

Guidance on Continuing to Practice Ethically during COVID-19

As is always the case, continue to use the ADA *Principles of Ethics & Code of Professional Conduct* (the *Code of Ethics*) to guide you in assisting your patients, the public and staff during the COVID-19 pandemic or any other public health emergency. The ethical principles of autonomy, nonmaleficence, beneficence, justice and veracity should remain as your touchstones. Be aware that balancing the sometimes competing application of these principles during a public health emergency may lead to new or different conclusions. The overarching premises of the *Code of Ethics* – to “do no harm” and “put the welfare of the patient first” remain exactly the same. Examples of these are provided below.

You must also be sure to keep up to date with pronouncements that are being issued by federal, state and local governmental authorities. Often, governmental recommendations and announcements are consistent with the principles found in the *Code of Ethics*, but may require dentists to take steps in addition to those that are ordinarily undertaken. Sometimes, instructions or recommendations issued by national, state or local governmental entities in a public health emergency prohibit actions that, in normal times, would be considered contrary to the *Code of Ethics*. In such instances, you should follow all mandatory prohibitions. When examined critically, the conclusion is often that the governmental prohibition supports elements of the *Code of Ethics*.

To assist dentists in considering the ethical principles of autonomy, nonmaleficence, beneficence, justice and veracity within the unprecedented context of the COVID-19 pandemic or any other public health emergency, some discussion of each of the principles applied to the present circumstances are provided:

Code of Ethics Section 1 – Autonomy

Under Section 1 (patient autonomy), there exists a “duty to respect the patient’s rights to self-determination and confidentiality.” This ethical duty may be particularly challenging with the current pandemic, as you will need to “act within the bounds of acceptable treatment.” Here is an instance where your actions may be contrary to the ordinary course. In the present pandemic setting, public health circumstances may mandate that you deny certain treatment (especially elective treatment, as may at times be recommended by the American Dental Association and recommended or required in many jurisdictions) until the then-current situation improves.

- For a patient to provide informed consent under the ethical principle of autonomy, it is essential that dental professionals provide the patient with accurate and clear information about the risks of viral infection to the patient, their family and community. By giving that information, the patient can make educated choices and can accurately evaluate risks given the patient’s own circumstances.
- The ADA has issued guidance on what constitutes dental emergencies and non-emergent conditions. Dental emergencies are those that are potentially life threatening or require immediate treatment to stop tissue bleeding or alleviate severe pain or infection. Non-emergency treatment includes periodic oral examinations and radiographs, routine dental cleanings, orthodontic procedures (other than to address acute issues) and aesthetic dental procedures. More detailed guidance on emergency and non-emergency care can be found [here](#), while a patient-oriented flyer on emergency care is [here](#).

Under Section 1B of the *Code of Ethics*, dentists are “obliged to safeguard the confidentiality of patient records.” You may not be able to meet this obligation if, for example, contact tracing and/or reporting becomes necessary to reduce the spread of COVID-19 or another infectious disease. Patients and staff should be informed of the potential need to

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share identifiable information under the Public Health Exception to HIPAA or in compliance with, for example, declarations of emergency issued by local, state or federal authorities. Except for these mandates and any public health necessity to share identifiable information with the proper authorities, you and your staff should continue to maintain and respect patients' privacy and confidentiality.

- Advisory Opinion 1.B.1 of the *Code of Ethics* illustrates that dental professionals are obligated to furnish patient records to the patient or a new dentist at no or nominal cost to the patient. In the circumstances of the pandemic, in some communities, care may be limited to a fewer number of providers than normal, so dentists should be ready, willing and able to share records necessary to treat patients who may have a need for emergency treatment by a provider other than you.

Code of Ethics Section 2 - Nonmaleficence

Under Section 2 (nonmaleficence) dentists have a “duty to refrain from harming the patient.” This ethical principle applies not just to an individual patient undergoing treatment, but also to all of your patients and staff and their families if a patient or staff member is in close proximity to an individual with COVID-19. The severity of this potential risk underlies any ban or recommendation that may be in place to cease elective treatment. In light of the potential risk of community spread of the COVID-19 disease, you should consider:

- Prior screening of patients by inquiring regarding symptoms, travel, exposure, fever, etc. (as per ADA and CDC guidelines) for all patients who will be in the office;
- Complying with social distancing requests, and scheduling staggered appointments so that you limit the number of people in the dental office at any given time as provided by current local, state and federal guidance;
- Ensuring that you and staff adhere to Universal Precautions at all times (and any additional health and safety requirements that might be recommended specific to COVID-19, particularly as related to the use of personal protective equipment, or PPE and symptom tracking);
- Adhering to all sanitation and sterilization requirements as per local, state and federal guidance including those issued by OSHA available [here](#).

Remember, if you are uncertain about what to do, or feel unqualified to do what is necessary, you are ethically obligated to “seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those who have special skills knowledge or expertise.” (*Code of Ethics* Section 2.B.)

- Per the *Code of Ethics* Advisory Opinion 2.D.1., if a dentist is ill or thinks that exposure to the coronavirus is possible, the dentist has an ethical obligation to “limit the activities of practice to those that do not endanger patients or dental staff.”
- Under *Code of Ethics* Section 2.E., dentists, “have an ethical obligation to immediately inform any patient who may have been exposed to blood or other potentially infectious material in the dental office of the need for postexposure evaluation and follow-up and to immediately refer the patient to a qualified health care practitioner who can provide postexposure services.” This means that if you or any member of your staff or a patient you have treated in the office have COVID-19 or have been exposed, you do need to notify patients.

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- Pursuant to *Code of Ethics* Section 2.F., if you will need to close your practice due to COVID-19, you should be sure to provide patients with “adequate notice.” If possible, please allow patients the “opportunity to obtain services of another dentist.” This may be challenging during a public health emergency, but trying to work with other dentists in the community to develop a strategy for ensuring that patients with emergency dental needs are cared for is critical.

Code of Ethics Section 3 - Beneficence

Under *Code of Ethics* Section 3 (beneficence) dentists have “a duty to promote the patient’s welfare.” Under this principle, “the dentist’s primary obligation is service to the patient and the public-at-large.”

- This duty obligates dentists to use their “skills, knowledge and experience for the improvement of the dental health of the public . . .” (see, *Code of Ethics* Section 3.A).
- While it may be recommended that elective procedures should be deferred as per the ADA recommendation or governmental recommendation or mandate, the dentist should remain available to manage dental emergencies. The local hospitals, health departments and dental schools may not have the capacity to manage all dental emergencies.
- The duty to promote the welfare of patients under Section 3 of the *Code of Ethics* also indicates that resources such as PPE, if scarce, should not be used for elective procedures, but saved for emergency treatments or shared with medical facilities that are experiencing shortages, to promote the well-being of the community.
- Dentists should also set examples for staff by maintaining a professional demeanor in the workplace. You have an “obligation to provide a workplace environment that supports respectful and collaborative relationships for all those involved in oral health care.” (*Code of Ethics* Section 3.F.) This means if a practice’s employees have their own or familial health concerns or are in an at-risk group, they should not feel unduly pressured or judged if they feel incapable to perform their duties.

Code of Ethics Section 4 – Justice

Under Section 4 of the *Code of Ethics* (Justice), dentists have a “duty to treat people fairly.” While you do have discretion in selecting patients, you cannot refuse to accept a patient or deny a patient service “because of the patient’s race, creed . . . national origin.” (*Code of Ethics* Section 4.A.) COVID-19 is not unique to any one race, creed or nationality. Consequently, it remains, as always, ethically inappropriate to base care decisions on any of those factors.

- When treating a patient with a bloodborne pathogen (or other infection) or who is medically compromised, you should determine if you have the “need of another’s skills knowledge, equipment or expertise” (*Code of Ethics* Advisory Opinion 4.A.1.). If that is the case, under the guidance of Section 2.B. of the *Code of Ethics*, you should seek a referral.
- Section 4.B. of the *Code of Ethics* obligates dentists to make arrangements for emergency care for their patients. As you or your staff may become ill or may need to self-quarantine, you should have a plan in place to address patient emergencies that may arise during that time, recognizing that emergency departments in local hospitals, because of the patient loads they might be facing during the pandemic, may not be an appropriate alternative. (See, Section 2.F.)

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Code of Ethics Section 5 - Veracity

Under *Code of Ethics* Section 5 (veracity) you have a “duty to communicate truthfully.” This is very important given the uncertainty surrounding COVID-19 or any other public health emergency. Being truthful may mean telling patients you just may not have an answer and explaining why. Trust, especially in the time of a pandemic or other emergency, cannot and should not be compromised.

- This is also not a time to be looking for ways to expand business. It is never, and especially now, ethical to:
 - Waive copayments
 - Overbill
 - Provide unnecessary services

The CDC has determined that the COVID-19 pandemic is a serious public health threat. The guidelines listed above can help dentists maintain high ethical standards during these uncertain times. Most importantly, by adopting and practicing these principles, the dentist’s primary goal of benefitting the patient will be met.

Disclaimer. These materials are intended to provide helpful information to dentists and dental team members. They are in no way a substitute for actual professional advice based upon your unique facts and circumstances. *This content is not intended or offered, nor should it be taken, as legal or other professional advice.* You should always consult with your own professional advisors (e.g. attorney, accountant, insurance carrier). To the extent ADA has included links to any third party web site(s), ADA intends no endorsement of their content and implies no affiliation with the organizations that provide their content. Further, ADA makes no representations or warranties about the information provided on those sites.