

ETHICS

- Ethics is defined as “ of or relating to moral action, conduct, motive or character; as ethical emotion; also treating of moral feelings, duties or conduct; containing precepts of morality; moral. Professionally right or befitting; conforming to professional standards of conduct ” .

- Decisions on which type of material to use or how to treat certain situations are guided by treatment protocols. How to decide a fair, just disposition of an ethical situation or dilemma, however, will keep one up for nights.

- It is the dentist's responsibility and duty to maintain a professional demeanor that includes consideration, respect, and understanding toward fellow colleagues, employees, patients, and their families.

- To gain a foundation from which the dentist may formulate thought and, it is hoped, a proper decision, the Australian Dental Association (ADA), FDI World Dental Federation, and many other groups have developed codes of ethics. These codes of ethics should guide the dentist in his or her decision making at all levels of practice, in one ' s professional career, and even in one's personal life. But, as will be pointed out, decision making cannot occur in a vacuum, only considering the various codes of ethics. The other pillars of decision making must also be taken into consideration: dental law, risk management, and practice management (public relations).

Throughout these codes, the following principles may be found: patient autonomy, non malfeasance, beneficence, justice, veracity, and fidelity.

Patient autonomy gives the patient, or the patient's legal guardian, the right to confidentiality and self - determination; in this case, the right to decide a course of treatment. The lower the level of capacity to understand, the more the dentist must take care in his or her informed consent to maintain patient autonomy. The dentist may be inclined or even forced to ask if the patient is in need of a guardian - like help from friends or family. Patient autonomy intersects with informed consent. Giving a proper informed consent with all relevant, necessary

information for an informed decision is a major facet in the patient's right to self-determination and, hence, maintenance of patient autonomy. Patient autonomy also intersects with the doctor – patient relationship and the Health Insurance Portability and Accountability Act (HIPAA) in its principles of confidentiality. By respecting the patient's privacy to personal information, with the understanding that such personal information belongs to the patient and should not be made known to others without the patient's consent, the dentist is able to also adhere to a trusting doctor – patient relationship and HIPAA laws.

With the development of cosmetic dentistry, there has been an increase in the patient's awareness of his or her smile. Dentists also have promoted improving the patient's smile through cosmetic dentistry. The question becomes, " How much should a dentist pursue or promote the improvement of a patient's smile before the dentist is intruding into the patient's autonomy? " To keep the patient's autonomy intact, when the dentist perceives a cosmetic need, he or she must keep the discussion educational to properly inform the patient of cosmetic dentistry ' s capabilities. It should not become a commercial, merchant - like sale. Not all patients want nor have to have the perfect smile. Therefore, the dentist must not take advantage of an unsuspecting, unknowledgeable, trusting patient for the purpose of advancing the dentist's own well - being or income.

Non Malfeasance is the principle that creates a duty to cause no harm to the patient. Non Malfeasance may be seen throughout the practice of dentistry. First and foremost, the dentist must know his or her limitations of practice and stay within those limitations and the standard of care. The dentist should avoid unlearned and experimental treatments without true research - level informed consent. In attempting to try new procedures, the dentist must take the time and make the effort to be properly trained such that the risk of harm to the patient is at a minimum. It is clearly unethical to try an unproven treatment on an unsuspecting, trusting patient to whom the risk of harm is greatly increased. It is also the duty of the dentist to properly refer the patient when the needed treatment is beyond the dentist's capabilities. By referring the patient, the standard of care is also properly followed. In a situation where the patient refuses the referral, an informed refusal then takes place. This situation becomes even more stressful for the dentist when the patient states, " Just do the best you can, Doc. "

- Along with an implied consent discussion, there must be mention of what happens when the patient refuses the recommended treatment or refuses to be referred to a specialist. Often, a patient may want to exercise his or her autonomy or right to determine his or her own treatment and to not consent to the recommended treatment.
- A patient must be informed of the risks of not consenting to the treatment. The informed consent then transforms into an informed refusal.
- The dentist must then inform the patient of the risks and consequences of the patient's decision not to follow the dentist's recommendations. It is highly recommended, as in the case of an express written consent, that the informed refusal have written documentation for the patient's understanding and acknowledgment. The written informed refusal should have the same format as the informed consent, stating that the patient has been informed of all the risks. Always be sure to also enter into the record that the patient has refused the recommended treatment. Situations that may arise in the dental office include a patient not wanting radiographs during an examination, not wanting a restoration of a fractured or carious tooth, or refusing to be referred to a specialist for a variety of reasons.

TRUE CASE 30: Patient doesn't want referral

A patient came to a dentist who was on her insurance company's list of participating dentists. The patient was in need of endodontics on a 2nd molar, which already had a clinically viable porcelain-to-metal crown. When the dentist told the patient that he wanted to refer her to an endodontist, the patient became angry with the dentist, of whom she thought very highly, because he would not treat her. The dentist unsuccessfully tried to explain the complexity of the situation. The patient, on the other hand, told the dentist of the trust she had in him and that he had already successfully performed a root canal for her in the past. The dentist performed the root canal but was highly stressed, though it ended with a positive result. The result could have easily resulted in a bad outcome on many levels.

- Law and ethics also intersect in the case of abandonment of a patient. Abandonment of a patient, more times than not, results in injury to the patient due to delayed treatment; therefore, it is unethical. When a patient is under the care of the dentist, the dentist must take every precaution to cause no harm to the patient.

- Harm is not only physical but may also be seen as emotional when personal relationships develop between dentist and patient. A personal relationship with a patient has long been frowned upon, due to the possibility of either party exploiting the relationship. It truly infringes on the patient's confidence in the dentist and impairs the dentist's professional judgment. Legally, it also can lead to alleged sexual harassment, which is not covered by malpractice insurance.

- Non Malfesance may also be found to be violated by a dentist promoting his or her experience as being more extensive than what it really is. A true informed consent concerning a procedure that is new to the dentist may not be found to be valid if the dentist did not inform the patient that it is a procedure new to the dentist and that he or she is doing it for the first time. This would obviously affect a reasonable person's autonomous decision making.

TRUE CASE 31: I don't want my teeth

A patient needing extensive care, including periodontal surgery, extractions, endodontics, and restorative work, came into the dentist's office wanting to have all her teeth removed and dentures made because she was tired of all the pain and expense of treatment. She had previously undergone extensive treatment 10 years prior and did not wish to do it again. There were many easily savable teeth that would have been excellent for partial dentures. The patient became adamant that all teeth should be removed. The dentist tried several different ways to explain that what she was requesting was not in her best interest. She then told the dentist to either see the situation her way or she would go else where. The dentist proceeded to accommodate the patient. At the appointment to reline her immediate denture, the patient profusely cried that she should have listened to the dentist. The dentist felt very bad that he was not able to communicate better to help the patient understand the situation.

It may have been better for the dentist to refuse the patient, if a patient's autonomy extends to self - injury. Ethically, but not legally following treatment protocols within the standard of care, the dentist should have thought about possibly denying the patient treatment.

Beneficence is the principle where the dentist has a duty to promote the patient's well - being. This can be easily seen in informed consent, treatment planning, and proper referrals. But it is also found in providing treatment in a timely manner regardless of the method of payment. Once a dentist has undertaken a procedure, he or she must proceed to a point in treatment so as to not cause harm, but also to promote the well - being of the patient. This does not mean that treatment must be provided for free when the patient will not meet his or her agreed financial responsibilities. But the dentist must not ethically leave the patient in worse condition. Hence, prior to starting any extensive treatment, a proper financial agreement must be made.

- In promoting the patient well - being, the dentist is ethically obliged to report any patient abuse — elder adult as well as child abuse. It should also be pointed out that legally, dentists are mandated to report suspected child abuse.

- Dentists promoting dental or oral healthcare products should take great care not to take advantage of the doctor – patient relationship. The undue influence of a trusting patient to buy such products may not be in the patient's best interest. To alleviate any violation of beneficence, the dentist should not place pressure or obligation on the patient to purchase such products. In recommending such products, even though they may be beneficial to the patient, the dentist must take care in promoting that emphasis should be on the benefit to the patient and not on the need to buy the product to increase profits. Again, communication and education of the patient is paramount.

Justice is found in the principle of fairness. Dentists have the duty to treat all patients fairly. Dentists may not discriminate, be biased, or refuse treatment to a patient based on race, creed, color, sex, sexual orientation, disability, or national origin. There are many antidiscrimination laws that also forbid such action.

This principle also needs to be followed in the treatment of patients with a lesser form of insurance than those who personally and fully pay for dental services (a self - paying patient). Just because a patient may have a lesser paying insurance, he or she should not be treated differently from those with better or no insurance. This does not mean that the lesser paying insurance patient is entitled to receive the same dental treatment as a patient not relying on the insurance company to pay for the treatment. There are policy limitations that must be followed, and it is the patient's right to decide whether he or she will rely on the insurance, thereby only accepting treatment within those guidelines. All treatment options must be presented to all patients. In other words, those with poor paying insurance or welfare benefits should not be treated like second - class citizens, but should be treated equally and fairly as to the appointment time allotted, time spent, and standard of care provided. There should be no delay of treatment or limited access to appointments because the patient has a poor insurance reimbursement or payment. If there is a collision of profit making and fair treatment for all patients, the dentist would be ethically wise to reconsider his or her involvement in various dental insurance programs.

Veracity and fidelity principles go to the heart of the doctor – patient relationship, informed consent, and professionalism. Veracity is the principle of truthfulness when communicating with the patient, guardian, and others involved in the patient's treatment directly or indirectly. Without truthfulness, the trust placed in the doctor – patient relationship would be a myth. It would also undermine dentistry's social contract with society, due to a loss of trust in dentistry as a profession because a dentist was not truthful. Veracity also goes to the image dentists portray to the public in the form of marketing or advertising. Many codes of ethics and state statutes address false and misleading advertising as being unethical and unlawful.

Fidelity goes hand in hand with veracity. This is the duty to keep one's word. This principle promotes professionalism by creating a duty to stand behind what he or she may say and/or do. In general, guarantees in the healthcare field are unethical and illegal in most states. However, it is entirely ethical to be a professional and stand behind or to be available when treatment ends in an unfavorable or unexpected result. There are many situations in which fidelity enters the doctor – patient relationship that is based on trust. For example, if the

dentist stated that he or she would apply the costs of a temporary procedure to the final treatment, the dentist should keep his or her word and do what was promised.

TRUE CASE 32: Fractured porcelain

A long-time patient needed a porcelain-to-metal bridge. It was the custom and habit for this dentist to tell patients after each visit to call if any problem occurs. All went well until 2 months after the bridge was cemented. The porcelain fractured in several areas. This could have occurred because the patient bit something hard or because the processing of the bridge was not ideal. Several different scenarios could have developed: Tell the patient “tough luck, you broke it,” and charge the full fee for a new bridge. Tell the patient to pay a percentage of the remake. Tell the patient that you would be happy to remake it at no charge, explaining that you are doing so to be as helpful as possible under the circumstances. Of course, the possible legal threat of a nuisance case, the practice management of public relations, and an unhappy patient all will play into the dentist’s decision. The dentist in the above case remade the bridge after consideration of the various possible outcomes and the ethical, legal, and practice management ramifications.

Veracity regarding a previous dentist’s treatment poses ethical and legal situations that must be confronted. When prior treatment does not meet the standards of a subsequently treating dentist, care must be taken in how the situation is explained to the patient. The ADA Code of Ethics states:

- “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 comments 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.”

It also states that a dentist is obliged to report gross or continual faulty treatment via justifiable criticism.

What is justifiable criticism?

“ Meaning of Justifiable. Patients are dependent on the expertise of dentists to know their oral health status. Therefore, when informing a patient of the status of his or her oral health, the dentist should exercise care that the comments made are truthful, informed and justifiable. This should, if possible, 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 the discretion of dentists and advises against unknowing or unjustifiable disparaging statements against another dentist. However, it should be noted that, where comments are made that 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.

Additionally, there is the risk of a defamation/slander lawsuit from the prior dentist. The absolute defense for defamation/slander is the truth. However, the time, effort, and costs involved in defending such a claim may prove to be burdensome. The courts look to the slandering remark as to whether it was a statement of fact or opinion. Courts have agreed that statements of opinion are not actionable. Therefore, when commenting on previous treatment by another dentist, start your statement with “ In my opinion”.

This is also the case when giving second opinions. Be very careful in criticizing the previously treating dentist. Keep in mind that many times there is more than one way to treat a situation and more than one philosophy of treatment protocol that another dentist may follow or believe.

Many treatment philosophies exist, all of which may be successful. Most dentists are ethically responsible professionals wanting to do their best for their patients. You also may direct the patient back to the previous dentist or offer to call the previous dentist to professionally discuss the difference of opinion. Most dentists will want to see what the situation is and correct it if it is needed. The patient may

also be referred to the peer review board of the local dental society. Always remember that dentists are humans and everyone has a “bad hair day,” so to speak, along with the fact that some patients are very difficult to work on. There is also the difference between bad dentistry and a bad result. Though the difference is not always clear, it should be understood that even though the previously treating dentists most likely treated within the treatment protocols and standard of care, the result was significantly less than ideal. So, before you have the thought that “I can do better,” carefully evaluate the situation.

TRUE CASE 33: No pay, no treatment

A mother brought her 8-year-old son into the dental office because the boy, a new patient, was in pain. The dentist, a recent graduate, was an associate in a large practice. The owner dentist was always concerned about the payment for services. He was a true believer that no one should get free dentistry. The young associate examined the patient and informed the mother that a pulpotomy and stainless steel crown were needed. The mother stated that she did not have that much money, so the young dentist asked the owner dentist if he could just do the pulpotomy to relieve the pain. The owner dentist said no and that if he wanted to do free dentistry, he should find another job. The young dentist, feeling very badly, informed the mother that he was not allowed to do any treatment without payment. The mother and the boy left, understandably upset.

There are many ethical issues in the above case regarding both the young dentist and the owner dentist. Ethically, but not legally, treatment should have been provided to relieve the pain. However, there is no legal duty to provide free dentistry.

The dentist's ethical integrity will be challenged on three levels:

1. Societal: Multicultural awareness will affect ethical decisions because some cultures outside Australia do not place as much value on dentistry. Patients with different cultural backgrounds may have preconceived, invalid notions that will be hard for the dentist to overcome and that will affect the patient's decision making. As society moves to more inclusive healthcare insurance, dentists will be

tempted to seek insurance payment by manipulation of billing codes or service dates, for example. There will also be a change in dental healthcare values of the patient, because the patient will only consent to what will be paid by the insurance company, even if it is not the ideal treatment, for example, a covered extraction rather than root canal therapy, buildup, and crown. Society's emphasis on a perfect smile may push the dentist to incorrectly treat the patient's perceived needs, in other words, to allow the patient to direct the sequence of care; for example, treating the patient's perceived anterior cosmetic wants rather than treat the posterior rampant caries and the need of immediate care, though not visible to the patient. Here patient autonomy is stretched to a point where the dentist could be promoting the patient's self - injury by ignoring the patient's true needs.

2. Environmental: The intrusion of dental manufacturers, self - made dental gurus, and private dental continuing education institutions will affect the dentist in his or her choice of materials or treatment protocols. In addition, patients can easily access information outside the normal doctor – patient relationship via direct advertising from the manufacturer to the patient and via the Internet. With this partial and possibly biased information, the patient's expectations of infallibility of the technology, materials, and even the dentist's treatment may not be met.

3. Personal: The dentist must meet the expectations of his or her colleagues, staff, and family. These all place ethical and financial stresses on the dentist to meet expectations, competition, and responsibilities that, at times, may not be attainable unless the dentist bends an ethical concept or principle.

There are situations that require a distinction of legal and ethical concepts when professional duty arises that is either ethical but not legal or legal but not ethical. There are many scenarios that bring this to point: legal refusal to treat a patient in pain who can't pay, or ethically provide emergency treatment for a minor without an informed consent. For example, when the planned treatment extends beyond that originally planned and the parent or guardian cannot be contacted, legally one should not proceed without proper informed consent, but ethically one should treat the patient and adhere to beneficence and nonmaleficence in the best interests of the patient.

