



**CERTIFIED DISABILITY MANAGEMENT SPECIALIST**

# THE CDMS CODE OF PROFESSIONAL CONDUCT

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The Commission for Case Manager Certification (CCMC)  
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The Commission for Case Manager Certification® (CCMC®) administers and governs the Certification of Disability Management Specialists Credential® (CDMS®) as its own exam and credential. CCMC is the first and largest nationally accredited organization that certifies professional case managers and disability management specialists. Two CDMS representatives serve on the Commission’s Board of Commissioners, and the CDMS Test Development Committee works as a standing committee under the Commission’s governance.

## 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, Rules of Conduct, and Standards for Professional Conduct, as well as the Certification of Disability Management Specialists (CDMS) Procedures for Processing Complaints.

The Principles provide normative guidelines and are advisory in nature. The Rules of Conduct and the Standards for Professional Conduct prescribe the level of conduct required of every Board-Certified Disability Manager Specialists (“CDMS®”). Compliance with these levels of conduct is mandatory. Board-Certified Disability Manager 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. In addition, Board-Certified Disability Manager 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. An opinion can be requested from CCMC’s Ethics & Professional Conduct Committee.

In this document, the term, “client,” is used to refer to the individual and/or organization to whom a Board-Certified Disability Management Specialists provides services. Board Certification refers to certification as a Board-Certified Disability Management (CDMS®). “Payor” is used to refer to the Board-Certified Disability Management Specialists (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 Manager Specialists (CDMS) accept responsibility for their behavior. Board-Certified Disability Manager 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 Manager Specialists (CDMS) must adhere to the Code of Professional Conduct for Disability Manager Specialists 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 Specialists 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, 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 Board-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 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 SPECIALISTS

One who holds an active Board-Certified Disability Management Specialists (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 Specialists. 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 his/her 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 Specialists, 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 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

## **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 Specialists. 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.

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. 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 CDMS.

### **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 Specialists 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 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. HIPAA, ADA, 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 race, ethnicity, religion, age, gender, sexual orientation, national origin, marital status, or disability.
- 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 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 BCDMS 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 managers 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 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 concerning a violation or any perceived violation of the Code by a Board-Certified Disability Management Specialist shall report such information to the Commission.

#### **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 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 Specialists (CDMS) is a professional credential, and the initials "CDMS" and 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 DM 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 the Board-Certified Disability Management Specialist 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.

# 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 Board-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, 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 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.

## 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 Board-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 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 and to protect the rights of Complainants and Board-Certified Disability Management Specialists 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 within six (6) months of the alleged violation of the Code. Should a Board-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 Board-Certified Disability Management Specialist has violated one or more Rules of Professional Conduct from any of the following:

- 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.
- Clients or person 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; and
- 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, 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 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 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 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 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 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, 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 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.

## SECTION D – 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 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 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 he/she deems it necessary or appropriate under the circumstances.
- c. The Board-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 Board-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 Board-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 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 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 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 E – COMMITTEE ACTIONS AND SANCTIONS

### Permissible Actions

1. Letter of Instruction. A letter of instruction is a written statement expressing concern with a Board-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 Board-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 Board-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 Board-Certified Disability Management Specialist has violated the Rules may be appealed by the Board-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 Board-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 Board-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 Board-Certified Disability Management Specialist, with the balance being Board-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 Board-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 Board-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 Board-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 Board-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 Board-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 Board-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, Board-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 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.