

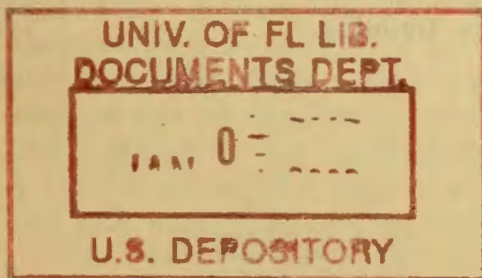
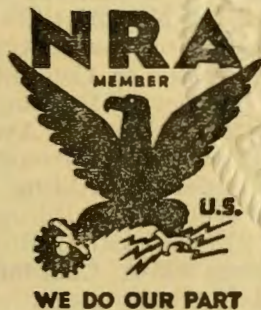
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

**DENTAL GOODS AND EQUIPMENT
INDUSTRY AND TRADE**

AS APPROVED ON JULY 13, 1934



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Approved Code No. 482

CODE OF FAIR COMPETITION

FOR THE

DENTAL GOODS AND EQUIPMENT INDUSTRY AND TRADE

As Approved on July 13, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE DENTAL GOODS AND EQUIPMENT INDUSTRY AND TRADE

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Dental Goods and Equipment Industry and Trade, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President;

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved; provided, however, that within ninety days I may direct that there be a further hearing on such of the provisions of said Code as I may designate, and that any order which I may make after such hearing shall have the effect of a condition on the approval of said Code; provided, further, that the following changes be, and the same hereby are, made:

(1) That Section 1 of Article III be, and the same hereby is amended, to read as follows:

"No employee, except as herein otherwise provided, in any store, office, department, establishment, or any automotive or horsedrawn passenger, delivery, or freight service, or in any other place or manner shall be permitted to work for more than forty (40) hours in any one week, except that for six (6) weeks in any calendar year, any such employee may be permitted to work not more than forty-eight (48) hours per week. No mechanical worker or artisan shall

be permitted to work in excess of an average of forty (40) hours per week averaged over any three (3) months period, nor more than eight (8) hours in any twenty-four (24) hour period, nor more than forty-eight (48) hours in any one (1) week, except, however, that all such mechanical workers or artisans shall be paid not less than time and one-third for all hours worked in excess of forty (40) hours in any one (1) week or eight (8) hours in any one day."

(2) That Section 3 of Article IV be, and the same hereby is amended, to read as follows:

"No messenger shall be paid at a rate less than ten dollars (\$10.00) per week and no employer shall at any one time have more than seven (7) such employees in number or five per cent (5%) of the total number of his employees, whichever is the higher, provided that no employee not working exclusively as a messenger shall be classified as such."

(3) That Section 9 (d) of Article VI be, and the same hereby is amended, to read as follows:

"It shall create as an independent agency of the Code Authority a Joint Industrial Relations Board consisting of an equal number of representatives of employers and employees, and an impartial chairman elected by the Members of the Board, to deal with all matters in the Code relating to hours, wages, and general labor provisions. The designated employees' representatives shall be truly representative of the employees of the trade and chosen by such employees. The membership of this Board shall be approved by the Administrator."

(4) That Section 10 (c) of Article VI be, and the same hereby is amended, to read as follows:

"After such budget and basis of contribution have been approved by the Administrator, to determine and secure equitable contribution as above set forth by all such members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name. Non-payment of such equitable contributions shall be in violation of this Code."

(5) That Section 11 of Article VI be, and the same hereby is amended, to read as follows:

"Only members of the Industry complying with the Code and contributing to the expenses of its administration as provided in Section 10 hereof shall be entitled to participate in the selection of the members of the Code Authority or to receive the benefit of its voluntary activities or, unless duly exempted from making such contribution, to make use of any emblem or insignia of the National Recovery Administration."

(6) That Section 7 (a) of Article VII be, and the same hereby is amended, to read as follows:

"No member of the Industry or Trade shall consign equipment except that upon bona fide order or contract approved by the Code Authority equipment may be consigned to dental colleges for demonstration purposes."

(7) That Section 13 of Article VII be, and the same hereby is amended, to read as follows:

"Rebates. No member of the Industry or Trade shall pay or allow rebates, refunds, commissions, credits or unearned discounts

other than of a legitimate nature as given in published price lists and/or discount sheets, whether in the form of money or otherwise, or extend to certain purchasers any special services or privileges not extended to all purchasers on like terms and conditions. Provided, that nothing contained herein shall be construed to alter in any way the provisions of Section 11 of this Article."

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

GEO. L. BERRY,
Division Administrator.
WASHINGTON, D.C.,
July 13, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Dental Goods and Equipment Industry and Trade, the hearing having been conducted in Washington on October 30, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

INDUSTRY BACKGROUND

The Dental Goods and Equipment Industry and Trade is organized into three associations, all of which were the sponsoring and assenting groups. The majority of the Industry and Trade is well organized into an association which has been in existence for 54 years. This organization, the American Dental Trade Association, has always upheld fair practices and adopted policies, some of which are being made the law by this Code.

HOURS AND WAGES

The Code provides a standard work week of 40 hours averaged over any three months period but prohibits working more than 48 hours in any one week. Exception is made for the mechanical workers or artisans who are to be paid not less than time and one-third for all hours worked in excess of 40 hours per week or 8 hours per day. Exceptions to the standard 40 hour week are made where a restriction of hours of highly skilled workers on continuous processes would unavoidably reduce production, and on factory emergency, maintenance, installation and repair work, provided all hours worked in excess of the standard week or standard day be paid for at the rate of time and one-third. The minimum wage rate for other than factory employees shall not be less than fifteen dollars (\$15.00) per week in any city over 500,000 population or less than fourteen dollars and fifty cents (\$14.50) per week in any city whose population is between 250,000 and 500,000 or less than twelve dollars (\$12.00) per week in any city of less than 250,000 population.

ECONOMIC EFFECT OF THE CODE

The Dental Equipment Industry and Trade employed, in 1929, approximately 9,470 persons including office employees. Approximately 8,474 were wage-earners. The decline in wage-earner employment in the Dental Trade was not as severe as in the Dental Equipment Industry from 1929 to 1931. The former was only 3.5 percent and the latter 15 percent. It is quite probable that a 40 hour week, as established by this code, will increase employment about 855 wage-earners

in the Industry and Trade. The minimum wage rate of 35 cents per hour will result in a slight increase of the average weekly wage. The business volume of the Dental Equipment Industry combined with that of the Dental Trade was about \$83,950,000 for 1929.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry and Trade normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (c) of Section 10 thereof; and that the applicant associations are industrial and trade associations truly representative of the aforesaid Industry and Trade; and that said associations impose no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

From evidence adduced during this hearing and from recommendations and reports of the various Advisory Boards it is believed that this Code as now proposed and revised represents an effective, practical, equitable solution for this Industry and Trade and for these reasons this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

JULY 13, 1934.

CODE OF FAIR COMPETITION FOR THE DENTAL GOODS AND EQUIPMENT INDUSTRY AND TRADE

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Dental Goods and Equipment Industry and Trade, and its provisions shall be the standards of fair competition for such industry and trade and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "Dental Goods and Equipment Industry and Trade", as used herein shall be deemed to include all manufacturers and dealers making and/or selling dental equipment, materials or supplies, at wholesale, except such articles governed by another approved code or codes.

2. The term "Industry", as used herein, shall be deemed to mean the manufacture of dental equipment, materials or supplies. The term "Trade", as used herein, shall be deemed to mean the selling and/or distribution of dental equipment, material or supplies, at wholesale.

3. The term "member of the industry/trade," as used herein, includes, but without limitation, any individual partnership, association, corporation or other form of enterprise engaged in the industry/trade, either as an employer or on his or its own behalf.

4. The term "employee", as used herein, includes any and all persons engaged in the industry or trade however compensated, except a member of the industry.

5. The term "employer", as used herein, includes anyone by whom any one such employee is compensated or employed.

6. The terms "Act" and "Administrator", as used herein, shall mean respectively Title I of the National Industrial Recovery Act and the Administrator for Industrial Recovery.

7. Population for purposes of this code shall be determined by reference to the latest federal Census.

ARTICLE III—HOURS

1. No employee, except as herein otherwise provided, in any store, office, department, establishment, or any automotive or horsedrawn passenger, delivery, or freight service, or in any other place or manner shall be permitted to work for more than forty (40) hours per week, averaged over any three (3) months period, nor more than forty-eight (48) hours in any one week. No mechanical worker or artisan shall be permitted to work in excess of an average of forty

(40) hours per week averaged over any three (3) months period, nor more than eight (8) hours in any twenty-four (24) hour period, nor more than forty-eight (48) hours in any one (1) week, except, however, that all such workers or artisans shall be paid not less than time and one-third for all hours worked in excess of forty (40) hours in any one (1) week or eight (8) hours in any one day.¹

2. The maximum hours fixed in the foregoing Section 1 shall not apply: (a) To employees in a managerial or executive capacity who receive more than thirty-five dollars (\$35) per week, nor to commercial travelling salesmen, nor to employees engaged principally as outside representatives on maintenance, installation, or repair work. (b) In very special cases where restriction of hours of highly skilled workers on continuous processes would unavoidably reduce production, and on factory emergency, maintenance, installation and repair work, provided, however, that at least time and one-third shall be paid such employees for hours worked in excess of forty (40) hours per week or in excess of eight (8) hours per day.

3. No watchman shall be permitted to work in excess of fifty-six (56) hours in any one week; nor more than six (6) days in any one week.

4. No employee shall be permitted to work for a total number of hours in excess of the number of hours herein prescribed whether he be employed by one or more employers.

ARTICLE IV—WAGES

1. No employee, except as herein otherwise provided, shall be paid less than at the rate of fifteen dollars (\$15.00) per week in any city over 500,000 population or in the immediate trade area of such city, or at the rate of fourteen dollars and fifty cents (\$14.50) per week in any city whose population is between 250,000 and 500,000 or in the immediate trade area of such city, or at the rate of twelve dollars (\$12.00) per week in any city of less than 250,000 population.

2. No factory worker or artisan, except those under eighteen (18) years of age or with less than six (6) months experience or employment in this Industry or Trade, shall be paid less than thirty-five cents (35¢) per hour. No factory worker or artisan under eighteen (18) years of age or with less than six (6) months experience or employment in this Industry or Trade, shall be paid less than eighty per cent (80%) of the minimum established herein, and no employer shall at any time engage more such persons receiving less than the minimum wage established herein than one (1) in number or five per cent (5%) of the total number of his employees, whichever is the higher.

3. No messenger shall be paid at a rate less than ten dollars (\$10.00) per week and no employer shall at any one time have more than seven (7) such employees in number or five per cent (5%) of the total number of his employees, whichever is the higher.²

4. This Article establishes a minimum rate of pay which shall apply irrespective of whether an employee is actually compensated on a time rate, piece work performance or other basis.

¹ Amended. See paragraph 2 (1) of order approving this Code.

² Amended. See paragraph 2 (2) of order approving this Code.

5. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

6. It is the policy of members of this Industry and Trade to refrain from reducing the compensation for employment which compensation was, prior to June 16, 1933, in excess of the minimum wage herein set forth, notwithstanding that the hours of work in such employment may be reduced; and unless since such date such adjustments have been made all members of this Industry and Trade shall endeavor to increase the pay of all employees in excess of the minimum wage as herein set forth by an equitable adjustment of all pay schedules.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the Industry and Trade, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within thirty (30) days after approval of this Code, a list of such operations or occupations. In any state an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the authority in such state empowered to issue employment or age certificates or permits showing that the employee is of the required age.

2. In compliance with Section 7 (a) of the Act it is provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

3. No employer shall reclassify employees or duties of occupations performed or engage in any subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

4. No provision of this Code shall supersede any state or federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, than are imposed by this Code.

5. No homework shall be allowed and no work shall be done or permitted in tenements, private houses, or in any unsanitary buildings, unsafe on account of fire risks.

6. All employers shall post and keep posted complete copies of the wage and hour and general labor provisions of this Code in conspicuous places accessible to employees.

7. Each employer shall provide for the safety and health of employees during the hours and at the places of their employment.

Standards for safety and health shall be submitted by the Code Authority to the Administrator within six (6) months after the effective date of the code.

ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

1. A Code Authority is hereby established to cooperate with the Administrator in the administration of this Code and shall consist of eight (8) members, or such other number as may be approved from time to time by the Administrator, to be chosen by the following trade groups through a fair method of selection approved by the Administrator:

Four members by the American Dental Trade Association

Two members by the Dental Manufacturers of America

One member by the Dental Dealers of America

One member by those members of the Industry or Trade who are not members of any of the above associations

The Administrator in his discretion may appoint not more than three additional members without vote and without compensation from the industry, to serve for such period of time and to represent the Administrator or such group or groups as he may designate.

2. *Sub-Code Authorities.*—Groups of members of the Industry or Trade manufacturing and/or selling a particular product or products having common interests and problems, may be grouped into product or trade subdivisions by the Code Authority for administrative purposes. For each such product subdivision there may be a Sub-Code Authority approved or appointed by the Code Authority to cooperate with the Code Authority in the administration and enforcement of the Code and/or to cooperate in the administration and enforcement of a supplementary Code or Codes applying to such product subdivision or part thereof.

3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall impose no inequitable restrictions on membership, and shall submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

4. In order that the Code Authority shall at all times be truly representative of the Industry and Trade and in all other respects comply with the provision of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, he may take such action as he may deem necessary under the circumstances.

5. Any member of the Industry or Trade shall be eligible for membership in any trade association or organized group participating in the activities of the Code Authority upon compliance with the provisions of the by-laws relating to membership, provided that any person applying for such membership shall, in addition to the payment of such dues as are imposed upon and paid by all other

members, accept a reasonable and equitable share of the cost of Code administration.

6. Each member of the Industry and Trade shall, within fifteen (15) days after the approval of the Code Authority, file with the Code Authority a complete list of all products offered for sale, together with his prices, discounts and terms to all classes of customers. Modifications or amendments in such price lists and/or discounts may be filed by any such member at any time to become effective immediately upon filing with the Code Authority. The Code Authority shall make such information available to all members of the Industry and trade or to any other interested party.

7. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful mis-feasance or non-feasance.

8. If the Administrator shall determine that any action of a Code Authority or any agency thereof may be unfair or unjust or contrary to public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action, which shall not be effective unless the Administrator approves, or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

9. The Code Authority shall have the following duties and powers:

(a) To administer the provisions of this Code, provide for the compliance of the Industry and Trade with the provisions of the Act, and to propose and submit to the Administrator its recommendations, amendments and/or modifications of this Code, which shall become effective as a part thereof upon approval by the Administrator after such notice and hearing as he may specify.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To review all questions or disputes arising under this Code; receive complaints of violations of this Code, make investigation thereof, provide hearings thereon, adjust such complaints, and refer unadjusted violations to the Administrator with a report and recommendations for appropriate action.

(d) It shall create as an agency of the Code Authority a Joint Industrial Relations Board consisting of an equal number of representatives of employers and employees, and an impartial chairman elected by the Members of the Board, to deal with all matters in the Code relating to Hours, Wages, and general labor provisions. The designated employees representatives shall be truly representative of the employees of the trade and chosen by such employees.³

(e) To obtain from members of the Industry and Trade such information and reports as are required for the administration of the

³ Amended. See paragraph 2 (3) of order approving this Code.

Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the Industry or Trade of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any member of this Industry or Trade or any other party except to such governmental agencies as may be directed by the Administrator.

(f) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(g) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to the Industry and Trade.

(h) To recommend to the Administrator further fair trade practice provisions to govern members of the Industry and Trade in their relations with each other or with other industries and trades and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

10. It being found necessary, in order to support the administration of this Code and to maintain the standards of fair competition established by this Code and to effectuate the policy of the Act, the Code Authority is authorized, subject to the approval of the Administrator:

(a) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

(b) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary, (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Industry;

(c) After such budget and basis of contribution have been approved by the Administrator, to determine and secure equitable contribution as above set forth by all such members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.⁴

11. Only members of the Industry complying with the Code and contributing to the expenses of its administration as provided in Section 10 hereof shall be entitled to participate in the selection of the members of the Code Authority or to receive the benefit of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.⁵

⁴Amended. See paragraph 2 (4) of order approving this Code.

⁵Amended. See paragraph 2 (5) of order approving this Code.

ARTICLE VII—UNFAIR COMPETITION

The following practices constitute unfair methods of competition for the Industry and Trade and are prohibited:

SECTION 1. *Cost*.—No member of this Industry or Trade shall sell any products of the Industry or Trade below his individual cost as determined by an adequate method of cost finding containing the principal elements of cost and capable of uniform application within the Industry and Trade, when such method shall be formulated by the Code Authority and approved by the Administrator; provided, however, that any member of the Industry or Trade may sell below his individual cost to meet bona fide competition in any specific instance if he first notifies the Code Authority of his intention to sell below his cost, and states the name and address of the competitor; and provided further that equipment which has been on display for six (6) months or longer and is in such condition that it cannot be sold as new equipment, may be sold at a discount not greater than ten per cent (10%) of the current list price, f.o.b. location, and in such cases a description and the serial numbers of such equipment shall be filed with the Code Authority. All stocks of discontinued models of dental equipment shall be excepted from the application of the cost provision of this section if there shall be filed with the Code Authority a list of such equipment stating the quantity, original list price, serial numbers and the list price at which such equipment will be offered for sale. Reports shall thereafter be filed with the Code Authority every ninety (90) days showing the sales, if any, of such equipment during the preceding ninety (90) day period.

SECTION 2. *Discounts*.—No member of the Trade shall give any discounts for cash on sales of less than one hundred dollars (\$100.00), nor in excess of two per cent (2%) for cash on sales of one hundred dollars (\$100.00) or more, where delivery is made at one time or on deposit accounts of one hundred dollars (\$100.00) or more.

SECTION 3. *Dating*.—(a) No member of the Industry or Trade shall date more than five (5) days beyond or before date of delivery any invoice in connection with the sale of any equipment, materials or supplies.

(b) In order to prevent direct or indirect evasion of subsection (a) of this Section 3, no member of the Industry or Trade shall ship equipment which has been sold on conditional sales contract until the full initial payment has been made.

SECTION 4. *Returned Goods*.—No member of the Industry or Trade shall accept goods returned for credit except in accordance with the established rules of the manufacturer shown in his price list on file with the Code Authority, provided, however, that nothing contained in this section shall be construed to deprive any buyer of any right which may exist by law to return merchandise which is defective or which in some other respect fails to conform to the agreement of sale.

SECTION 5. *Special Allowances*.—No member of the Industry or Trade shall give special allowances or special discounts as between purchasers to induce any purchaser to give preference to a given seller, or products, or by purchase or substitution of stock for that

of a competitor; or allow above scrap market prices for precious metals, or give special allowances on merchandise sold or supplied in exchange therefor.

SECTION 6. *Equipment Allowance*.—No member of the Industry or Trade shall give larger allowances on used equipment in connection with the sale of new equipment than the reasonable market value of such used equipment. The Code Authority with the approval of the Administrator shall from time to time adopt uniform appraisal schedules for used equipment based upon the reasonable market value of such used equipment and such schedules when so approved shall constitute prima facie evidence of reasonable market value. In any case where allowances are made in excess of such appraisal schedules the member allowing same shall immediately furnish the Code Authority with full and complete details regarding such allowance and give reasons therefor, and if the Code Authority shall find that any such allowance is in excess of the reasonable market value, it may refer the same to the Administrator for appropriate action.

SECTION 7. *Consignment or Trial*.—

(a) No member of the Industry or Trade shall consign equipment except that upon bona fide order or contract approved by the Code Authority or the Administrator, equipment may be consigned to dental colleges for demonstration purposes.⁶

(b) No member of the Industry or Trade shall place equipment on trial.

(c) No member of the Industry or Trade shall consign stocks of precious metals for use in dentistry.

(d) No member of the Industry or Trade shall consign any dental materials or supplies to any dentist, laboratory or college.

SECTION 8. *Guarantees*.—No member of the Industry or Trade shall guarantee any product against inherent defects in workmanship or materials for any period longer than one year.

SECTION 9. *False Marking and Branding*.—No member of the Industry or Trade shall falsely mark or brand any product of the Industry in a manner which is intended to or does have the tendency to mislead or deceive customers or prospective customers whether as to grade, quality, quantity, substance, character, nature, origin, size, finish or preparation of any products of the Industry.

SECTION 10. *Misrepresentation or False or Misleading Advertising*.—No member of the Industry or Trade shall make or cause or knowingly permit to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish or preparation of any products of the Industry or the credit terms, values, policies or services of any member of the Industry or Trade or otherwise having the tendency or capacity to mislead or deceive customers or prospective customers.

SECTION 11. *Commercial Bribery*.—No member of the Industry or Trade shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the

⁶ Amended. See paragraph 2 (6) of order approving this Code.

business of the employer of such employee, the principal of such agent, or the represented party, without the knowledge of such employer, principal or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

SECTION 12. *Interference with Contractual Relations.*—No member of the Industry or Trade shall maliciously induce or attempt to induce the breach of an existing oral or written contract between a competitor and his customer or source of supply or interfere with or obstruct the performance of any such contractual duties or services.

SECTION 13. *Rebates.*—No member of the Industry or Trade shall pay or allow rebates, refunds, commissions, credits or unearned discounts, whether in the form of money or otherwise, or extend to certain purchasers any special services or privileges not extended to all purchasers on like terms and conditions. Provided, that nothing contained herein shall be construed to alter in any way the provisions of Section 11 of this Article.⁷

SECTION 14. *Giving of Prizes, Premiums or Gifts.*—No member of the Industry or Trade shall give or offer to give any prizes, premiums or gifts in connection with the sale of products of this Industry or as an inducement thereto, or by any scheme which involves lottery, misrepresentation or fraud; provided, however, that nothing contained herein shall be construed to alter in any way the provisions of Section 11 of this Article.

SECTION 15. *Definition.*—No member of the Industry or Trade shall cause the defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing or by other false representations or false disparagement of the grade or quality of their goods.

SECTION 16. *Threats of Litigation.*—No member of the Industry or Trade shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers. Failure to prosecute in due course shall be evidence that any such threat is unwarranted or unjustified.

SECTION 17. *Espionage of Competitors.*—No member of the Industry or Trade shall secure confidential information concerning the business of competitors by a false or misleading statement or representation or by false impersonation of one in authority or by bribery or by any other unfair method.

SECTION 18. *Advertising.*—No member of the Industry or Trade shall use or attempt to use coercion or undue influence to prevent any publisher of dental periodicals from accepting advertisements from any other member of the Industry or Trade.

SECTION 19. *Equipment Sales Contracts.*—(a) No member of the Industry or Trade shall sell any equipment of the industry without requiring to be paid in advance an initial cash payment of not less than twenty-five per cent (25%) of the amount of the contract price or in the case of the sale of new X-ray machines and tubes, an initial cash payment of not less than one hun-

⁷ Amended. See paragraph 2 (7) of order approving this Code.

dred dollars (\$100.00); provided that if second hand equipment is accepted as part of the initial payment, a cash payment of not less than fifteen per cent (15%) of the contract price must also be obtained so that together with the allowance made on the second hand equipment, such total shall equal or exceed twenty-five per cent (25%) of the contract price. The minimum cash payment on new X-ray machines shall be one Hundred dollars (\$100.00) regardless of whether or not second hand equipment is accepted. The minimum cash payment on used X-ray machines with used X-ray tubes shall be not less than ten per cent (10%) of the cost thereof.

(b) No member of the Industry or Trade shall sell any equipment of the Industry as set forth in Subsection (a) of this Section on a deferred payment contract without adding to such contract a charge at the rate of six per cent (6%) per year on the full amount of the unpaid balance to cover interest, insurance, and financing charges and to be added to the contract and distributed equally over the deferred payments for the period of the contract, provided, however, that nothing contained herein shall be so applied as to violate any applicable state or federal law relating to proper interest or other legal charges for such contract.

(c) No member of the Industry or Trade shall sell any equipment of the Industry on an installment contract basis to run for a period longer than thirty-six (36) months, nor shall any member accept monthly payments under such contracts with any one buyer of less than ten dollars (\$10.00), except with the approval of the Code Authority.

(d) No member of the Industry or Trade shall include in equipment contracts any sundry merchandise having a sale price of more than ten per cent (10%) of the amount of such equipment contract, nor in any event more than one hundred seventy-five dollars (\$175.00).

(e) No member of the Industry or Trade shall enter into any supplemental installment contracts with a customer who is already under contract with the same member unless such supplemental contract shall provide for an initial cash payment of not less than twenty-five per cent (25%) of the amount of the contract price and for a charge at the rate of six per cent (6%) per year on the full amount of the unpaid balance to cover interest, insurance and financing charges, and to be added to the contract and distributed equally over the deferred payments for the period of the contract, provided, however, that nothing contained herein shall be so applied as to violate any applicable state or federal law relating to proper interest or other legal charges for such contracts. The minimum monthly payment on any such supplemental contract shall be five dollars (\$5.00).

(f) All members of the Industry and Trade shall make an interest charge of at least six per cent (6%) on deferred payments if not paid at maturity, provided, however, that nothing contained herein shall be so applied as to violate any applicable state or federal law relating to proper interest or other legal charges for such contracts.

SECTION 20. No member of the Industry or Trade shall sell any product of the Industry at prices less or discounts greater or on terms more favorable than those currently filed by such member with the Code Authority.

SECTION 21. No member of the Trade selling a volume of products of the Industry on a deferred payment basis, shall extend terms longer than ten (10) months nor in any case accept monthly payments of less than ten dollars (\$10.00) except with the approval of the Code Authority.

SECTION 22. Nothing in this Code shall limit the effect of any adjudication by the courts or holding by the Federal Trade Commission on complaint, finding and order that any practice or method is unfair, provided that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

ARTICLE VIII—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

SECTION 2. This Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modifications or amendments to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become affective on approval of the President, unless otherwise provided.

ARTICLE IX—MONOPOLIES, ETC.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE X—EFFECTIVE DATE

This Code shall become effective on the first Monday after its approval by the President.

Approved Code No. 482.

Registry No. 1617-11.



