



Clinical Prosthetics & Orthotics



Vol 7, No. 3 1983

Summer (Issued Quarterly)

The Canons of Ethics and Professionalism

James Fenton, CPO*

Every society must have a set of rules or laws by which it governs itself. Without laws, society does not exist. The American Board for Certification in Orthotics and Prosthetics, Inc. is a society of sorts. It has a governing body, it has several different departments (committees), with department heads (committee chairmen), and it has citizens (certifees). It has laws by which it governs. It also has a department of justice in the form of the character and fitness committee. The one thing that our society does not have is a police department.

If there is no police department, how effective can our society be? The answer to that question is at the very heart of the word professionalism. There are several dictionary definitions of professionalism. However, I have a very strong inner feeling that professionalism is not defined by words alone. I believe that professionalism in our society is a commitment to do the very best job that you are capable of doing on each and every case. This is not to say that you have to live up to any individual standard, but you must live up to the standards of practice in your community. If you're capable of doing better, then you should commit yourself to that level of excellence to which you're capable. I also believe that professionalism involves a commitment to your community: being an active participant in community affairs, being cognizant of the needs of the underprivileged of your community, and doing your fair share to alleviate their suffering.

Professionalism demands that a practitioner keep current of the knowledge of his profession by con-

tinued reading of technical manuscripts and attendance at seminars.

Professionalism is wanting to help in the day-to-day activities of the society by committee membership, by helping in the examination procedure, and by doing site evaluations.

All of these are ways in which I believe we can define professionalism in an idealistic way. The Canons of Ethics of the American Board of Certification does not really attempt to set standards of professionalism but it does set standards of conduct that, if breached, can lead to punitive action being taken.

Each and every certifee has received at least one copy of the Canons and if we all try to live up to the standards set forth in them, our patients will receive a better quality of care.

These standards are directed to the way in which we conduct ourselves in the day-to-day management of our patients as well as the manner in which we conduct our businesses and ourselves in general.

Rather than being idealistic, these standards are real. They were always meant to be the absolute minimum that our profession expects from us. Anyone who cannot live up to these standards should not receive the respect and recognition of his peers or the community.

*President, American Board for Certification in Orthotics and Prosthetics, Inc.
Fenton Brace and Limb Co., Inc.
Miami, Florida

Canons of Ethical Conduct and the Law

John H. Harman†

Since its inception in 1947, the American Board for Certification in Orthotics and Prosthetics, Inc. has developed, perpetuated, and enforced a relatively straightforward and uncomplex set of rules for conduct in the profession of orthotics and prosthetics. Specifically, these rules are known as the Canons of Ethical Conduct and come under the jurisdiction of the Character and Fitness Committee, a permanent committee of the Board of Directors of ABC.

The impact of the Canons has been progressively larger as time has passed. In particular, as certification in the field of orthotics and prosthetics has become more and more important, the loss of suspension from such certification due to violations of the Canons of Ethical Conduct has become much more important.

Of course, canons of ethical conduct are nothing new. They have been around for hundreds of years.

Virtually every profession that exists has some form of ethical code which is designed to bring a minimum level of moral conduct to bear upon the members of that profession. Of course, the nature and character of such codes differ vastly but their purpose is always important. Even insurers recognize that self-regulation through codes of ethical conduct reduces the claims experience of insurance companies with regard to malpractice and product liability insurance. Thus, the impact in the field of insurance is significant. Belonging to an organization which engages in self-regulation through a code of ethics is a basis and factor to be considered by the insurance company in setting rates for insurance.

Orthotics and prosthetics is a unique profession. It has evolved from that of being more of an industry producing products to that which now is a technology of products bounded by professional services which are an integral part thereof. Thus, the Canons of Ethical Conduct for ABC, which are its self-regulating guide, parallel the canons of other professions, such as law and medicine, in a somewhat simpler form.

Throughout most of this century, self-regulation was accepted and encouraged as a fundamental aspect of professionalism. Indeed, professional self-regulation was long regarded as necessary to set high standards and to protect the public from the unscrupulous or incompetent. Even the Supreme Court of the United States has stated that the ethics of a profession are but the consensus of expert opinion of the necessity of such standards. Indeed, for the first three quarters of the twentieth century there was not one decision by the courts involving matters which questioned self-regulation in the professions.

However, in the last decade self-regulatory efforts have come under sharp and increasing attack. In various cases, the courts have held that various aspects of codes of ethical conduct violated fundamental antitrust laws and related legal principles. Prices

set by ethical codes in minimum fee schedules have been stricken. Prohibitions against competitive bidding have been abolished. Likewise, prohibitions against advertising and solicitation have been eliminated.

Further, the courts have held that associations which engage in standards-setting may be liable for improprieties promulgated in relation to such standards that affect competition.

Self-regulation is particularly important in the professions because, to the extent that market forces do not function as effectively as in ordinary commerce, self-regulation can offer a degree of consumer protection that otherwise would be provided by competition.

The premise, and thus the promise, of professional self-regulation is that it will raise the quality or lower the cost of services in areas in which lay persons, because of a lack of sophisticated training, are not particularly able to achieve these goals.

However, the system has not functioned as envisioned. Professions have failed to one degree or another to effectively eliminate from their midst those who have abused their position. Professional discipline has become more and more the problem of state agencies and not the professions themselves.

Worse still, those who were supposed to regulate themselves in the public interest sometimes chose to regulate themselves in their own interest. Finally, as social values evolved, some self-regulatory positions that had been adopted to protect the public came to be perceived as being selfishly motivated. Restrictions on professional advertising, for example, were imposed out of a conviction that any possible informative value would be outweighed by the potential for deception.

As generally happens, the law has come to reflect the changes in society's attitudes. Where self-regulation once has been uncritically accepted, the change in the prevailing view led to the placement of limits on the process.

This is not to say that because of the application of antitrust laws and the active development by the courts in the last ten years of various theories which have nullified certain aspects of codes of conduct, such ethical codes are no longer valuable and should be abolished. Quite the contrary is true.

Codes of ethical conduct contain basic fundamental ingredients and have applications which are important to self-regulation by the professions. However, those codes must conform to the judicial guidelines laid down involving restrictions and limitations on their content, application, and enforcement.

It is still extremely important for the professions to regulate themselves and, indeed, their failure to do so may well be looked upon as equally as serious an impropriety as an over-zealous effort in self-regulation.

†Legal Counsel, American Board for Certification
in Orthotics and Prosthetics, Inc.
Coggins, Harman, Lackey and Lowe, P.A.
Silver Spring, Maryland

Clinical Prosthetics and Orthotics

Editorial Board

H. Richard Lehneis, Ph.D., CPO, **Chairman**

Charles H. Pritham, CPO, **Editor**

Dennis Clark, CPO

Charles H. Epps, Jr., MD

Joanne Klope Shamp, CPO

Tamara Sowell, RPT

Publications Staff

Charles H. Pritham, CPO, **Editor**

Christopher R. Colligan, **Managing Editor**

Sharada Gilkey, **Assistant Editor**

Clinical Prosthetics and Orthotics (ISSN 0279-6910) is published quarterly by the American Academy of Orthotists and Prosthetists, 717 Pendleton St., Alexandria, VA 22314. Second class postage paid at Alexandria, VA and additional mailing offices. POSTMASTER: Send address changes to *Clinical Prosthetics and Orthotics*, 717 Pendleton Street, Alexandria, VA 22314.

©1983 by the American Academy of Orthotists and Prosthetists. Printed in the United States of America. All rights reserved.