



The CDMS Code of Professional Conduct



Certification of Disability
Management Specialist

Competency. Collaboration. Assurance.

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TABLE OF CONTENTS

PREAMBLE	1
DEFINITIONS	2
PRINCIPLES	3
RULES OF PROFESSIONAL CONDUCT	4
Section 1 – Relationship with All Parties	4
Section 2 – Provision of Services to Individual Clients	9
Section 3 – Provision of Services to Organizational Clients	11
PROCEDURES FOR PROCESSING COMPLAINTS	11
Release of Information	11
HIPPA Release	11
Power of Attorney	12
Indemnify and Hold Harmless	12
Statement of Purpose	12
Section A – Definitions	12
Section B – Ethics and Professional Conduct Committee	13
Section C – Ethics Complaints	14
Section D – Ethics Hearings	15
Section E – Committee Actions and Sanctions	19
Section F – Appeals	19
Section G – Notification of Sanctions	20
Section H – New Evidence	21
Section I – Legal Actions Relating to Ethics Complaints	21
Section J – Records	21
ACKNOWLEDGMENT	22



PREAMBLE

Certified Disability Management Specialists (Certified Disability Management Specialists) recognize that their actions or inactions can either aid or hinder clients in achieving their objectives, and they accept this responsibility as part of their professional obligation. Certified Disability Management Specialists 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, formal training, and work experience. In providing services, Certified Disability Management Specialists must demonstrate their adherence to certain standards. The CDMS Code of Professional Conduct (Code) has been designed to achieve these goals.

The basic objective of the Code is to protect the public interest. Accordingly, the Code consists of two kinds of standards: Principles and Rules 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 relieve Certified Disability Management Specialists of their obligation to be aware of and follow the applicable laws and regulations that govern their practice.

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

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.

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

The primary obligation of the 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 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.



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 of complexity involved in providing professional input within a moral community. Rather, a code of conduct sets forth values, ethical principles, and ethical standards 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 managers 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.

The CDMS recognizes that many Certified Disability Management Specialists may hold more than one professional license or certification. It is the intent of the CDMS that the CDMS Code of Professional Conduct (ethics) 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 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.

DEFINITIONS

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

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

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

Direct contact: Any written, oral or electronic communication.

Direct services: Provision of disability management services for an individual client or organizational 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. The goal of disability management is to provide or facilitate obtaining necessary services, using appropriate resources in order to promote the ill or injured individual's maximum recovery and function. Disability management services include the following activities: case management; disability assessment and evaluation; return-to-work intervention; labor market analysis; career exploration and counseling; and disability management reporting (plan development and report preparation).

Electronic technology: The following kinds of devices and tools about which there is growing concern because of their vulnerability, including but not limited to: laptops; home-based personal computers; Personal Digital Assistant (PDAs) and smartphones; hotel, library or



other public workstations and Wireless Access Points (WAPs); USB flash drives and memory cards; CDs; DVDs; backup media; email; smart cards; and remote access devices (including security hardware).

Expert witness: A person qualified by education, experience, occupation, present position, degrees held, publications, and professional organization membership that establishes his/her credibility as an expert to give 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.

Harm: A negative consequence to a client as a result of a Certified Disability Management Specialist's failure to adhere to the Principles and RCPs.

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.

Individual client: The person for whom a Certified Disability Management Specialist provides direct disability management services.

Organizational client: An entity for which a Certified Disability Management Specialist provides disability management services.

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

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

PRINCIPLES

Principle 1: Certified Disability Management Specialists shall endeavor to place the public interest above their own at all times.

Principle 2: Certified Disability Management Specialists shall respect the integrity and protect the welfare of those persons or groups with whom they are working.

Principle 3: Certified Disability Management Specialists shall always maintain objectivity in their relationships with clients.

Principle 4: Certified Disability Management Specialists shall act with integrity in dealing with other professionals.

Principle 5: 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: Certified Disability Management Specialists shall honor the integrity and respect the limitations placed on the use of the CDMS credential.

Principle 7: Certified Disability Management Specialists shall obey all laws and regulations, avoiding any conduct or activity that could harm others.

Principle 8: Certified Disability Management Specialists shall help maintain the integrity of the CDMS Code of Professional Conduct.

RULES OF PROFESSIONAL CONDUCT

SECTION 1 – Relationship with All Parties

RPC 1.01 – Representation of Practice

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

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

RPC 1.03 – Competence

a. Negligence

Certified Disability Management Specialists shall not:

1. handle or neglect a case in such a manner that the Certified Disability Management Specialist's conduct constitutes gross negligence (which for the purpose of this rule shall mean willful, wanton, or reckless disregard of the Certified Disability Management Specialist's obligations and responsibilities).
2. exhibit a pattern of negligence in the handling of the Certified Disability Management Specialist's obligations or responsibilities.

b. Impairment

Certified Disability Management Specialists shall refrain from accepting cases and/or providing professional services when their own physical, mental, or emotional impairments have the potential to cause harm to a client or others. Certified Disability Management Specialists are to be alert to the signs of impairment, to seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

RPC 1.04 – Description of Services



Certified Disability Management Specialists shall explain services to be provided to the extent necessary to assist the client to make informed decisions, understand the purpose, techniques, rules, procedures, expected outcomes, billing arrangements, and limitations of the services rendered and identify to whom and for what purpose the results of the services will be communicated.

RPC 1.05 – Legal Compliance

Certified Disability Management Specialists shall be knowledgeable about and act in accordance with federal, state, and local laws and regulations, including procedures related to the scope of their practices regarding client consent, confidentiality, and the release of information.

RPC 1.06 – Benefit System Requirements

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, Certified Disability Management Specialists shall be impartial and limit testimony to their specific field(s) of expertise.

RPC 1.08 – Objectivity

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

RPC 1.09 – Reports

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 Certified Disability Management Specialists have responsibility during the course of their employment or practice.

a. Maintenance

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

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

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.

- d. Security
Certified Disability Management Specialists will use comprehensive and effective security to safeguard confidential information as required by applicable laws and/or regulations.

RPC 1.11 – Research

- a. Legal Compliance
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
Certified Disability Management Specialists who make original data available, report research results, or contribute to research in any other way shall omit the identity of the subjects unless an appropriate authorization from the client has been obtained.

RPC 1.12 – Misconduct

Certified Disability Management Specialists shall not engage in professional misconduct. It is professional misconduct if the Certified Disability Management Specialist:

- a. knowingly assists or induces another to violate or attempt to violate the Code, or does so through the acts of another;
- b. commits a criminal act that reflects adversely on the Certified Disability Management Specialist's honesty or trustworthiness;
- c. engages in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- d. engages in sexually intimate behavior with an individual client; or
- e. accepts as a client an individual with whom the Certified Disability Management Specialist has been sexually intimate.

RPC 1.13 – Human Relations

- a. Discrimination
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 individual clients' cultural and/or religious perspectives and recognition of barriers external to clients that may interfere with achieving effective outcomes.



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

Certified Disability Management Specialists shall not engage in 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 Certified Disability Management Specialist's activities or roles 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.

Certified Disability Management Specialists shall not knowingly engage in harassment based on behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

RPC 1.14 – Conflict of Interest

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 Certified Disability Management Specialist shall withdraw from further participation in the case. 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 managers or (2) expose the person or organization with whom the professional relationship exists to harm or exploitation.

RPC 1.15 – Advertising

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 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 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

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 Certified Disability Management Specialists' Employers

Certified Disability Management Specialists shall alert their employers to conditions that may be potentially disruptive or damaging to the Certified Disability Management Specialist's professional responsibilities or that may limit their effectiveness. In those instances where 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, 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. Once an opinion has been rendered, however, the Certified Disability Management Specialist's obligation to adhere to the Code continues.

RPC 1.18 – Fees

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

Certified Disability Management Specialists possessing personal knowledge concerning a violation or any perceived violation of the Code by a Certified Disability Management Specialist shall report such information to the Commission.

b. Compliance with Proceedings

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 Professional Conduct Committee.

c. Frivolous Complaints

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

RPC 1.21 – Supervision and Consultation

a. Limitations

A 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 Certified Disability Management Specialist will assist supervisees to secure remedial assistance when needed and will discontinue supervision of individuals unable to provide competent DM services due to professional, academic, or personal limitations. The 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 Certified Disability Management Specialist, professional development and growth is necessary for maintenance and building of professional skills and competencies. A Certified Disability Management Specialist who employs or supervisees other 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. 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 Certified Disability Management Specialist who is responsible for the supervision of an applicant or another Certified Disability Management Specialist will conduct themselves in a professional manner.
- d. Supervision Preparation
A 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 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.
- f. Endorsement
A 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. A Certified Disability Management Specialist will take appropriate steps to assist applicants and supervisees who are not qualified for endorsement to become qualified.

SECTION 2 – Provision of Services to Individual Clients

RPC 2.01 – Dual Relationships

All dual relationships must be disclosed. 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

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

RPC 2.03 – Confidentiality

- a. Disclosure
Certified Disability Management Specialists shall inform the individual client at the outset of the 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, expect that the Certified Disability Management Specialist must reveal information to appropriate authorities, as soon as and to the extent that the 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
Certified Disability Management Specialists shall obtain permission from individual clients prior to electronically recording a client using audio and/or video technology.
- c. Contagious Diseases
Certified Disability Management Specialists shall be aware of and follow the applicable legal requirements for disclosure of contagious diseases.
- d. Client Identity
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 Certified Disability Management Specialists utilize the most recent security available for all technology used to protect a client's confidential health and personal information.
- f. Transmitting Confidential Information
Certified Disability Management Specialists shall take precautions by using the most current security measures available to ensure the confidentiality of information transmitted through the use of telecommunication and electronic technologies. A recommended practice would be to limit transmissions to general communications that are not client specific, and/or use non-descript language.

RPC 2.04 – Interruption of Services

Certified Disability Management Specialists shall make reasonable efforts to ensure continuity of services in the event that services are interrupted by factors such as unavailability, relocation, illness, disability, or death of any party involved in the case.

RPC 2.05 – Termination of Services

Certified Disability Management Specialists shall terminate disability management services to individual clients when such services are no longer required, no longer serve the individual client's needs or interests, or when requested by the organizational client/payor. When requested in writing by the organizational client/payor to remain working on an individual client's case by providing indirect services, Certified Disability Management Specialists will notify all relevant parties in writing of their continuation of work on the case. Certified Disability Management Specialists in fee-for-service relationships may also terminate services with clients due to nonpayment of fees under the following conditions: (1) the client was informed of payment responsibilities and the effects of nonpayment or the termination of payment by a third party and (2) the client poses an imminent danger to self or others. As appropriate, Certified Disability Management Specialists shall refer clients to another qualified professional to address issues unresolved at the time of termination.



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 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. Certified Disability Management Specialists shall define the limits of their reports or testimony, especially when an assessment of the individual has not been conducted.

RPC 3.02 – Indirect Service Provision

Certified Disability Management Specialists who are employed by third parties as case consultants or expert witnesses and who engage in communication with the individual client shall fully disclose to the client and/or his or her designee their role and limits of their relationship. Communication includes all forms of written or oral interactions regardless of the type of communication tool used. When there is no pretense or intent to provide disability management services directly to an individual client, and where there will be no communication, disclosure by the Certified Disability Management Specialist is not required. When serving as case consultants or expert witnesses, Certified Disability Management Specialists shall provide unbiased, objective opinions.

CDMS PROCEDURES FOR PROCESSING COMPLAINTS

The Commission for Case Manager Certification (the Commission) has adopted the following Procedures for Processing Certification of Disability Management Specialists (“CDMS”) Complaints (“Procedures”) to govern Complaints (as defined below) submitted to its Ethics and Professional Conduct Committee (“Committee”) that relate to alleged violation of the CDMS Code of Professional Conduct (“Code”) by an individual board certified by the Commission as a Certified Disability Management Specialist (“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 Certified Disability Management Specialist to release records of communications and interactions between the 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, must submit with the Complaint 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.

HIPPA Release

A Client who files a Complaint or on whose behalf a Complaint is filed is required to submit with the Complaint a HIPAA release in a form acceptable to the Committee.



Power of Attorney

A Complainant who is not a Client, but files a Complaint on behalf of a Client, is required to submit with the Complaint a written power of attorney from the Client in a form acceptable to the Committee.

Indemnify and Hold Harmless

A Complainant is required to indemnify and hold the Commission, including, without limitation, Committee members, Commissioners, 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 the Complainant arising out of or relating to the processing of a Complaint 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 for the Certification of Disability Management Specialists (CDMS). The intent of the Commission is to monitor the professional conduct of Certified Disability Management Specialists to promote sound ethical practices. The Commission does not, however, warrant the performance of any 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 Certified Disability Management Specialist and sanctioning 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 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 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 Certified Disability Management Specialist or other person who files a Complaint against a 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 Certified Disability Management Specialist.

6. **“Rules”** means the CDMS Rules of Professional Conduct as set forth in the Cod

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 the four (4) Commission officers. 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 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 has any knowledge of the facts underlying a Complaint other than what has been provided to all Committee members by the Complainant or Certified Disability Management Specialist, he/she 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 himself/herself from participating in a case and insufficient Committee members are available to constitute a quorum, the Chair of the Commission will appoint a former Commissioner to act as a Committee member. In the event that no former Commissioner is available, the Chair of the Commission will appoint a 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 and to protect the rights of Complainants and Certified Disability Management Specialists in accordance with these Procedures.

5. **Jurisdiction** – The Committee has jurisdiction to consider whether a Certified Disability Management Specialist has violated the Code if the Commission receives a Complaint within six (6) months of the alleged violation of the Code. Should a Certified Disability Management Specialist relinquish his/her CDMS certification once a Complaint has been filed against him/her, 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 process.



SECTION C – Ethics Complaints

1. **Persons Who May File** – The Committee will accept Complaints alleging that a Certified Disability Management Specialist has violated one or more Rules of Professional Conduct from any of the following:
 - a. Certified Disability Management Specialists or members of the general public who have reason to believe that a Certified Disability Management Specialist has violated the Rules.
 - b. Clients or person acting on behalf of Clients pursuant to a power of attorney who have reason to believe that a Certified Disability Management Specialist has violated the Rules; and
 - c. The Committee Chair to the extent the Committee has reason to believe through reliable information received or obtained by it that a Certified Disability Management Specialist has violated the Rules.
2. **Complaints** – The Committee will accept only signed, 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, CDMS, 1120 Route 73, Suite 200, Mt. Laurel, New Jersey 08054.
4. **Timelines** – Except as set forth in Subsection B.5 above and Subsections C.8, D.1 and F.2 below, 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 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 above;
 - 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 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 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. **Certified Disability Management Specialist Response** – If the Committee accepts a Complaint, the 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 he/she wishes 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 Certified Disability Management Specialist violated the Rules. Should the Committee request further written information or supporting documentation from the Certified Disability Management Specialist, he/she 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 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 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 Certified Disability Management Specialist will be notified of such in writing. Such notice will include the alleged Code violations at issue.

SECTION D – Ethics Hearings

1. **Initiation** – The 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 Certified Disability Management Specialist or initiated by the Committee, the Committee Chair will schedule a hearing on the Complaint and notify the Complainant and 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, Certified Disability Management Specialist and witnesses. In the event a hearing is to be conducted in person, the Complainant and 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 Certified Disability Management Specialist, as well 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 I 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 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 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 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 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 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 Certified Disability Management Specialist	15 Minutes
Testimony from Complainant	20 Minutes
Questioning of Complainant by Committee	10 Minutes
Questioning of Complainant by 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 Certified Disability Management Specialist	10 Minutes
Testimony from Certified Disability Management Specialist	20 Minutes
Questioning of Certified Disability Management Specialist by Committee	10 Minutes
Questioning of Certified Disability Management Specialist by Complainant	10 Minutes
Testimony from Certified Disability Management Specialist’s witnesses (if any)	15 Minutes
Questioning of Certified Disability Management Specialist’s witnesses by Committee	10 Minutes
Questioning of Certified Disability Management Specialist’s witnesses by Complainant	10 Minutes
Closing Statement from 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 he/she deems it necessary or appropriate under the circumstances.

c. The Certified Disability Management Specialist may refuse to testify at a hearing and will not be found in violation of the Rules for refusing to do so. Once the Certified Disability Management Specialist chooses to testify, he/she may be questioned by the Complainant and members of the Committee as provided in these Procedures and subject to the Certified Disability Management Specialist’s due process rights.

d. All persons providing testimony will be required to attest to the veracity of their testimony.

e. Any written information or supporting documentation submitted by the Complainant or 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 in 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 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 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 Certified Disability Management Specialist has violated the Rules, the Complaint will be dismissed. If the Committee finds that the Certified Disability Management Specialist has violated the Rules, it must then determine what actions or sanctions will be imposed.



SECTION E – Committee Actions and Sanctions

Permissible Actions –

1. Letter of Instruction. A letter of instruction is a written statement expressing concern with a Certified Disability Management Specialist'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.
2. 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 Certified Disability Management Specialist'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 Certified Disability Management Specialist's certification.
3. 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 F – Appeals

1. **Basis of Appeals** – Decisions of the Committee that a Certified Disability Management Specialist has violated the Rules may be appealed by the Certified Disability Management Specialist 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 Certified Disability Management Specialist has received written notification that he/she has been found in violation of the Rules, he/she 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 F.1 above. An appeal must not exceed twenty (20) pages. Absent substantial newly discovered evidence unavailable at the time of the hearing, the Certified Disability Management Specialist 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 Commission member, who is a Certified Disability Management Specialist, with the balance being Certified Disability Management Specialists. No person may participate on an appeals panel if he/she 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 hearing transcript if a hearing was held, 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. The reason for this action will be given in detail to the Committee in writing to provide guidance in connection with the new hearing.

The Complainant and Certified Disability Management Specialist 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 shall be subject to further proceedings in accordance with these Procedures.

SECTION G – Notification of Sanctions

1. The Certified Disability Management Specialist will be provided prompt written notice of Committee decisions regarding Complaints against him/her.
2. The Complainant will be provided written notice of the Committee decisions regarding his/her 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 counselor 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 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 H – New Evidence

In the event substantial new evidence unavailable at the time of the hearing or appeal is submitted in a case where a final decision has been rendered against the Certified Disability Management Specialist, 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 Certified Disability Management Specialist, the Committee may in its discretion reopen the case and proceed with the complaint process again.

SECTION I – Legal Actions Relating to Ethics Complaints

1. A Complainant and Certified Disability Management Specialist 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.
2. In the event of such a legal action or proceeding, the Committee may in its discretion stay further processing of the Complaint until conclusion of the legal action or proceeding unless the stay is lifted by the Committee prior to such time.
3. The Complainant and Certified Disability Management Specialist 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 if the legal action or proceeding is not finally concluded within eighteen (18) months of the alleged violation of the Rules underlying the Complaint.

SECTION J – Records

1. Committee records relating to Complaints are confidential except as provided hereunder or elsewhere in these Procedures.
2. All information concerning Complaints will be confidential except that the Committee may disclose such information in accordance with Subsection E.2 above or when compelled by law.
3. Nothing in this Section will be construed to prevent the Committee from communicating with the Complainant, Certified Disability Management Specialist, 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 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 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 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 Certified Disability Management Specialist is no longer a member of the Committee.

ACKNOWLEDGMENT

The CDMS wishes to thank the ACA for granting permission to adopt its Guidelines and Procedures for Ethical Complaints.

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- i. Beauchamp, T.L., & Childress, J.F. (1994), 4th Ed., Principles of Biomedical Ethics. Oxford: Oxford University Press. Kitchener, K.S. (1984). Ethics in Counseling Psychology: Distinctions and Directions. Counseling Psychologists 12 (3), 43-55.
 - ii. Lynch, 1991, "Forensic Glossary," <http://www.forensiceducation.com/sourcebooks/glossary/e.htm>, May 2004.