

# What does the ADA Code of Ethics say about provider Impairment?

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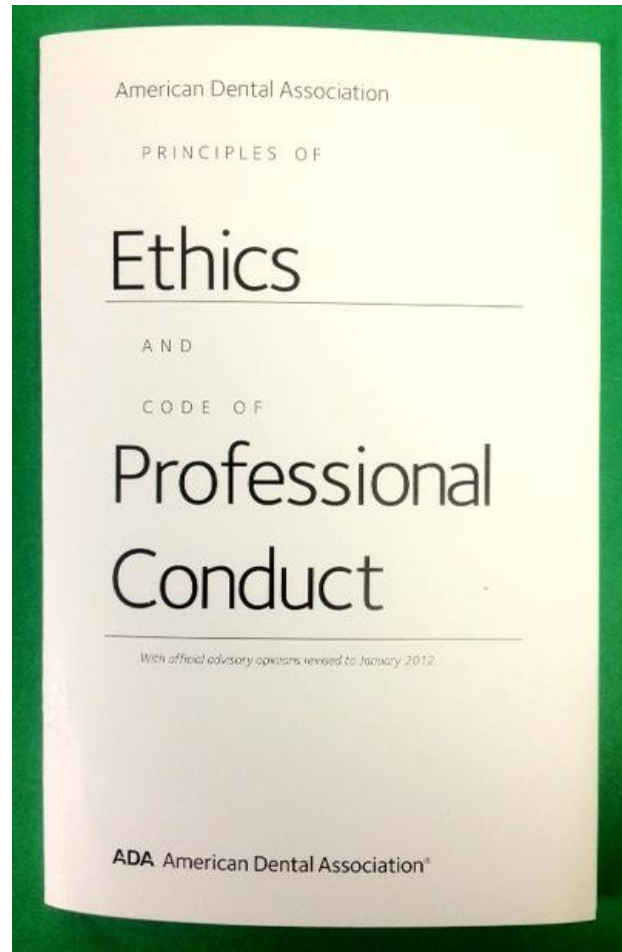
# Learning Objectives

1. Participants will become aware of what the ADA Code says about provider impairment;
2. Participants will be able to see how the ADA Code relates to the practice acts from their state; and
3. Participants will consider where the line is between the right of patients to know about the provider's impairment and the right of a provider to maintain privacy.

# The Role of CEBJA

- The Council on Ethics, Bylaws and Judicial Affairs (CEBJA) is charged with addressing ethics issues for the American Dental Association.
- To aid CEBJA and ADA members in dealing with ethics issues, CEBJA has developed:
  - *The American Dental Association Principles of Ethics and Code of Professional Conduct (The Code)*

# The Code



# The Code

- The first Code appeared in 1866.
- Next year we will celebrate the sesquicentennial of the Code.
- When a dentist becomes a member of the ADA, he or she agrees to abide by the Code.

## 3 Components of the Code

1. The Principles of Ethics
2. The Code of Professional Conduct
3. The Advisory Opinions

# The Principles of Ethics – Aspirational Goals of the Profession

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



# The Code of Professional Conduct

- An expression of conduct that is either required or prohibited.
- Think of it as the ADA's legislative system.



# The Advisory Opinions

- Interpretations that apply the Code to specific fact situations.
  - E.g. *Disruptive Behavior in the Workplace, Dentist Leaving Practice*
- Drafted by the ADA's Council on Ethics, Bylaws and Judicial Affairs.

# Summary

- The ADA Code is an evolving document
- It cannot be a complete articulation of all ethical obligations
- Although ethics and the law are closely related, they are not the same.
  - As the Code says, “Ethical obligations may – and often do– exceed legal duties.”

# Dental Impairment

- The Topic of Your Meeting
- Addressed by the Code specifically
- Under Section 2 Principle: Nonmaleficence (“do no harm”)
  - “The dentist has a duty to refrain from harming the patient.”

## 2.D. Personal Impairment -- The Dentist

“It is unethical for a dentist to practice while abusing controlled substances, alcohol, or other chemical agents which impair the ability to practice.”

## 2.D. Personal Impairment -- Colleagues

- “All dentists have an ethical obligation to urge chemically 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 professional assistance committee of a dental society.”

# Challenges

- Compatible with dental practice acts throughout the country
- As a profession, nobody wants an impaired provider treating patients if s/he may cause harm to the patient
- What if the dentist is a friend?
  - It is the good and ethical friend that gets help for a colleague before there is harm to a patient.
    - And, ultimately, the profession.

## Advisory Opinion 2.D.1 – Ability to Practice

“A dentist who contracts any disease or becomes impaired in any way that might endanger patients or dental staff shall, with consultation and advice from a qualified physician or other authority, limit the activities of practice to those areas that do not endanger patients or dental staff. A dentist who has been advised to limit the activities of his or her practice should monitor the aforementioned disease or impairment and make additional limitations to the activities of the dentist’s practice, as indicated.”

## Issues to Consider

- It is possible to think of some diseases or injuries that would cause a dentist to limit his or her practice.
- It is harder to think of how a dentist could limit his or her practice while practicing impaired, but it could be possible.
- It could be argued that addiction is an illness and if the dentist is under treatment, he or she could practice but may need to limit the practice in a way that would not cause relapse.



## A Critical Consideration

- How do we handle the conflict between the patient's right to know about their provider and the practitioner's right to maintain privacy?

## Code Sections to Consider – Principle 2

- Under the Code, Section, 2, (Nonmaleficence) dentists are to protect the patient from harm.
- If no harm has been done by a provider before he or she obtains treatment, arguably the patient has no right to medical information about their provider.
- The dentist only has an obligation to prevent harm and obtaining treatment is one way to meet this obligation.
- If there has been harm done, that is a different issue. It is probably legal issue.

## Code Sections to Consider – Principle 4

- Under the Code, Section 4, Justice, “The dentist has a duty to treat people fairly.”
- Arguably, a dentist should inform patients of his treatment for possible impairment issues to be fair to them.
- However, that would only be the case if it would somehow affect the patient’s treatment in a positive way.
- If a patient would just like to know for reasons of spreading gossip, that is not a good enough reason to inform the patient about a provider’s treatment.

## Code Sections to Consider – Principle 5

- Under the Code, Section 5 Veracity (truthfulness), “The dentist has a duty to communicate truthfully.”
- There is nothing in this section of the Code that addresses the issue of impairment of a provider.
- Arguably, the provider under treatment should be truthful to patients. If asked. BUT
- The right to privacy of a provider who is also a patient may outweigh the right of a patient to the truth.

## Going Beyond the Code

- Most states, if not all have programs that attempt to help impaired providers obtain treatment before there is harm to patients.

### INDICATORS: ON THE JOB

- Frequent absences, particularly after days off or the Monday morning syndrome.
- Frequently leaving the operatory areas; long trips to the bathroom or stockroom
- Excessive tardiness, long coffee breaks.
- Difficulty in recalling instructions and details.
- Inconsistent production levels.
- Willingness to work extra overtime.
- Frequent cancellation of scheduled appointments.
- Volunteering to check the narcotics inventory.
- Increased evidence of wanting to be on call.
- Increasing complaints from the staff, patients, peers and visitors.
- Constantly sucking on sweets, hard candy or mints.
- Declining standards of dental procedures.
- Inappropriate/fraudulent billing of third party carriers.
- Abnormal amount of syringes used or missing from stock.
- Discrepancies in oral and written orders.
- Errors in DEA records and assigned inventory sheets.

### INDICATORS: PHYSICAL TRAITS

- Pupils dilated; droopy eyelids.
- Constant runny nose—rubbing nose.
- Gray pallor/pale complexion.
- Excessive itching, scratching.
- Sweats/chills/tremors/shakes/seizures.
- Weight loss.
- Rigidity in motion.
- Decline of general appearance, disheveled clothing, unshaven, bad breath.
- Puffiness.
- Tight jaw, grinding of teeth, excessive chewing.
- Labored breathing, shortness of breath.
- Poor Coordination.

*To seek assistance for yourself or another, contact:*



414-755-4114  
866-431-9625

DENTISTS  
CONCERNED FOR  
DENTISTS



COMPASSIONATE  
ASSISTANCE



# An Example -- Wisconsin

- In Wisconsin, we have a program called Dentists Concerned for Dentists.
  - a program to help those who have problems with alcohol or chemical dependency, depression, infectious diseases or other well-being issues
- Guiding Principle: “it is most beneficial for the affected dentist to be helped by peers; people in the same profession who know and deal with the stresses of running a dental practice.”
- Handled confidentially
- Non-punitive

# Dental Practice Acts

- From looking at some dental practice acts, they handle this issue in a similar way.
- So, the ADA code is compatible with and complementary to laws in the states.



# An Example: Washington

## **18.32.534**

### **Impaired dentist program — Content — License surcharge.**

(1) To implement an impaired dentist program as authorized by RCW [18.130.175](#), the commission shall enter into a contract with a voluntary substance abuse monitoring program. The impaired dentist program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired dentists to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired dentists including those ordered by the commission;
- (f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired dentists; and
- (g) Performing other related activities as determined by the commission.

# Conclusion

- Programs should be designed to help impaired providers to get confidential treatment and avoid causing harm to patients.
- If it is not ethical for a provider to keep his treatment private, he or she may avoid treatment and in the long run it would have a greater chance to harm patients.
- Ethics is often about balancing.