to address any questions the Committee may have concerning the Self-Report. A Self-Reporter may decline in writing to participate in the interview. Respectfully declining to participate will not be grounds for violation of the Code.
  - A Self-Reporter has the right to request to appear before the Committee to make a statement and answer questions of the Committee when submitting their Self-Report.
  - Any interview or appearance of a Self-Reporter will be conducted by telephone upon at least fifteen (15) business days advance written notice. The Self-Reporter will be entitled to have legal counsel or other representative present to advise and represent them during the interview or appearance. Legal counsel for The Commission may be present to advise the Committee and will have the privilege of the floor.
  - A transcript of the interview or appearance will be made and preserved in accordance with Section K. No person (other than the Committee or a court reporter retained by or on behalf of the Committee) will be allowed to record the interview or appearance.
9. Disposition of a Self-Report
  - After reviewing a Self-Report, together with any additional written information or supporting documentation, and conducting any interview of the Self-Reporter or allowing a Self-Reporter to make a statement and answer questions to the extent requested, the Committee will meet in a closed session to deliberate and reach a decision. The Commission's legal counsel may attend the closed session to advise the Committee if the Committee so desires. The Committee Chair will preside over the closed session.
  - The Committee will be the sole judge of the facts. Although a violation of the Code need not be proved "beyond a reasonable doubt," a Committee finding that a Self-Reporter has violated the Code must be supported by substantial, objective, and believable evidence.
  - If the Committee determines that the submissions do not provide reasonable basis for a violation of the Code or where there is good cause to terminate its review of a Self-Report, the case will be closed and the Self-Reporter will be notified of such in writing.
10. Committee Decisions:
  - The decision of a majority of the members of the Committee at which a quorum is present will be the decision of the Committee and The Commission. The Committee Chair will vote only to break a tie or when the Committee consists of three members. Only members of the Committee who were present during the closed session will be eligible to vote.

- The Committee will first resolve the issue of whether the Self-Reporter violated the Code. The Committee will vote by secret ballot unless all the members of the Committee entitled to vote consent to an oral vote.
  - In the event the Committee does not find that the Self-Reporter has violated the Code, the Self-Report will be dismissed. If the Committee finds that the Self-Reporter has violated the Code, it must then determine what actions or sanctions will be imposed, which include any of the permissible actions contained in Section F. The Committee may take into consideration the fact that the Board-Certified Disability Management Specialist (CDMS) self-reported the violation of the Code in assessing what actions or sanctions will be imposed.
11. Appeal Process: Decisions of the Committee that a Self-Reporter has violated the Code may be appealed by the Self-Reporter in accordance with Section G.

## SECTION E – ETHICS HEARINGS

1. **Initiation** – The Board-Certified Disability Management Specialist may make a written request for a hearing before the Committee within fifteen (15) business days of being notified that the Committee determined that there is reasonable basis for a violation of the Rules. The Committee also may initiate a hearing in its discretion. If a hearing has been requested by the Board-Certified Disability Management Specialist or initiated by the Committee, the Committee Chair will schedule a hearing on the Complaint and notify the Complainant and Board-Certified Disability Management Specialist not less than thirty (30) days prior to the hearing.
2. **Purpose** – A hearing will be conducted to determine whether a violation of the Rules has occurred and, if so, to determine appropriate disciplinary action.
3. **Manner of hearing** – The Committee will determine whether a hearing will be conducted in person or by telephone taking into consideration such things as the location and availability of the Committee members and the Complainant, Board-Certified Disability Management Specialist and witnesses. In the event a hearing is to be conducted in person, the Complainant and Board-Certified Disability Management Specialist, as well as any witnesses, may participate by telephone.
4. **Location of hearing** – The location of the hearing and deliberations in connection therewith will be determined at the discretion of the Committee.
5. **Costs to attend hearing** – The Complainant and Board-Certified Disability Management Specialist, as well as all other persons participating in or attending a hearing on their behalf, must pay their own expenses. Parties initiating telephone contact will assume all expenses related to such calls.
6. **Conduct of Hearing** –
  - a. The Committee Chair will preside over the hearing.
  - b. A transcript of the hearing will be made and preserved in accordance with Section K below. Regardless of the manner of hearing, no person (other than the Committee or a court reporter retained by or on behalf of the Committee) will be allowed to record the hearing.
  - c. The Board-Certified Disability Management Specialist and Complainant will be entitled to have legal counsel or other representative present to advise and represent them throughout the hearing.
  - d. Legal counsel for The Commission may be present at the hearing to advise the Committee and will have the privilege of the floor.

- e. The Board-Certified Disability Management Specialist and Complainant will be entitled to call witnesses to substantiate their respective version of events underlying the case.
  - f. The Committee will have the right to call witnesses it believes may provide insight into the issues in the case.
  - g. Witnesses may not be present during the hearing except when they are called upon to testify and will be excused upon completion of their testimony and any questioning as provided in these Procedures.
  - h. The Committee Chair may call a brief recess at any point during a hearing. The Board-Certified Disability Management Specialist and Complainant may request a brief recess at any point during a hearing to the extent time permits.
  - i. If the Board-Certified Disability Management Specialist does not appear at the hearing, the Committee will determine what testimony it will hear on the record. Failure of the Board-Certified Disability Management Specialist to appear at the hearing will not be viewed by the Committee as sufficient grounds for taking disciplinary action.
7. **Presentation of Evidence –**
- a. The standard order of testimony at a hearing will be as follows:

ACTIVITY	TIME
Convening of Hearing	
Opening Statement by Committee Chair	5 Minutes
Opening Statement by Board-Certified Disability Management Specialist	15 Minutes
Testimony from Complainant	20 Minutes
Questioning of Complainant by Committee	10 Minutes
Questioning of Complainant by Board-Certified Disability Management Specialist	10 Minutes
Testimony from Complainant's witnesses (if any)	15 Minutes
Questioning of Complainant's witnesses by Committee	10 Minutes
Questioning of Complainant's witnesses by Board-Certified Disability Management Specialist	10 Minutes
Testimony from Board-Certified Disability Management Specialist	20 Minutes
Questioning of Board-Certified Disability Management Specialist by Committee	10 Minutes
Questioning of Board-Certified Disability Management Specialist by Complainant	10 Minutes
Testimony from Board-Certified Disability Management Specialist's witnesses (if any)	15 Minutes
Questioning of Board-Certified Disability Management Specialist's witnesses by Committee	10 Minutes
Questioning of Board-Certified Disability Management Specialist's witnesses by Complainant	10 Minutes
Closing Statement from Board-Certified Disability Management Specialist	10 Minutes
Conclusion of Hearing	

- b. The Committee Chair will have the authority to modify the standard order of testimony in the event they deem it necessary or appropriate under the circumstances.
  - c. The Board-Certified Disability Management Specialist may decline in writing to participate in the interview. Respectfully declining to participate will not be grounds for violation of the Code.
  - d. Once the Board-Certified Disability Management Specialist chooses to testify, they may be questioned by the Complainant and members of the Committee as provided in these Procedures and subject to the Board-Certified Disability Management Specialist's due process rights.
  - e. All persons providing testimony will be required to attest to the veracity of their testimony.
  - f. Any written information or supporting documentation submitted by the Complainant or Board-Certified Disability Management Specialist in connection with a hearing after the deadlines determined by the Committee may, at the Committee's discretion, be excluded or receive limited consideration.
8. **Relevancy of Evidence –**
- a. The Committee Chair will determine what testimony is relevant to the case. Questions or testimony that are irrelevant, cumulative and/or repetitious may be excluded at the discretion of the Committee Chair.
  - b. A hearing pursuant to these Procedures is not a court proceeding and the Committee is not required to observe formal rules of evidence. Evidence that would be inadmissible in a court of law may be admissible in the hearing before the Committee if it is relevant to the case. Therefore, if the evidence offered tends to explain, clarify or refute any of the important facts of the case, it may be considered by the Committee.
  - c. The Committee will not consider evidence or testimony for the purpose of supporting an alleged violation of the Rules that was not set forth in the notice of the hearing or that is not relevant to the issues of the case.
9. **Burden of Proof –** The burden of proving a violation of the Rules is on the Complainant. Although an alleged violation of the Rules need not be proved "beyond a reasonable doubt," a Committee finding that a Board-Certified Disability Management Specialist has violated the Rules must be supported by substantial, objective and believable evidence.
10. **Deliberations of the Committee –**
- a. After the hearing is completed, the Committee will meet in a closed session to deliberate and reach a decision. The Commission's legal counsel may attend the closed session to advise the Committee if the Committee so desires. The Committee Chair will preside over the closed session.
  - b. The Committee will be the sole judge of the facts and will weigh the evidence presented and assess the credibility of the witnesses.
11. **Committee Decisions –**
- a. The decision of a majority of the members of the Committee at which a quorum is present will be the decision of the Committee and The Commission. The Committee Chair will vote only to break a tie or when the Committee consists of three members. Only members of the Committee who were present throughout the entire hearing will be eligible to vote.
  - b. The Committee will first resolve the issue of whether the Board-Certified Disability Management Specialist violated the Rules. The Committee will vote by secret ballot unless all of the members of the Committee entitled to vote consent to an oral vote.

- c. In the event the Committee does not find that the Board-Certified Disability Management Specialist has violated the Rules, the Complaint will be dismissed. If the Committee finds that the Board-Certified Disability Management Specialist has violated the Rules, it must then determine what actions or sanctions will be imposed.

## SECTION F – COMMITTEE ACTIONS AND SANCTIONS

### Permissible Actions –

1. Letter of Instruction. A letter of instruction is a written statement expressing concern with a
2. Board-Certified Disability Management Specialist's or Self-Reporter's actions in regard to the Rules. In the event it is determined that the Rules have been violated, the Committee will consider the degree of harm and significant mitigating circumstances and may issue a letter of instruction.
3. Sanctions. In the event it is determined that the Rules have been violated, and a letter of instruction is not appropriate under the circumstances, the Committee will impose one or a combination of the possible sanctions that follow:
  - a. A reprimand in the form of a written statement criticizing a Board-Certified Disability Management Specialist's or Self-Reporter's action as violating the Rules in one or more ways. The Committee may impose remedial requirements to be completed within a specified period of time.
  - b. Probation for a specified period of time subject to Committee review of compliance. The Committee may impose remedial requirements to be completed within a specified period of time.
  - c. Suspension from CDMS certification for a specified period of time subject to Committee review of compliance. The Committee may impose remedial requirements to be completed within a specified period of time.
  - d. Revocation of Board-Certified Disability Management Specialist's certification.
4. The penalty for failing to fulfill, in a satisfactory manner, a remedial requirement imposed by the Committee as a result of a sanction will be automatic revocation unless the Committee determines that the remedial requirement should be modified based on good cause.

## SECTION G – APPEALS

1. **Basis of Appeals** – Decisions of the Committee that a Board-Certified Disability Management Specialist or Self-Reporter has violated the Rules may be appealed by the Board-Certified Disability Management Specialist or Self-Reporter based on one or more of the following grounds:
  - a. The Committee failed to follow these Procedures; and/or
  - b. The decision of the Committee (to include any sanction imposed by the Committee) was arbitrary and capricious and not supported by substantial, objective and believable evidence.
2. **Time to Appeal** – After the Board-Certified Disability Management Specialist or Self-Reporter has received written notification that they have been found in violation of the Rules, they will be given thirty (30) days to appeal the decision.
3. **Form of Appeal** – An appeal must be in writing and based on one or more of the grounds set forth in Subsection G.1. An appeal must not exceed twenty (20) pages. Absent substantial newly discovered evidence unavailable at the time of the hearing or review of a Self-Report, the Board-Certified Disability Management Specialist or Self-

Reporter may not submit additional supporting documentation in connection with an appeal.

4. **Appeals Panel** – The Chair of The Commission will appoint a three (3) person appeals panel consisting of at least one (1) former Board Member, who is a Board-Certified Disability Management Specialist, with the balance being Board-Certified Disability Management Specialists. No person may participate on an appeals panel if they served on the Committee at the time of the original decision.
5. **Legal Advice** – The appeals panel may consult with and obtain legal advice or assistance from legal counsel at any point during the appeal process.
6. **Record** – The appeals panel will be given copies of the materials available to the Committee when it made its decision, a copy of the transcript if a hearing was held or an interview or appearance conducted, a copy of the Committee's decision and a copy of the appeal.
7. **Decision of Appeal** – The decision of a majority of the members of the appeals panel will be the decision of the appeals panel and must include one of the following:
  - a. The decision of the Committee is upheld;
  - b. The decision of the Committee is reversed, and the letter of instruction or sanction is overturned; or
  - c. The decision of the Committee is reversed, and the case is remanded to the Committee for a new hearing on a complaint or further consideration of a Self-Report. The reason for this action will be given in detail to the Committee in writing to provide guidance in connection with the new hearing on a Complaint or further consideration of a Self-Report.

The Complainant and Board-Certified Disability Management Specialist or Self-Reporter will be provided written notice of the decision by the appeals panel. A decision to uphold or reverse the Committee decision is final. A decision to reverse and remand for a new hearing on a Complaint or further consideration of a Self-Report shall be subject to further proceedings in accordance with these Procedures.

## SECTION H – NOTIFICATION OF SANCTIONS

1. The Board-Certified Disability Management Specialist or Self-Reporter will be provided prompt written notice of Committee decisions regarding Complaints against them or a Self-Report.
2. The Complainant will be provided written notice of the Committee decisions regarding their Complaint after the processing of an appeal if the decision is affirmed or the time for appeal has expired.
3. If a sanction has been issued, The Commission may notify professional licensure, certification or registry boards; other mental health licensure, certification or registry boards; voluntary national certification boards; and appropriate professional associations. Such notice will be provided after the processing of an appeal if the decision is affirmed or the time for appeal has expired.
4. If a violation has been found and the CDMS or Self-Reporter's certification has been suspended or revoked, a notice of the Committee action that includes the section(s) of the Rules that were found to have been violated and the sanctions imposed will be published in The Commission's newsletter after the processing of an appeal if the decision is affirmed or the time for appeal has expired.

## SECTION I – NEW EVIDENCE

In the event substantial new evidence unavailable at the time of the hearing, Self-Report, or appeal is submitted in a case where a final decision has been rendered against the Board-Certified Disability Management Specialist or Self-Reporter, the Committee may reopen the case if deemed appropriate in its discretion. To the extent the Committee considers such new evidence and, if it is found to be substantiated and capable of exonerating a Board-Certified Disability Management Specialist or Self-Reporter, the Committee may in its discretion reopen the case and proceed with the Complaint or Self-Report Process again.

## SECTION J – LEGAL ACTIONS RELATING TO ETHICS COMPLAINTS

1. A Complainant, Board-Certified Disability Management Specialist, and Self-Reporter are required to notify the Committee if they learn of any type of legal action or proceeding (whether civil, criminal or administrative) involving matters raised in a Complaint or Self-Report.
2. In the event of such a legal action or proceeding, the Committee may in its discretion stay further processing of the Complaint or Self-Report until conclusion of the legal action or proceeding unless the stay is lifted by the Committee prior to such time.
3. The Complainant, Board-Certified Disability Management Specialist, or Self-Reporter will be provided written notification of the stay and the subsequent continuation of the case.
4. The Committee may in its discretion terminate its review of a Complaint or Self-Report if the legal action or proceeding is not finally concluded within eighteen (18) months of the alleged violation of the Rules underlying the Complaint or Self-Report.

## SECTION K – RECORDS

1. Committee records relating to Complaints and Self-Reports are confidential except as provided hereunder or elsewhere in these Procedures.
2. All information concerning Complaints and Self-Reports will be confidential except that the Committee may disclose such information in accordance with Subsection F.2 or when compelled by law.
3. Nothing in this Section will be construed to prevent the Committee from communicating with the Complainant, Board-Certified Disability Management Specialist, Self-Reporter, witnesses or other sources of information necessary to enable the Committee to carry out its function in accordance with these Procedures.
4. Original copies of Complaint and Self-Report records will be maintained in files at The Commission's administrative office or at an offsite location chosen by The Commission for the period of time specified below:
  - a. Files of Sanctions or Letters of Instruction – In cases where the Committee has found a violation of the Rules and imposed a sanction or letter of instruction, a copy of the Committee's decision will be maintained indefinitely. A copy of the entire record for such matter will be maintained for not less than five (5) years after the Committee closes the case.
  - b. Files for Non-Violations – In cases where the Committee has not found a violation of the Rules, a copy of the entire record for such matter will be maintained for not less than two (2) years after the Committee has closed the case.
  - c. Files for Insufficient Information – In all other cases where the Committee has terminated further proceedings, a copy of the entire record for such matter will be maintained for not less than one (1) year after the Committee has closed the case.

- d. Files After Death – All records containing personally identifiable information will be destroyed one (1) year after The Commission is notified in writing of the death of the Board-Certified Disability Management Specialist.
- 5. Nothing in this Section will preclude the Committee or The Commission from maintaining records relating to any Complaint in a form that prevents identification of the Complainant or Board-Certified Disability Management Specialist so that such records may be used for archival, educational or other legitimate purposes.
- 6. Members of the Committee will keep copies of Complaint records confidential and will destroy copies of such records on the sooner of the date the time for appeal has expired, the case is otherwise terminated or finally concluded, or the date the Board-Certified Disability Management Specialist is no longer a member of the Committee.

# THE COMMISSION COMPLAINT FORM

This form is supplied by The Commission to individuals (Complainants) who wish to submit a complaint against an individual certified by The Commission. In order to file a complaint, you must complete this form and mail it in an envelope marked "Confidential" to: Ethics and Professional Conduct Committee, The Commission, 1120 Route 73, Suite 200, Mount Laurel, NJ 08054.

This complaint form is an official form and must be completed in its entirety, signed, and submitted to The Commission along with suitable documentation in support of this complaint. Upon receipt, the Ethics and Professional Conduct Committee will determine whether an inquiry can be initiated under its authority.

**(PLEASE TYPE OR PRINT LEGIBLY)**

## SECTION I

Your Name (*hereinafter referred to as "Complainant"*): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

## SECTION II

Name of Respondent (must be a CDMS credentialed individual): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

***Please respond to each of the following:***

## SECTION III

Cite specific Rule(s) alleged to have been violated:

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## SECTION IV

Cite the nature of your complaint and specific dates and events (supplemental attachments must be signed and dated):

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## SECTION V

List supporting documentation attached (e.g., invoices and payments, signed statements from physician(s) and other rehabilitation professional personnel, correspondence to and from certificant, etc.):

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### IMPORTANT:

1. By signing this Form, I affirm that the allegations set forth in this complaint and any accompanying materials are based on my own personal knowledge and are true and correct to the best of my knowledge and belief. I further affirm that I have submitted any and all information and materials that I believe relate to the allegations set forth in the complaint currently available to me, and that I will provide The Commission with any and all additional information, if any, as it becomes available, whether or not requested by The Commission. I understand and agree that all information and materials provided by me in connection with this complaint may be used as evidence by the Ethics and Professional Conduct Committee and/or The Commission.
2. Further, by signing this Form, I acknowledge that all information, including a copy of this complaint form, any accompanying letters of complaint, and supporting documentation will be submitted to the Ethics and Professional Conduct Committee, the certificant (in the event that an inquiry is initiated), and may be forwarded to The Commission Board Members, if necessary. I understand that, in the event this complaint is accepted by the Ethics and Professional Conduct Committee, the certificant will be requested to submit evidence addressing the allegations of the complaint.
3. Further, by signing this Form, I hereby acknowledge that I must treat all information relating to this Complaint as confidential, and that The Commission will keep all information it receives strictly confidential, except to the extent disclosed to the Committee, the Board-Certified Disability Management Specialist (CDMS), The Commission staff and attorneys, or as required by law, regulation, or court order to disclose the information.
4. By signing this Form, I hereby grant permission to the Board-Certified Disability Management Specialist to release all records of communications and interactions between the Board-Certified Disability Management Specialist and Client to the Committee and to answer all questions the Committee may have concerning such communications and interactions. I understand that if I am not the Client, I must obtain written authorization from the Client to disclose Client information or remove such information from the materials submitted in connection herewith. I grant permission to allow the Committee to send copies of any materials submitted in conjunction with the Complaint to the Board-Certified Disability Management Specialist.
5. By signing this Form, I hereby agree to indemnify and hold The Commission, including, without limitation, Committee members, Board Members and other persons acting for

or on behalf of The Commission or the Committee, harmless from any and all claims or actions by me or on my behalf or on behalf of a Client arising out of or relating to the processing of this Complaint and/or decisions made by the Committee or The Commission in connection herewith.

6. By signing this Form, I hereby acknowledge that I have read the Code and Procedures and understand the process applicable to this Complaint.
7. To the extent I am the Client or am filing this Complaint on behalf of a Client, I have submitted herewith an appropriate HIPAA release. To the extent I am filing this Complaint on behalf of a Client, I also have submitted appropriate evidence of authority to act on behalf of the Client.

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Signature of Complainant

Date

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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Notary Public

My commission expires: \_\_\_\_\_

# THE COMMISSION SELF-REPORT FORM

This self-report form ("Self-Report" or "Form") is supplied by The Commission to those who wish to file a Self-Report for potential violation of the CDMS Code of Professional Conduct ("Code"). In order to file a Self-Report, you must complete this Form and mail it in an envelope marked "Confidential" to: Ethics and Professional Conduct Committee, The Commission, 1120 Route 73, Suite 200, Mt. Laurel, New Jersey 08054. Capitalized terms not defined in this Form shall have the meanings contained in the Procedures for Processing Complaints and Self-Reports ("Procedures").

This Self-Report is an official document and must be completed in its entirety, signed, notarized and submitted to The Commission along with appropriate documentation to support the potential violations of the Code and any other forms required by the Procedures as set forth herein below on page 5. Upon receipt, the Ethics and Professional Conduct Committee ("Committee") will determine whether to accept the Self-Report in accordance with its authority as set forth in the Procedures.

**(PLEASE TYPE OR PRINT LEGIBLY)**

## SECTION I

Your Name: \_\_\_\_\_

*Hereinafter referred to as "Self-Reporter"*

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

Name of Client (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

***Please respond to each of the following:***

## SECTION II

Cite specific Rule(s) potentially violated:

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## SECTION III

Cite specific Standard(s) potentially violated:

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## SECTION IV

Cite the nature of your Self-Report and specific dates and events (supplemental attachments must be signed and dated):

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## SECTION V

Set forth all proof supporting specific Rule(s) and/or Standard(s) potentially violated and identify all supporting documentation attached herewith:

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## SECTION VI

Check the following box if you request to appear before the Committee to make a statement and answer questions:

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## IMPORTANT:

1. By signing this Form, I hereby affirm that the statements set forth herein and in any accompanying materials submitted by me are based on my own personal knowledge and are true and correct to the best of my knowledge and belief. I further affirm that I have submitted any and all information and materials that I believe relate to the matters set forth herein that are currently available to me, and that I will provide The Commission with any and all additional information, if any, as it becomes available, whether or not requested by The Commission. I fully understand the seriousness of false statements and agree that all information and materials provided by me in connection with this Self-Report may be used as evidence by the Committee and/or The Commission.
2. By signing this Form, I hereby acknowledge that all information, including a copy of this Self-Report and all accompanying materials submitted by me, will be provided to the Committee and may be forwarded to The Commission Board Members, if appropriate.
3. By signing this Form, I hereby acknowledge that I must treat all information relating to this Self-Report as confidential, and that The Commission will keep all such information it receives strictly confidential, except to the extent disclosed to the Committee, The Commission staff and attorneys, or as required by law, regulation or court order.
4. By signing this Form, I hereby understand that I must obtain written authorization from the Client to disclose Client information or remove such information from the materials submitted in connection herewith.

5. By signing this Form, I hereby agree to indemnify and hold The Commission, including, without limitation, Committee members, Board Members and other persons acting for or on behalf of The Commission or the Committee, harmless from any and all claims or actions by me or on my behalf or on behalf of a Client arising out of or relating to the processing of this Self- Report and/or decisions made by the Committee or The Commission in connection herewith.
  6. By signing this Form, I hereby acknowledge that I have read the Code and Procedures and understand the process applicable to this Self-Report.
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Signature of Self-Reporter

Date

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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Notary Public

My commission expires: \_\_\_\_\_