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American Dental Association

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American Dental Association
Council on Ethics, Bylaws and Judicial Affairs
211 East Chicago Avenue
Chicago, Illinois 60611

With official advisory opinions
revised to January 1987

ADA

*T*he ethical statements which have historically been subscribed to by the dental profession have had the benefit of the patient as their primary goal. Recognition of this goal, and of the education and training of a dentist, has resulted in society affording to the profession the privilege and obligation of self-government. The Association calls upon members of the profession to be caring and fair in their contact with patients. Although the structure of society may change, the overriding obligation of the dentist will always remain the duty to provide quality care in a competent and timely manner. All members must protect and preserve the high standards of oral health care provided to the public by the profession. They must strive to improve the care delivered—through education, training, research and, most of all, adherence to a stringent code of ethics, structured to meet the needs of the patient.

Principle—Section 1

SERVICE TO THE PUBLIC AND QUALITY OF CARE.

The dentist's primary professional obligation shall be service to the public. The competent and timely delivery of quality care within the bounds of the clinical circumstances presented by the patient, with due consideration being given to the needs and desires of the patient, shall be the most important aspect of that obligation.

Code of Professional Conduct

1-A. PATIENT SELECTION.

While dentists, in serving the public, may exercise reasonable discretion in selecting patients for their practices, dentists shall not refuse to accept patients into their practice or deny dental service to patients because of the patient's race, creed, color, sex, or national origin.

1-B. PATIENT RECORDS.

Dentists are obliged to safeguard the confidentiality of patient records. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of a patient or another dental practitioner, dentists shall provide any information that will be beneficial for the future treatment of that patient.

Advisory Opinion

1. A dentist has the ethical obligation on request of either the patient or the patient's new dentist to furnish, either gratuitously or for nominal cost, such dental records or copies or summaries of them, including dental X-rays or copies of them, as will be beneficial for the future treatment of that patient.

1-C. COMMUNITY SERVICE.

Since dentists have an obligation to use their skills, knowledge, and experience for the improvement of the dental health of the public and are encouraged to be leaders in their community, dentists in such service shall conduct themselves in such a manner as to maintain or elevate the esteem of the profession.

1-D. EMERGENCY SERVICE.

Dentists shall be obliged to make reasonable arrangements for the emergency care of their patients of record.

Dentists shall be obliged when consulted in an emergency by patients not of record to make reasonable

arrangements for emergency care. If treatment is provided, the dentist, upon completion of such treatment, is obliged to return the patient to his or her regular dentist unless the patient expressly reveals a different preference.

1-E. CONSULTATION AND REFERRAL.

Dentists shall be obliged to seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those who have special skills, knowledge, and experience. When patients visit or are referred to specialists or consulting dentists for consultation:

1. The specialists or consulting dentists upon completion of their care shall return the patient, unless the patient expressly reveals a different preference, to the referring dentist, or if none, to the dentist of record for future care.
2. The specialists shall be obliged when there is no referring dentist and upon a completion of their treatment to inform patients when there is a need for further dental care.
3. A dentist who has a patient referred by a third party for a "second opinion" regarding a diagnosis or treatment plan recommended by the patient's treating dentist should render the requested second opinion in accordance with this Code of Ethics.

In the interest of the patient being afforded quality care, the dentist rendering the second opinion should not have a vested interest in the ensuing recommendation.

1-F. USE OF AUXILIARY PERSONNEL.

Dentists shall be obliged to protect the health of their patient by only assigning to qualified auxiliaries those duties which can be legally delegated. Dentists shall be further obliged to prescribe and supervise the work of all auxiliary personnel working under their direction and control.

1-G. JUSTIFIABLE CRITICISM.

Dentists shall be obliged to report to the appropriate reviewing agency as determined by the local component or constituent society instances of gross or continual faulty treatment by other dentists.

Patients should be informed of their present oral health status without disparaging comment about prior services.

Dentists issuing a public statement with respect to the profession shall have a reasonable basis to believe that the comments made are true.

Advisory Opinion

1. A dentist's duty to the public imposes a responsibility to report instances of gross or continual faulty treatment. However, the heading of this section is "Justifiable Criticism." Therefore, when informing a patient of the status of his or her oral health, the dentist should exercise care that the comments made are justifiable. For example, a difference of opinion as to preferred treatment should not be communicated to the patient in a manner which would imply mistreatment. There will necessarily be cases where it will be difficult to determine whether the comments made are justifiable.

Therefore, this section is phrased to address the discretion of dentists and advises against disparaging statements against another dentist. However, it should be noted that where comments are made which are obviously not supportable and therefore unjustified, such comments can be the basis for the institution of a disciplinary proceeding against the dentist making such statements.

1-H. EXPERT TESTIMONY.

Dentists may provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.

1-I. REBATE AND SPLIT FEES.

Dentists shall not accept or tender "rebates" or "split fees."

1-J. REPRESENTATION OF CARE AND FEES.

Dentists shall not represent the care being rendered to their patients or the fees being charged for providing such care in a false or misleading manner.

Advisory Opinions

1. A dentist who accepts a third party* payment under a copayment plan as payment in full without disclosing to the third party* payer that the patient's payment portion will not be collected, is engaged in overbilling. The essence of this ethical impropriety is deception and misrepresentation; an overbilling dentist makes it appear to the third party* payer that the charge to the patient for services rendered is higher than it actually is.

2. It is unethical for a dentist to increase a fee to a patient solely because the patient has insurance.

3. Payments accepted by a dentist under a governmentally funded program, a component or constituent dental society sponsored access program, or a participating agreement entered into under a program of a third party* shall not be considered as evidence of overbilling in determining whether a charge to a patient, or to another third party* in behalf of a patient not covered under any of the aforementioned programs constitutes overbilling under this section of the Code.

4. A dentist who submits a claim form to a third party* reporting incorrect treatment dates for the purpose of assisting a patient in obtaining benefits under a dental plan, which benefits would otherwise be disallowed, is engaged in making an unethical, false, or misleading representation to such third party.*

5. A dentist who incorrectly describes on a third party* claim form a dental procedure in order to receive a greater payment or reimbursement or incorrectly makes a non-covered procedure appear to be a covered procedure on such a claim form is engaged in making an unethical, false, or misleading representation to such third party.*

6. A dentist who recommends and performs unnecessary dental services or procedures is engaged in unethical conduct.

*A third party is any party to a dental prepayment contract that may collect premiums, assume financial risks, pay claims, and/or provide administrative services.

Principle—Section 2

EDUCATION.

The privilege of dentists to be accorded professional status rests primarily in the knowledge, skill, and experience with which they serve their patients and society. All dentists, therefore, have the obligation of keeping their knowledge and skill current.

Principle—Section 3

GOVERNMENT OF A PROFESSION.

Every profession owes society the responsibility to regulate itself. Such regulation is achieved largely through the influence of the professional societies. All dentists, therefore, have the dual obligation of making themselves a part of a professional society and of observing its rules of ethics.

Principle—Section 4

RESEARCH AND DEVELOPMENT.

Dentists have the obligation of making the results and benefits of their investigative efforts available to all when they are useful in safeguarding or promoting the health of the public.

Code of Professional Conduct

4-A. DEVICES AND THERAPEUTIC METHODS.

Except for formal investigative studies, dentists shall be obliged to prescribe, dispense, or promote only those devices, drugs, and other agents whose complete formulae are available to the dental profession. Dentists shall have the further obligation of not holding out as exclusive any device, agent, method, or technique.

4-B. PATENTS AND COPYRIGHTS.

Patents and copyrights may be secured by dentists provided that such patents and copyrights shall not be used to restrict research or practice.

Principle—Section 5

PROFESSIONAL ANNOUNCEMENT.

In order to properly serve the public, dentists should represent themselves in a manner that contributes to the esteem of the profession. Dentists should not misrepresent their training and competence in any way that would be false or misleading in any material respect.*

Code of Professional Conduct

5-A. ADVERTISING.

Although any dentist may advertise, no dentist shall advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect.*

Advisory Opinions

1. If a dental health article, message, or newsletter is published under a dentist's byline to the public without making truthful disclosure of the source and authorship or is designed to give rise to questionable expectations for the purpose of inducing the public to utilize the services of the sponsoring dentist, the dentist is engaged in making a false or misleading representation to the public in a material respect.

2. The Council on Ethics, Bylaws and Judicial Affairs believes it would be of service to the members to provide some insight into the meaning of the term "false or misleading in a material respect." Therefore, the following examples are set forth. These examples are not meant to be all-inclusive. Rather by restating the concept in alternative language and giving general examples, it is hoped that the membership will gain a better understanding of the term. With this in mind, statements shall be avoided which would: a) contain a material misrepresentation of fact, b) omit a fact necessary to make the statement considered as a whole not materially misleading, c) contain a representation or implication regarding the quality of dental services which would suggest unique or general superiority to other practitioners which are not susceptible to reasonable verification by the public, and d) be intended or be likely to create an unjustified expectation about results the dentist can achieve.

3. The use of an unearned or nonhealth degree in any general announcements to the public by a dentist may be a representation to the public which is false or misleading in a material respect. A dentist may use the title Doctor, Dentist, DDS, or DMD, or any additional earned advanced degrees in health service areas. The use of unearned or nonhealth degrees could be misleading because of the likelihood that it will indicate to the public the attainment of a specialty or diplomate status. It may also suggest that the dentist using such is claiming superior dental skills.

For purposes of this advisory opinion, an unearned academic degree is one which is awarded by an educational institution not accredited by a generally recognized accrediting body or is an honorary degree. Generally, the use of honorary degrees or nonhealth degrees should be limited to scientific papers and curriculum vitae. In all instances state law should be consulted. In any review by the council of the use of nonhealth degrees or honorary degrees, the council will apply the standard of whether the use of such is false or misleading in a material respect.

4. A dentist using the attainment of a fellowship in a direct advertisement to the general public may be making a representation to the public which is false or misleading in a material respect. Such use of a fellowship status may be misleading because of the likelihood that it will indicate to the dental consumer the attainment of a specialty status. It may also suggest that the dentist using such is claiming superior dental skills. However,

when such use does not conflict with state law, the attainment of fellowship status may be indicated in scientific papers, curriculum vitae, third party payment forms, and letterhead and stationery which is not used for the direct solicitation of patients. In any review by the council of the use of the attainment of fellowship status, the council will apply the standard of whether the use of such is false or misleading in a material respect.

5. There are two basic types of referral services for dental care: not-for-profit and the commercial.

The not-for-profit is commonly organized by dental societies or community services. It is open to all qualified practitioners in the area served. A fee is sometimes charged the practitioner to be listed with the service. A fee for such referral services is for the purpose of covering the expenses of the service and has no relation to the number of patients referred.

In contrast, experience has shown that commercial referral services generally limit access to the referral service to one dentist in a particular geographic area. Prospective patients calling the service are referred to the single subscribing dentist in the geographic area and the respective dentist is commonly billed for each patient referred. Commercial referral services often advertise to the public stressing that there is no charge for use of the service and the patient is not informed of the referral fee paid by the dentist. There is a connotation to such advertisements that the referral that is being made is in the nature of a public service.

A dentist is allowed to pay for any advertising permitted by the Code, but is generally not permitted to make payments to another person or entity for the referral of a patient for professional services. While the particular facts and circumstances relating to an individual commercial referral service will vary, the council believes that the aspects outlined above for commercial referral services violate the Code in that it constitutes advertising which is false or misleading in a material respect and violate the prohibitions in the Code against fee splitting.

5-B. NAME OF PRACTICE.

Since the name under which a dentist conducts his practice may be a factor in the selection process of the patient, the use of a trade name or an assumed name that is false or misleading in any material respect is unethical.

Use of the name of a dentist no longer actively associated with the practice may be continued for a period not to exceed one year.*

5-C. ANNOUNCEMENT OF SPECIALIZATION AND LIMITATION OF PRACTICE.

This section and Section 5-D are designed to help the public make an informed selection between the practitioner who has completed an accredited program beyond the dental degree and a practitioner who has not completed such a program.

The special areas of dental practice approved by the American Dental Association and the designation for ethical specialty announcement and limitation of practice are: dental public health, endodontics, oral pathology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, and prosthodontics.

Dentists who choose to announce specialization should use "specialist in" or "practice limited to" and shall limit their practice exclusively to the announced special area(s) of dental practice, provided at the time of the announcement such dentists have met in each approved specialty for which they announce the existing educational requirements and standards set forth by the American Dental Association.

Dentists who use their eligibility to announce as specialists to make the public believe that specialty services rendered in the dental office are being rendered by qualified specialists when such is not the case are engaged in unethical conduct. The burden of responsibility is on specialists to avoid any inference that general practitioners who are associated with specialists are qualified to announce themselves as specialists.

GENERAL STANDARDS.

The following are included within the standards of the American Dental Association for determining the education, experience, and other appropriate requirements for announcing specialization and limitation of practice:

1. The special area(s) of dental practice and an appropriate certifying board must be approved by the American Dental Association.
2. Dentists who announce as specialists must have successfully completed an educational program accredited by the Commission on Dental Accreditation, two or more years in length, as specified by the Council on Dental Education, or be diplomates of an American Dental Association recognized certifying board. The scope of the individual specialist's practice shall be governed by the educational standards for the specialty in which the specialist is announcing.

3. The practice carried on by dentists who announce as specialists shall be limited exclusively to the special area(s) of dental practices announced by the dentist.

STANDARDS FOR MULTIPLE-SPECIALTY ANNOUNCEMENTS.

Educational criteria for announcement by dentists in additional recognized specialty areas are the successful completion of an educational program accredited by the Commission on Dental Accreditation in each area for which the dentist wishes to announce.

Dentists who completed their advanced education in programs listed by the Council on Dental Education prior to the initiation of the accreditation process in 1967 and who are currently ethically announcing as specialists in a recognized area may announce in additional areas provided they are educationally qualified or are certified diplomates in each area for which they wish to announce. Documentation of successful completion of the educational program(s) must be submitted to the appropriate constituent society. The documentation must assure that the duration of the program(s) is a minimum of two years except for oral and maxillofacial surgery which must have been a minimum of three years in duration.*

Advisory Opinion

1. A dentist who announces in any means of communication with patients or the general public that he or she is certified or a diplomate in an area of dentistry not recognized by the American Dental Association or the law of the jurisdiction where the dentist practices as a specialty area of dentistry is engaged in making a false or misleading representation to the public in a material respect.

5-D. GENERAL PRACTITIONER ANNOUNCEMENT OF SERVICES.

General dentists who wish to announce the services available in their practices are permitted to announce the availability of those services so long as they avoid any communications that express or imply specialization. General dentists shall also state that the services are being provided by general dentists. No dentist shall announce available services in any way that would be false or misleading in any material respect.*

*Advertising, solicitation of patients or business, or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Notwithstanding any ADA *Principles of Ethics and Code of Professional Conduct* or other standards of dentist conduct which may be differently worded, this shall be the sole standard for determining the ethical propriety of such promotional activities. Any provision of an ADA constituent or component society's code of ethics or other standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above standard shall be deemed to be in conflict with the ADA *Principles of Ethics and Code of Professional Conduct*.

Interpretation and Application of 'Principles of Ethics and Code of Professional Conduct'

The preceding statements constitute the *Principles of Ethics and Code of Professional Conduct* of the American Dental Association. The purpose of the *Principles and Code* is to uphold and strengthen dentistry as a member of the learned professions. The constituent and component societies may adopt additional provisions or interpretations not in conflict with these *Principles of Ethics and Code of Professional Conduct* which would enable them to serve more faithfully the traditions, customs, and desires of the members of these societies.

Problems involving questions of ethics should be solved at the local level within the broad boundaries established in these *Principles of Ethics and Code of Professional Conduct* and within the interpretation by the component and/or constituent society of their respective codes of ethics. If a satisfactory decision cannot be reached, the question should be referred on appeal to the constituent society and the Council on Ethics, Bylaws and Judicial Affairs of the American Dental Association, as provided in Chapter XI of the *Bylaws* of the American Dental Association. Members found guilty of unethical conduct as prescribed in the American Dental Association *Code of Professional Conduct* or codes of ethics of the constituent and component societies are subject to the penalties set forth in Chapter XI of the American Dental Association *Bylaws*.