

New York State Dental Association

The Principles of **Ethics** *and* Code of
Professional Conduct *of*
The New York State Dental Association



Introduction

The practice of dentistry was established as a profession with one overriding principle in mind: the benefit of the patient. This is the cornerstone of dental ethics. This philosophy is the foundation of The Principles of Ethics and Code of Professional Conduct of the New York State Dental Association. All members should make the Principles and Code an important part of the very fabric of their practices.

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Table of Contents

PREAMBLE	4
I. PRINCIPLE – SERVICE TO THE PUBLIC AND QUALITY OF CARE	4
1-A. Patient Selection	4
1-B. Patient Records.....	5
1-C. Community Service	5
1-D. Emergency Service.....	6
1-E. Consultation and Referral	7
1-F. Auxiliary Personnel	7
1-G. Justifiable Criticism.....	8
1-H. Expert Testimony.....	9
1-I. Rebates and Split Fees	9
1-J. Representation of Care and Fees	9
1-K. Patient Consent and Involvement	10
1-L. Patient Abandonment	11
1-M. Personal Relationships with Patients.....	11
1-N. Ethical Conduct and the Internet.....	11
II. PRINCIPLE – EDUCATION	11
III. PRINCIPLE – GOVERNMENT OF A PROFESSION	12
IV. PRINCIPLE – RESEARCH AND DEVELOPMENT; PATENTS AND COPYRIGHTS	12
4-A. Devices and Therapeutic Methods	12
4-B. Patents and Copyrights	12
V. PRINCIPLE – PROFESSIONAL ANNOUNCEMENT	13
5-A. Advertising.....	13
5-B. Name of Practice	15
5-C. Announcement of Specialization and Limitations of Practice	16
5-D. General Practitioner Announcement of Services	16
5-E. Use of Specialty-Related Terms	17
VI. PRINCIPLE – JUDICIAL PROCEDURE	17
ADDENDUM	18

Principles of Ethics and Code of Professional Conduct

PREAMBLE

In order to provide guidance in matter of ethics to the members of the New York State Dental Association, the following Principles and Code have been adopted.

The New York State Dental Association has the right and the obligation to regulate itself and to discipline its members. Every member of this Association shall be bound by the laws of the land, the Principles of Ethics and Code of Professional Conduct of the American Dental Association, the Principles of Ethics and Code of Professional Conduct of the New York State Dental Association and the code of ethics of the component society of which the dentist is a member or in which the dentist practices.

A component society may adopt interpretations in its code of ethics not in conflict with and not less stringent than this Code or that of the American Dental Association.

Principle Section One

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 care with due consideration for the needs and desires of the patient, shall be the most important aspect of that obligation.

Code of Professional Conduct

- 1-A. Patient Selection. In serving the public, a dentist may exercise reasonable discretion in selecting patients for the dentist's practice. However, the dentist may not deny dental care to an individual based on any illegal discriminatory reason under local, state or federal law.

Advisory Opinion

1. *Dentists should strive to make their services accessible to those who are in need.*

- 1-B. Patient Records. Patients are entitled to copies of their records. On receipt of a patient's request, a dentist must provide the patient with copies of all pertinent records including radiographs, except as otherwise provided by state law. The confidentiality of patient records must be maintained.

Advisory Opinions

1. *Copies of records shall be provided by dentists to patients within a reasonable time, not to exceed ten days from the date of a patient's written request.*
2. *A dentist shall not withhold copies of records from patients based on the patient owing any balance to the dentist or the patient not paying any copying charges. A dentist may charge a fee for copying patient records, but shall not charge more than the state law allows.*
3. *Dentists shall honor the patient's written request for records to be sent to a third party.*
4. *It is unethical for an employing dentist to deliberately withhold information as to the whereabouts of a treating dentist who has left employment.*

- 1-C. Community Service. Dentists have an obligation to use their skill, knowledge, and experience for improvement of the dental health of the public and are encouraged to be leaders in their community. In this service they shall conduct themselves in such a manner as to maintain or elevate the esteem of the profession.

Advisory Opinions

- 1. A dentist may properly participate in media programs on health education provided such programs are in keeping with the dignity and custom of the profession in the community.*
- 2. It is unethical to represent one's views as those of the Dental Association or as those of the majority of dentists in the community without being able to substantiate such claims.*
- 3. If a dentist publishes any dental health material under the dentist's by-line without disclosing the true source and authorship of this material, the dentist is making false or misleading representation to the public.*
- 4. Dentists are encouraged to participate in school or community-based programs that promote dental health education.*

1-D. Emergency Service. Dentists shall be obligated to make reasonable arrangements for the timely emergency care of their patients by a licensed dentist. Dentists are obligated, when consulted in an emergency by persons who are not their patients, to recommend reasonable arrangements for emergency care. Should a dentist undertake emergency treatment of a new patient, the patient will have the choice of where to receive subsequent dental care.

Advisory Opinions

- 1. It is unethical for a dentist to use an answering service to refer an emergent patient to an emergency room without the dentist consultation with the patient.*
- 2. It is unethical for a dentist to refer an emergent patient to another dentist without the other dentist's knowledge.*
- 3. It is unethical to use undue influence or intimidation to solicit patients.*

- 1-E. Consultation and Referral. The dentist has the obligation of seeking consultation with those who have special skills, knowledge and experience whenever the welfare of the patient would be safeguarded or advanced by having such consultation.

Advisory Opinions

1. *Having completed the examination, diagnosis and/or treatment for a referred patient, the specialist, consultant, or other dentist shall communicate the appropriate information to the referring dentist and dentist of record. The dentist, upon completion of such care, must leave the patient with full choice as to future place of treatment. The requirements for patient confidentiality defined in Section 1-B apply.*
 2. *The specialist, consultant, or other dentist shall be obliged, when there is no referring dentist, and upon completion of treatment, to inform the patient if there is a need for further dental care.*
- 1-F. Auxiliary Personnel. Dentists, having the obligation of protecting the patient health, shall assign only those duties which can be legally delegated, as specified in New York statutes and regulations relating to dentistry, dental hygiene and registered dental assisting. Dentists shall prescribe and supervise the work of their auxiliaries.

Advisory Opinions

1. *Dentists are responsible for all work performed by auxiliaries in their dental offices and are responsible for ensuring that all auxiliaries receive adequate and appropriate training for the functions they carry out.*
2. *Dentists are responsible for ensuring that the correct degree of supervision, either general supervision or direct personal supervision, is provided by the dentist to all auxiliaries in the dental office. It is unethical to provide supervision only by telephone.*

1-G. Justifiable Criticism. Patients are dependent on the expertise of dentists to know their oral health status. Therefore, when informing patients of the status of their oral health, the dentist should exercise care that the comments made are truthful, informed and justifiable. This may involve consultation with the previous treating dentist(s), in accordance with applicable law, to determine under what circumstances and conditions the treatment was performed. A difference of opinion as to preferred treatment should not be communicated to the patient in a manner which would unjustly 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 discretion of dentists and advises against unknowing or unjustifiable disparaging statements against another dentist. However, it should be noted that, where comments are made which are not supportable and therefore unjustified, such comments can be the basis for the institution of a disciplinary proceeding against the dentist making such statements.

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

Advisory Opinions

- 1. Patients shall be informed of their present oral health status without disparaging comments about prior services.*
- 2. It is unethical for a dentist to practice while abusing controlled substances, alcohol or other chemical agents which impair the ability to practice. All dentists have an ethical obligation to urge impaired colleagues to seek treatment. Dentists with first-hand knowledge that a colleague is practicing dentistry when so impaired have an ethical responsibility to report such evidence to the NYSDA Committee on Substance Abuse and Well Being.*

3. *Dentists with first-hand knowledge that a colleague is practicing dentistry with a mental or physical impairment should reach out to their colleague to discuss their concerns with patient treatment and/or report such evidence to the appropriate entity.*
- 1-H. Expert Testimony. Dentists should provide expert testimony when the testimony is essential for the just and fair disposition of a judicial or administrative action.
- 1-I. Rebates and Split Fees. Dentists shall not accept or tender “rebates” or “split fees.” (See Section 5-A, Advisory Opinion 5.)

Advisory Opinion

1. *A dentist who purchases a retiring dentist’s practice may ethically agree to pay a percentage of the fees collected from patients of the retired dentist provided the retiring dentist gives assurance to maintain an active license during that period, and maintain at least a genuine consulting relationship with the practice.*
- 1-J. Representation of Care and Fees. Dentists shall not deliberately represent the care being rendered to their patients or the fees being charged in a false or misleading manner.

Advisory Opinions

1. *Deliberately representing treatment or fees in a false or misleading manner includes but is not limited to:*
 - a. *performing unnecessary procedures;*
 - b. *performing procedures unauthorized by the patient or the patient’s legal representative;*

- c. *removing amalgam restorations from the non-allergic patient for the alleged purpose of removing toxic substances from the body, when such treatment is performed solely at the recommendation or suggestion of the dentist;*
 - d. *increasing fees solely because the patient is covered by insurance;*
 - e. *reporting incorrect dates on insurance forms for the purpose of obtaining benefits;*
 - f. *incorrectly describing a procedure to receive a higher reimbursement;*
 - g. *indicating on an insurance claim form a fee other than that actually charged the patient; and*
 - h. *accepting payment from an insurance company or other third party payer under a co-payment plan as payment in full without disclosing to the insurance company or other third party payer that the patient's payment portions will not be collected.*
2. *This Code does not prohibit a dentist from engaging in the normal business practice of instituting lawful service charges for unpaid balances.*

1-K. Patient Consent and Involvement. In order that the patient may be involved in treatment decisions, the dentist shall inform the patient of the proposed treatment, reasonable alternatives, fees, and proximate risks.

Advisory Opinion

1. *A dentist shall make certain that a patient understands the options, needs, and risks for treatment, including non-treatment. It is unethical to provide treatment when the dentist knows or has reason to know the patient does not understand the reasons or need for treatment.*

- 1-L. Patient Abandonment. Once a dentist has undertaken a course of treatment, the dentist should not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another dentist. Care should be taken that the patient's oral health is not jeopardized in the process.

Advisory Opinion

1. *Dentists should adhere to appropriate Risk Management guidance with respect to patient abandonment.*
- 1-M. Personal Relationships with Patients. Dentists should avoid interpersonal relationships that could impair their professional judgment or risk the possibility of exploiting the confidence placed in them by a patient.
- 1-N. Ethical Conduct and the Internet. The same rules of ethical conduct that exist for other forms of media in terms of advertising, patient privacy, and other ethical subjects covered by the Code also apply in the usage of the internet and mobile devices, including but not limited to, social media applications.

Principle Section Two

EDUCATION

The right of a dentist to professional status rests in the knowledge, skill and experience with which the dentist serves the dentist's patients and society. All dentists should maintain and improve their knowledge and skill through continuing education as required by state law.

Principle Section Three

GOVERNMENT OF A PROFESSION

Professions owe society the responsibility of regulating and disciplining themselves through the influence of professional associations. All dentists, therefore, have the dual obligation of making themselves a part of a professional association and of observing its rules of ethics.

A member's failure to participate in peer review and abide by the decision of peer review constitutes a violation of this Code.

Principle Section Four

RESEARCH AND DEVELOPMENT PATENTS AND COPYRIGHTS

Dentists have an obligation to make the results of their research and discoveries available to all when they are useful for the health of the public.

Code of Professional Conduct

- 4-A. Devices and Therapeutic Methods. Except for purposes of investigation, dentists shall prescribe or promote only those devices, drugs or other agents for which complete formulae are available to the profession. Dentists may not claim exclusivity for any agent, method or technique.

Advisory Opinion

1. *Dentists should not use titles or degrees with the promotion of any commercial endeavor which would demean the profession. The use of eponyms in connection with drugs, agents, instruments, or appliances is generally to be discouraged.*
- 4-B. Patents and Copyrights. Patents and copyrights may be secured by a dentist provided they are not used to restrict research, practice, or the benefits of patented or copyrighted material.

Principle Section Five

PROFESSIONAL ANNOUNCEMENT

In order to serve the public properly, 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 dentists may advertise, they shall not advertise or solicit patients in any form of communication in a manner that is 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 or NYSDA 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.

Advisory Opinions

1. *Advertising that uses guarantees is unethical because it is misleading. Testimonials, demonstrations, dramatizations, or other portrayals of professional practice are permissible provided that they otherwise comply with the code of ethics and that the following conditions are satisfied:*
 - a. *the patient expressly authorizes the portrayal in writing;*
 - b. *appropriate disclosure is included to prevent any misleading information or imagery as to the identity of the patient;*
 - c. *reasonable disclaimers are included as to any statements made or results achieved in a particular manner;*

- d. the use of fictional situations or characters may be used if no testimonials are included;*
 - e. fictional patient testimonials are not permitted.*
- 2. Claims of unverifiable professional superiority or special abilities are false or misleading except that a qualified specialist may indicate a specialty that has been recognized by the New York State Board of Regents.*
 - a. The standard for assessing unverifiable superiority is what a reasonable patient would likely believe about the advertising claim.*
- 3. Advertising of fees for specific services which are false or misleading is unethical.*
- 4. Advertising that includes degrees other than those granted by accredited institutions of higher learning is false and misleading. "Accredited" shall mean accredited by the New York State Board of Regents, the United States Department of Education, or an accrediting organization recognized as a valid accrediting organization by either of those entities.*
- 5. A dentist is permitted to pay for any advertising permitted by the Code. Payments to any third party for the referral of professional services is unethical and violates the prohibition in this Code against fee splitting.*

- 5-B. Name of Practice. Since the name under which dentists conduct their practices 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 shall be limited to the time agreed upon by the departing dentist.

When a dental facility practices under an assumed name or trade name, the names and licenses of the principals must be prominently displayed at the practice location.

Advisory Opinions

1. *A dentist may make an agreement with individuals or organizations to provide care if the agreement does not permit or compel practices in violation of this Code.*
2. *A dentist shall not participate in a dental practice (individual or corporation) owned or operated by a non-dentist.*
3. *A dentist who owns a practice may delegate the business management matters to a non-dentist. However, for the purposes of this Code, the dentist owner maintains responsibility for the ethical business conduct of the dental practice.*
4. *It is unethical to use the word "center" in the name of a dental practice if the practice is not a facility qualified under Article 28 of the New York State Public Health Law in accordance with the regulations of the New York State Commissioner of Health.*

- 5-C. Announcement of Specialization and Limitations of Practice. This section and Section IV 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 for ethical specialty announcement and limitation of practice are those recognized by the New York State Board of Regents.

Dentists who choose to announce specialization should use “specialist in” or “practice limited 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 Board of Regents and the Department of Education of the State of New York.

A qualified specialist shall not represent other dentists working in the office as specialists unless they too satisfy the requirements for such specialty. It is the responsibility of specialists to avoid creating the impression that general practitioners associated with them are specialists.

Advisory Opinion

1. *A dentist who indicates that the dentist specializes in any field not recognized as a specialty by the Board of Regents of the State of New York is engaged in unethical conduct.*

- 5-D. General Practitioner Announcement of Services. General dentists may announce the availability of services so long as they avoid communications that express specialization, and are within the scope of dental practice. General dentists shall also state that the services are being provided by general dentists.

- 5-E. Use of Specialty-Related Terms. Dentists who have been certified in a New York State Board of Regents approved specialty may use the title “Diplomate of the American Board of _____,” as well as “Specialist in _____,” or “Practice limited to _____” on their cards, letterhead, signs or announcements.

Advisory Opinions

- 1. Dentists who announce that they are certified or a diplomate in an area of dentistry not recognized by the New York State Board of Regents as a specialty are making a false or misleading representation to the public in a material respect.*
- 2. Dentists who announce that they are duly certified by the Department of Education of the State of New York to administer general anesthesia or parenteral sedation would not be engaging in false or misleading representation to the public.*
- 3. General dentists who list themselves in directories or any other media under specialty headings are engaged in unethical practice.*

Principle Section Six

JUDICIAL PROCEDURE

Notwithstanding any other provisions of the Bylaws, an alleged violation of the Principles of Ethics and Code of Professional Conduct shall be heard by the Ethics Committee of the component society in which the alleged violation took place. The enforcement of a penalty, however, is the responsibility of the component in which the dentist holds membership.

Such proceeding shall conform to the Guidelines for Disciplinary Hearings of the American Dental Association, the Constitution and Bylaws of the New York State Dental Association and the Constitution and Bylaws of the American Dental Association as the format for its hearings.

Addendum

The purpose of the Principles of Ethics and Code of Professional Conduct is to uphold and strengthen dentistry as a member of the learned professions.

Problems involving questions of ethics should be solved informally at the local level. Failing this, the matter may formally be heard by either the component ethics committee or the State Council on Ethics. An appeal may be directed to the State Council on Ethics (if it did not originally hear the case) and finally to the Council on Ethics, Bylaws and Judicial Affairs of the American Dental Association.

Members found guilty of unethical conduct are subject to the penalties set forth in Chapter XI of the American Dental Association Bylaws and Chapter X of the Bylaws of the New York State Dental Association.





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Revised June 2025