

**Exhibit I**

**Principles of Ethics and Code of Professional Conduct of the American Dental Association, Excerpt**

American Dental Association

PRINCIPLES OF

# Ethics

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AND

CODE OF

# Professional Conduct

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*With official advisory opinions revised to August 2011.*

**ADA** American Dental Association®

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## I. INTRODUCTION

The dental profession holds a special position of trust within society. As a consequence, society affords the profession certain privileges that are not available to members of the public-at-large. In return, the profession makes a commitment to society that its members will adhere to high ethical standards of conduct. These standards are embodied in the *ADA Principles of Ethics and Code of Professional Conduct (ADA Code)*. The *ADA Code* is, in effect, a written expression of the obligations arising from the implied contract between the dental profession and society.

Members of the ADA voluntarily agree to abide by the *ADA Code* as a condition of membership in the Association. They recognize that continued public trust in the dental profession is based on the commitment of individual dentists to high ethical standards of conduct.

The *ADA Code* has three main components: The **Principles of Ethics**, the **Code of Professional Conduct** and the **Advisory Opinions**.

The **Principles of Ethics** are the aspirational goals of the profession. They provide guidance and offer justification for the *Code of Professional Conduct* and the *Advisory Opinions*. There are five fundamental principles that form the foundation of the *ADA Code*: patient autonomy, nonmaleficence, beneficence, justice and veracity. Principles can overlap each other as well as compete with each other for priority. More than one principle can justify a given element of the *Code of Professional Conduct*. Principles may at times need to be balanced against each other, but, otherwise, they are the profession's firm guideposts.

The **Code of Professional Conduct** is an expression of specific types of conduct that are either required or prohibited. The *Code of Professional Conduct* is a product of the ADA's legislative system. All elements of the *Code of Professional Conduct* result from resolutions that are adopted by the ADA's House of Delegates. The *Code of Professional Conduct* is binding on members of the ADA, and violations may result in disciplinary action.

The **Advisory Opinions** are interpretations that apply the *Code of Professional Conduct* to specific fact situations. They are adopted by the ADA's Council on Ethics, Bylaws and Judicial Affairs to provide guidance to the membership on how the Council might interpret the *Code of Professional Conduct* in a disciplinary proceeding.

The *ADA Code* is an evolving document and by its very nature cannot be a complete articulation of all ethical obligations. The *ADA Code* is the result of an on-going dialogue between the dental profession and society, and as such, is subject to continuous review.

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 principles, the patient's needs and interests, and any applicable laws.

## II. PREAMBLE

The American Dental Association calls upon dentists to follow high ethical standards which have the benefit of the patient as their primary goal. In recognition of this goal, the education and training of a dentist has resulted in society affording to the profession the privilege and obligation of self-government. To fulfill this privilege, these high ethical standards should be adopted and practiced throughout the dental school educational process and subsequent professional career.

The Association believes that dentists should possess not only knowledge, skill and technical competence but also those traits of character that foster adherence to ethical principles. Qualities of honesty, compassion, kindness, integrity, fairness and charity are part of the ethical education of a dentist and practice of dentistry and help to define the true professional. As such, each dentist should share in providing advocacy to and care of the underserved. It is urged that the dentist meet this goal, subject to individual circumstances.

The ethical dentist strives to do that which is right and good. The *ADA Code* is an instrument to help the dentist in this quest.

### **III. PRINCIPLES, CODE OF PROFESSIONAL CONDUCT AND ADVISORY OPINIONS**

**Section 1 PRINCIPLE: PATIENT AUTONOMY** (“self-governance”). The dentist has a duty to respect the patient’s rights to self-determination and confidentiality.

*This principle expresses the concept that professionals have a duty to treat the patient according to the patient’s desires, within the bounds of accepted treatment, and to protect the patient’s confidentiality. Under this principle, the dentist’s primary obligations include involving patients in treatment decisions in a meaningful way, with due consideration being given to the patient’s needs, desires and abilities, and safeguarding the patient’s privacy.*

#### **CODE OF PROFESSIONAL CONDUCT**

##### **1.A. PATIENT INVOLVEMENT.**

The dentist should inform the patient of the proposed treatment, and any reasonable alternatives, in a manner that allows the patient to become involved in treatment decisions.

##### **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 in accordance with applicable law that will be beneficial for the future treatment of that patient.

#### **ADVISORY OPINIONS**

##### **1.B.1. FURNISHING COPIES OF RECORDS.**

A dentist has the ethical obligation on request of either the patient or the patient’s new dentist to furnish in accordance with applicable law, 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. This obligation exists whether or not the patient’s account is paid in full.

##### **1.B.2. CONFIDENTIALITY OF PATIENT RECORDS.**

The dominant theme in Code Section 1.B is the protection of the confidentiality of a patient’s records. The statement in this section that relevant information in the records should be released to another dental practitioner assumes that the dentist requesting the information is the patient’s present dentist. There may be circumstances where the former dentist has an ethical obligation to inform the present dentist of certain facts. Code Section 1.B assumes that the dentist releasing relevant information is acting in accordance with applicable law. Dentists

should be aware that the laws of the various jurisdictions in the United States are not uniform and some confidentiality laws appear to prohibit the transfer of pertinent information, such as HIV seropositivity. Absent certain knowledge that the laws of the dentist's jurisdiction permit the forwarding of this information, a dentist should obtain the patient's written permission before forwarding health records which contain information of a sensitive nature, such as HIV seropositivity, chemical dependency or sexual preference. If it is necessary for a treating dentist to consult with another dentist or physician with respect to the patient, and the circumstances do not permit the patient to remain anonymous, the treating dentist should seek the permission of the patient prior to the release of data from the patient's records to the consulting practitioner. If the patient refuses, the treating dentist should then contemplate obtaining legal advice regarding the termination of the dentist-patient relationship.

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**Section 2 PRINCIPLE: NONMALEFICENCE** ("do no harm"). The dentist has a duty to refrain from harming the patient.

*This principle expresses the concept that professionals have a duty to protect the patient from harm. Under this principle, the dentist's primary obligations include keeping knowledge and skills current, knowing one's own limitations and when to refer to a specialist or other professional, and knowing when and under what circumstances delegation of patient care to auxiliaries is appropriate.*

## **CODE OF PROFESSIONAL CONDUCT**

### **2.A. 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.

### **2.B. 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.

## **ADVISORY OPINION**

### **2.B.1. SECOND OPINIONS.**

A dentist who has a patient referred by a third party<sup>1</sup> 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.

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**Section 3 PRINCIPLE: BENEFICENCE** (“do good”). The dentist has a duty to promote the patient’s welfare.

*This principle expresses the concept that professionals have a duty to act for the benefit of others. Under this principle, the dentist’s primary obligation is service to the patient and the public-at-large. The most important aspect of this obligation is the competent and timely delivery of dental care within the bounds of clinical circumstances presented by the patient, with due consideration being given to the needs, desires and values of the patient. The same ethical considerations apply whether the dentist engages in fee-for-service, managed care or some other practice arrangement. Dentists may choose to enter into contracts governing the provision of care to a group of patients; however, contract obligations do not excuse dentists from their ethical duty to put the patient’s welfare first.*

### **CODE OF PROFESSIONAL CONDUCT**

#### **3.A. 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.

#### **3.B. 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.

#### **3.C. 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.

#### **3.D. 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.

#### **3.E. ABUSE AND NEGLECT.**

Dentists shall be obliged to become familiar with the signs of abuse and neglect and to report suspected cases to the proper authorities, consistent with state laws.

### **ADVISORY OPINION**

#### **3.E.1. REPORTING ABUSE AND NEGLECT.**

The public and the profession are best served by dentists who are familiar with identifying the signs of abuse and neglect and knowledgeable about the appropriate intervention resources for all populations.

A dentist’s ethical obligation to identify and report the signs of abuse and neglect is, at a minimum, to be consistent with a dentist’s legal obligation in the jurisdiction where the dentist practices. Dentists, therefore, are ethically obliged to identify and report suspected cases of abuse and neglect to the same extent as they are legally obliged to do so in the jurisdiction where they practice. Dentists have a concurrent ethical obligation to respect an adult patient’s right to self-



determination and confidentiality and to promote the welfare of all patients. Care should be exercised to respect the wishes of an adult patient who asks that a suspected case of abuse and/or neglect not be reported, where such a report is not mandated by law. With the patient's permission, other possible solutions may be sought.

Dentists should be aware that jurisdictional laws vary in their definitions of abuse and neglect, in their reporting requirements and the extent to which immunity is granted to good faith reporters. The variances may raise potential legal and other risks that should be considered, while keeping in mind the duty to put the welfare of the patient first. Therefore a dentist's ethical obligation to identify and report suspected cases of abuse and neglect can vary from one jurisdiction to another.

Dentists are ethically obligated to keep current their knowledge of both identifying abuse and neglect and reporting it in the jurisdiction(s) where they practice.

### **3.F. PROFESSIONAL DEMEANOR IN THE WORKPLACE.**

Dentists have the obligation to provide a workplace environment that supports respectful and collaborative relationships for all those involved in oral health care.

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**Section 4 PRINCIPLE: JUSTICE** ("fairness"). The dentist has a duty to treat people fairly.

*This principle expresses the concept that professionals have a duty to be fair in their dealings with patients, colleagues and society. Under this principle, the dentist's primary obligations include dealing with people justly and delivering dental care without prejudice. In its broadest sense, this principle expresses the concept that the dental profession should actively seek allies throughout society on specific activities that will help improve access to care for all.*

## **CODE OF PROFESSIONAL CONDUCT**

### **4.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.

#### **ADVISORY OPINION**

##### **4.A.1. PATIENTS WITH BLOODBORNE PATHOGENS.**

A dentist has the general obligation to provide care to those in need. A decision not to provide treatment to an individual because the individual is infected with Human Immunodeficiency Virus, Hepatitis B Virus, Hepatitis C Virus or another bloodborne pathogen, based solely on that fact, is unethical. Decisions with regard to the type of dental treatment provided or referrals made or suggested should be made on the same basis as they are made with other patients. As is the case with all patients, the individual dentist should determine if he or she has the need of another's skills, knowledge, equipment or experience. The dentist should also determine, after consultation with the patient's physician, if appropriate, if the patient's health status would be significantly compromised by the provision of dental treatment.

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**Section 5 PRINCIPLE: VERACITY** (“truthfulness”). The dentist has a duty to communicate truthfully.

*This principle expresses the concept that professionals have a duty to be honest and trustworthy in their dealings with people. Under this principle, the dentist’s primary obligations include respecting the position of trust inherent in the dentist–patient relationship, communicating truthfully and without deception, and maintaining intellectual integrity.*

## **CODE OF PROFESSIONAL CONDUCT**

### **5.A. REPRESENTATION OF CARE.**

Dentists shall not represent the care being rendered to their patients in a false or misleading manner.

#### **ADVISORY OPINIONS**

##### **5.A.1. DENTAL AMALGAM AND OTHER RESTORATIVE MATERIALS.**

Based on current scientific data, the ADA has determined that the removal of 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, is improper and unethical. The same principle of veracity applies to the dentist’s recommendation concerning the removal of any dental restorative material.

##### **5.A.2. UNSUBSTANTIATED REPRESENTATIONS.**

A dentist who represents that dental treatment or diagnostic techniques recommended or performed by the dentist has the capacity to diagnose, cure or alleviate diseases, infections or other conditions, when such representations are not based upon accepted scientific knowledge or research, is acting unethically.

### **5.B. REPRESENTATION OF FEES.**

Dentists shall not represent the fees being charged for providing care in a false or misleading manner.

#### **ADVISORY OPINIONS**

##### **5.B.1. WAIVER OF COPAYMENT.**

A dentist who accepts a third party<sup>1</sup> payment under a copayment plan as payment in full without disclosing to the third party<sup>1</sup> 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<sup>1</sup> that the charge to the patient for services rendered is higher than it actually is.

##### **5.B.2. OVERBILLING.**

It is unethical for a dentist to increase a fee to a patient solely because the patient is covered under a dental benefits plan.

##### **5.B.3. FEE DIFFERENTIAL.**

The fee for a patient without dental benefits shall be considered a dentist’s full fee.\* This is the fee that should be represented to all benefit carriers regardless of any negotiated fee discount. Payments accepted by a dentist under a governmentally funded program, a component or constituent dental society–sponsored

differently from the above standard shall be deemed to be in conflict with the *ADA Principles of Ethics and Code of Professional Conduct*.

3. Completion of three years of advanced training in oral and maxillofacial surgery or two years of advanced training in one of the other recognized dental specialties prior to 1967.

#### **IV. INTERPRETATION AND APPLICATION OF PRINCIPLES OF ETHICS AND CODE OF PROFESSIONAL CONDUCT.**

The foregoing *ADA Principles of Ethics and Code of Professional Conduct* set forth the ethical duties that are binding on members of the American Dental Association. The component and constituent societies may adopt additional requirements or interpretations not in conflict with the *ADA Code*.

Anyone who believes that a member-dentist has acted unethically should bring the matter to the attention of the appropriate constituent (state) or component (local) dental society. Whenever possible, problems involving questions of ethics should be resolved at the state or local level. If a satisfactory resolution cannot be reached, the dental society may decide, after proper investigation, that the matter warrants issuing formal charges and conducting a disciplinary hearing pursuant to the procedures set forth in the *ADA Bylaws*, Chapter XII. PRINCIPLES OF ETHICS AND CODE OF PROFESSIONAL CONDUCT AND JUDICIAL PROCEDURE. The Council on Ethics, Bylaws and Judicial Affairs reminds constituent and component societies that before a dentist can be found to have breached any ethical obligation the dentist is entitled to a fair hearing.

A member who is found guilty of unethical conduct proscribed by the *ADA Code* or code of ethics of the constituent or component society, may be placed under a sentence of censure or suspension or may be expelled from membership in the Association. A member under a sentence of censure, suspension or expulsion has the right to appeal the decision to his or her constituent society and the ADA Council on Ethics, Bylaws and Judicial Affairs, as provided in Chapter XII of the *ADA Bylaws*.