

Ethics and Professional Conduct in the Dental Office

Virginia Dental Association Ethics and Judicial Affairs
Committee – 2014 Presentation

VDA Ethics and Judicial Affairs Committee – Here to Help

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The VDA has a committee that is dedicated to ethical practices in dentistry. Committee members are a resource and they are here to help. Please do not hesitate in talking to committee members about any questions or concerns you have about ethics in the dental practice.

ADA Principals of Ethics and Code of Professional Conduct

- A guide for all ADA Member dentists to guide them to ethical and professional conduct
- Guide is available at www.ada.org – search the term 'ethics'

Sections of the Code:

1. Patient Autonomy
2. Nonmaleficence
3. Beneficence
4. Justice
5. Veracity

The ADA Code is the guide for members on ethical and professional conduct issues. The Code is broken down into 5 sections listed here on the right. As we review each of the sessions, we will start by doing an 'Is It Ethical?' question that pertains to each section of the Code. So let's start with the first section, Patient Autonomy.

Sec. 1 – Patient Autonomy – Is It Ethical?

- Scenario:
 - A patient at your practice has decided to switch to a new practitioner. They request a copy of their records to take to their new provider but your office manager notices that their account is not paid in full and they owe your office \$500. You say that you will happily furnish a copy of the records once the account is paid in full.
- Is it Ethical?
 - No. According to the ADA Code, your obligation to furnish the records exists whether or not the patient has paid your office all fees due.

Patient Autonomy

- “Self-Governance”
- The dentist has the responsibility to respect the patient’s right to make decisions and the right to confidentiality of their information.
- Involving patients in the treatment decision and making concerted efforts to maintain the privacy of records are the main points of this Section of the Code.

The first section of the Code deals with Patient Autonomy or Self Governance. Essentially, this section outlines the need to involve the patient in decisions about their dental care in a meaningful way and that dentists need to take care to ensure the confidentiality of their patient records. Of note is that the responsibility to maintain confidentiality can create some concerns if the patient’s record includes certain information such as HIV seropositivity. In some jurisdictions, sharing this information in a patient’s record with their new dentist or a consulting practitioner could be prohibited. It is a best practice to receive written consent from a patient when their record includes sensitive information such as HIV, chemical dependency or sexual preference. Now, moving onto Section 2 – Nonmaleficence.

Sec. 2 – Nonmaleficence – Is It Ethical?

- Scenario:
 - You notice that a colleague in your practice is starting to use alcohol with increasing frequency. You are concerned about her and want to help. You talk with her and she assures you she has the situation under control. A week later, you see the colleague come into the office and prepare to provide care to a patient while under the influence of alcohol. You intervene and tell her you will treat the patient and urge her to take the day off. You do not want to damage your practice's reputation and are concerned about breaching the trust of your colleague but you are concerned about her and you decide to contact the VDA's Caring Dentist Committee without the knowledge of your colleague.
- Is It Ethical?
 - Yes. You have an ethical obligation to report your colleague to the Caring Dentist Committee of the VDA in addition to encouraging them to seek professional treatment.

Nonmaleficence

- “Do No Harm”
- In order to protect patients, dentists have an obligation to:
 - Maintain their education
 - Use specialists and consultations when necessary
 - Supervise auxiliary personnel
 - Avoid impairment that will affect the ability to practice
 - Report any exposure of bloodborne pathogens to patients immediately
 - Not abandon patients in any way that will jeopardize their health
 - To avoid personal relationships with patients that will impair judgment or exploit patient confidence

Section 2 of the Code centers around doing no harm. In general, this means that the dental professional should maintain their education to properly treat patients, you should know your limitations and use specialists when necessary, you should understand what duties are delegable to auxiliaries and those that are not, and you should generally take care to ensure you are providing the best possible care to patients. Now, lets check out an example from Section 3 – Beneficence.

Sec. 3 – Beneficence – Is It Ethical?

- Scenario:
 - You are treating an adult patient and you suspect that the patient may be suffering from spousal abuse. You speak with the patient about your suspicions and she asks you not to report the matter to the authorities as she would prefer to handle the situation without involving the police. You oblige and do not report the suspected abuse.
- Is It Ethical:
 - Yes. As long as the patient is neither elderly nor disabled and there is no law mandating the reporting of suspected abuse of an adult in your state (as is the case in Virginia), you are ethically obliged to consent to the patient's desire to not make an official report as it is not mandated by law.

Beneficence

- “Do Good”
- Dentists have an ethical obligation to serve their patients and the public at large. Dentists can do this through:
 - Community Service
 - Being a Part of Organized Dentistry
 - Conducting Research and Development
 - Reporting Abuse and Neglect of Patients
 - Child Abuse and Neglect Hotline through Virginia Child Protective Services: 800-552-7096
 - Abuse of the Elderly or Adults with Disabilities: Virginia Department of Social Services Adult Protective Services 24-hour reporting hotline: 888-832-3858

The third principal of the Code requires that dentists “do good” as they serve their patients and their community. As professionals, dentists have the ability to use the skills and knowledge they have gained for the betterment of society. One item to note in this section of the Code is the requirement to report abuse and neglect. Dental professionals have an obligation to know the signs of abuse and neglect and to know about resources to aid victims. The Code denotes that the dentist’s ethical obligation is to, at minimum, to be consistent with the legal obligation in the jurisdiction where the dentist practices. In Virginia, licensed health professionals are required to report suspected abuse or neglect of children (Code of Virginia § 63.2-1509), and of the elderly and adults with disabilities (Code of Virginia § 63.2-1606). The numbers for reporting such suspected abuse are listed here for your reference. Child abuse must be reported within 72 hours of the first suspicion and failure to report either child or elder abuse can result in fines as stated in the Code of Virginia. Now, let’s move onto Section 4 – Justice.

Section 4 – Justice – Is It Ethical?

- Scenario:
 - Your office leaves your cell phone number on the answering machine over the weekend when the office is closed in case of an emergency. On a Saturday night, you receive a call from a person who is not a patient of record who got your number from the answering machine. The patient is having a dental emergency. You decline to make arrangements for the patient to get care and advise them to contact their dentist of record or to go to the emergency room.
- Is It Ethical
 - No. As part of the Code, you are ethically obliged to make reasonable arrangements for the patient to receive emergency care. If you perform the care yourself, you are also ethically obliged to return the patient to their dentist of record upon completion of the care unless the patient specifically requests to remain a patient of yours.

Justice

- “Fairness”
- As professionals, dentists have an obligation to deal with patients, colleagues and society in a fair manner.
 - Patient Selection
 - Emergency Service
 - Justifiable Criticism
 - Rebates and Split Fees

The principal of Justice deals with the obligation to treat your patients fairly. In regards to patient selection, this means that while you may use discretion in selecting patients for your practice, you may not refuse patients due to their race, creed, color, sex or national origin. In addition to these criteria, it is also not ethical to discriminate against those with bloodborne pathogens. As noted in the example on the previous slide, this section of the Code also deals with the obligation to provide or to make reasonable arrangements to treat patients and non-patients in the event of an emergency. Justifiable criticism means that a dentist has a duty to report continual faulty treatment by other dentists. This does not mean making disparaging statements to patients about past dental providers, it means reporting gross negligence and poor dentistry to the appropriate licensing board. When communicating with patients, the dentist should be honest about their oral health and make statements that are truthful, informed and justifiable. And finally, this section of the code also deals with rebates and split fees. It is unethical for a dentist to accept or tender rebates or split fees which will be further examined on the next slide.

Multiple Locations

\$49 for an Exam, Cleaning, and X-Rays (\$335 Value) or \$179 for a Zoom! Teeth-Whitening Session (\$550 Value) at Preferred Dental Care

from
\$49

No Longer Available

Value	Discount	You Save
\$335	85%	\$286

Buy it for a friend!

This deal ended at:

11:59PM EST
01/04/2011

Over 610 bought

The deal is on!

Send
Like

How far is this from home?
Add Home

Want more deals like this? Click the hearts below.

Highlights

- Choose between two options
- Clean teeth & avert disease
- Pro-grade whitening gel
- Skilled, multi-lingual staff

The Fine Print

Expires Jul 5, 2011
Limit 1 per person per option, may buy multiple as gifts. Valid only for option purchased. By appointment only. Not valid with other offers.
[See the rules that apply to all deals.](#)

A perfectly white smile determines how others perceive you by shining brightly enough to blind them to your second head and compound eyes. Let dazzling teeth disguise the effects of your mad-science hobby with today's Groupon to [redacted] with offices in [Flushing](#) and [Manhattan](#). Choose between the following options:

- For \$49, you get an exam, teeth cleaning, and xrays (a \$335 value).
- For \$179, you get a Zoom! teeth-whitening treatment (a \$550 value).

[Company Website](#) • [Facebook](#)
★ ★ ★ ★ ★ 11 Reviews

[Getaways](#) Expedia
Premium travel at an unbeatable value.
[See the deals now →](#)

Spin My Face

Score up to \$100 off!

Now!
 Deals on Demand

\$6 for \$10 at
BareBurger - New York
Use by 7:00pm

\$6 for \$10 at
BareBurger - Chelsea
Use by 11:00pm

\$15 for \$30 at
Asian Thai
Use by 10:30pm

View All Now! Deals

1,619 deals available today in New York City

More Great Deals [See All](#)

Here is an example of a dental office discount on Groupon. You will note that the discount is substantial (85%) and it was purchased by over 610 people. The \$49 cost of the Groupon would be paid to Groupon by the consumer and then Groupon would send a portion of that to the dental office as part of the arrangement. Could this be considered fee splitting?

Justice – Rebates and Split Fees in the Era of Groupon and Living Social

- The Code states that: Dentists shall not accept or tender “rebates” or “split fees”
- Groupon and Living Social type arrangements could be seen as “fee splitting” as the dentist receives part of the money collected via Groupon and Groupon retains a portion for their service.
- It is important to note that some states have laws against fee splitting for professionals such as dentists.
- There are also Federal laws that may come into play with Anti Kickback Statutes for patients covered under a Federal dental program.
- Also to note in Virginia, the Board of Dentistry has regulations in regard to the language that must be used when advertising discounts on dental services:
 - **Regulations Covering Dental Practice, VA Board of Dentistry, Sec. 8VAC60-20-180. Advertising.**
 - A. Practice limitation. A general dentist who limits his practice shall state in conjunction with his name that he is a general dentist providing only certain services, e.g., orthodontic services.
 - B. Fee disclosures. Any statement specifying a fee for a dental service which does not include the cost of all related procedures, services, and products which, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.
 - **C. Discounts. Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.**
- At the present time, the ADA advises that dentists wait to use these types of services until there are more clear guidelines or court decisions to either prohibit or allow the practice.
- **As of August 2014, the VA Board of Dentistry is considering language for proposed legislation that would prohibit fee splitting in Virginia.**

As you can see, the area of Groupon discounts is a bit of a gray area at this time in regards to dentistry. There are a lot of considerations both ethically and legally to take into account before deciding to offer a discount through a service like this. The ADA is currently advising that dentists wait until there are more clear guidelines and legal precedents to follow. For more information, go to www.ada.org and search ‘social couponing’ which will take you to an article that includes a link for a paper published in October 2011 by the ADA Legal Department. It is a really great resource that poses a lot of interesting questions and information about the use of Groupon and other similar social couponing sites. And now, we will move onto the final section of the Code – Veracity.

Section 5 – Veracity – Is It Ethical?

- Scenario:
 - A new patient comes into a dental office and the dentist notices a number of amalgam fillings during the initial examination. The dentist is opposed to the use of amalgam restorations based on their perception of adverse affects of amalgam on overall health. The dentist discusses their concerns about amalgam and advises the patient that all amalgam restorations should be removed and replaced with composite restorations.
- Is It Ethical?
 - No. Based on currently available scientific information, the ADA has determined that removing amalgam restorations solely based on the dentist's recommendation or suggestion is both improper and unethical.

Veracity

- “Truthfulness”
- This principal deals with the dentist’s responsibility to understand the trust placed in them by patients because of their education and training and to communicate truthfully and without deception in their dealings with all people.
- This means truthfulness in:
 - Representation of Care
 - Representation of Fees
 - Disclosing Conflicts of Interest
 - Advertising
 - Prescription of Devices and Therapeutic Methods
 - Announcement of Specialty and Limitation of Practice

The final section of the Code deals with truthfulness and the responsibility to be honest in dealings with patients and in your practice in general. As shown in the example on the previous slide, this includes using currently available scientific knowledge to be truthful in the representation of care you make to your patients. This section also applies to fees in regards to being truthful with third party payers by not waiving co-pays which would be in violation of your provider contract and would be considered overbilling. This also means not submitting claims with dates of treatment altered in order to maximize insurance benefits for patients and being truthful in all descriptions of procedures when filing claims with payers. Truth in advertising is another important part of this section of the Code and it means being truthful and not false or misleading in advertising. This includes making objective comments in advertising, making claims of outcomes that are not achievable and using unearned degrees (honorary or from a program that is not accredited) when describing the practitioner and their training. This Section also goes into detail about announcing specialties, listing credentials and limiting practices to a specialty. While there is not enough time in this presentation to go through all of these, I encourage each of you to download the Code from ada.org and to review it. It is a relatively short document but it includes so much great information about what is expected of each of us ethically as we practice dentistry.

Thank you!

Any Questions or Comments?

Please remember: "The ADA Code is an evolving document and by its very nature cannot be a complete articulation of all ethical obligations. . .Although ethics and the law are closely related, they are not the same. Ethical obligations may – and often do – exceed legal duties. In resolving any ethical problem not explicitly covered by the ADA Code, dentists should consider the ethical principals, the patient's needs and interests, and any applicable laws." – ADA Principals of Ethics and Professional Conduct, Section I., Introduction.

Nothing in this presentation is meant to be construed as legal advice. Please consult your attorney for legal advice.

Thank you all for your time today in learning a little bit a about the ADA Principals of Ethics and Code of Professional Conduct. Please remember that the members of the VDA's Ethics Committee are here to help you if you have any questions or concerns regarding the ethical practice of dentistry.