

MANITOBA DENTAL ASSOCIATION

CODE OF ETHICS

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Purpose:

This Code of Ethics is a set of principles of professional conduct which establishes the requirements and expectations for dentists in fulfilling duties to their patients, to the public, to the profession, and to their colleagues. In addition, the Code of Ethics is intended to serve as a guide for members of the Manitoba Dental Association (“MDA”).

This Code affirms and/or clarifies principles that are definitive to professional and ethical dental care. For those about to enter the profession, this Code identifies the basic moral and ethical commitments of dentistry and will serve as a source for education and reflection.

For those within the profession, this Code provides direction for ethical practice; in so doing, it also serves as a basis for self-evaluation. For those outside the profession, this Code provides public identification of the profession's ethical expectations of its members.

Therefore, this Code is educational, guides behavior and expresses to the larger community the values and ideals that are espoused by the dental profession by reason of trust and commitment.

Principles:

This Code contains the guidelines for and expresses the values shared by the dental profession of Manitoba. This Code and the Canadian Dental Association’s (“CDA”) Code of Ethics are complementary and both should be used in determining the ethical standards of the dental profession in Manitoba.

The Principles of Ethics are the goals to which every member of the profession must aspire.

There are five fundamental principles that form the foundation of this Code. These are:

1. Patient autonomy and informed consent

Members of the public have the right to choose their own dentist. Dentists, in serving the public may also exercise reasonable discretion in selecting patients for their practice.

A professional has a duty to inform the patient of their treatment options including the advantages, disadvantages and significant risks and costs. The patient has the final choice of treatment, as long as this choice is within accepted treatment standards.

2. Nonmaleficence (to do no harm)

Dental treatment shall not leave the patient in a worse state than if no treatment had been performed. The application of this principle will vary as the state of scientific knowledge changes with time and new research.

3. Beneficence

Dental treatment shall result in an improvement in the patient's condition. The ultimate goal of treatment shall be optimum oral function for the patient. The achievement of this goal will be influenced by variables such as the patient's age, general health, underlying anatomy and compliance with oral hygiene instruction. Dentists have a responsibility to provide a high standard of professional services and are accountable for treatment rendered.

4. Competence

Dentists' primary obligation is to provide service to the public through the delivery of quality care in a competent and timely fashion within the bounds of the clinical and financial circumstances presented by the patients

5. Veracity

Dentists must be truthful and forthright in all professional matters.

A. Responsibilities and Accountability

Article 1 Service

This Code is an important part of the way in which the MDA fulfills its obligation to promote and protect the public interest. This Code is binding on all members and violations may result in disciplinary action.

This Code is an evolving document and by its very nature cannot be a complete articulation of all ethical obligations. In resolving any ethical problems explicitly covered by the Code, dentists shall consider ethical principles, the patient's needs and interests, and all other applicable laws. Although ethics and the law are closely related, they are not the same. Ethical obligations may and often do exceed legal duties.

As primary health care providers, a dentist's first responsibility is a duty of care to patients. As such, the competent and timely delivery of appropriate care within the bounds of clinical circumstances presented by patients, shall be the most important aspect of that responsibility.

Article 2: Competency

The privilege of dentists to be accorded professional status rests primarily in the knowledge, skill and expertise with which they serve their patients and society. All dentists, therefore, must keep their knowledge of dentistry contemporary and must provide treatment in accordance with currently accepted professional standards. Competence has been described as the combined knowledge, skills, attitudes and judgement required for providing professional services. Dentists have an obligation to maintain competence throughout their career and to comply with the MDA's Continuing Education By-law.

Article 3 Fitness/incapacity to practice

Dentists may experience medical or behavioral impediments to competence. Dentists shall inform the MDA when a serious injury, medical condition, infection or any other condition has either immediately affected, or may affect over time, their ability to practise safely and competently. It is unethical for dentists to practise while abusing controlled substances, alcohol or chemical agents that impair their ability to practice. Dentists have an ethical obligation to urge impaired colleagues to seek treatment. Dentists with first-hand knowledge of colleagues who are practising dentistry when so impaired have an ethical responsibility to report such evidence to the MDA.

Article 4 Consultation and Referral

Dentists shall provide treatment only when competent to do so by reason of their training or experience; otherwise a consultation and/or referral to appropriate practitioners is warranted.

Article 5 Informed Choice/Consent for Treatment

Dentists must discuss with patients treatment recommendations including benefits, prognosis and significant risks, as well as reasonable alternatives and associated costs to allow patients to make an informed choice. Dentists shall also inform patients if the proposed oral health care involves treatment techniques or products which are not generally recognized or accepted by the dental profession.

Article 6 Provision of Accurate Information

Dentists are obligated to provide to patients a full and accurate comment and opinion concerning their oral health.

Article 7 Confidentiality and Release of Patient Information

Patient information, verbally, written, or electronically acquired and kept by dentists, shall be kept in strict confidence except as required by law or as authorized by patients. The information in dental records or reports must be released to patients or to whomever the patient's direct – including other professionals and dental plan carriers, when authorized by patients^{*1} This obligation exists regardless of the state of any patient's accounts.^{*2}

If the patient requires a copy of their records, the copy will be provided once the patient pays the appropriate fee for duplication.

^{*1} The Personal Health Information Act (PHIA) of Manitoba allows patients of health professionals to have the right to request, examine and review copies of their health care records from trustees of personal health information.

^{*2} The "Reasons for Refusing Access" in Section 1(K)1 of this Act do not include failure and/or refusal to pay an outstanding account.

Article 8 Guarantees

Dentists must not, either by statement or implication, make unsupportable statements as to the success of operations, appliances or treatment. Dentists have the responsibility to provide a high standard of professional services and are accountable for treatment rendered.

Article 9 Emergencies

A dental emergency exists if professional judgment determines that a person needs immediate attention due to trauma, infection or bleeding. Dentists have an obligation to consult and to provide treatment in a dental emergency, or if unavailable, to suggest alternative arrangements.

Dentists should have alternative emergency care arranged when the office is closed, when unavailable, or when away from the office for a time period.

If alternative arrangements are not accessible, and the person receives emergency treatment from another dentist the following protocol for treating emergency patients ought to be followed by the emergency dentist:

Treatment Protocol

- 1) Treat chief complaint/emergency:
- 2) As part of the medical history, ask the question “Do you have a regular dentist?”
 - a. If “yes” then the treating dentist must provide emergency care and encourage the patient to return to the regular dentist for continuing care following the treatment (see Article D1 on Consultation and Referral):
 - b. If “no” the treating dentist may provide full and comprehensive treatment to that patient.
- 3) If the patient’s regular dentist requests x-rays and/or treatment chart information, then the dentist who provided the emergency treatment should accommodate that request. (See Article A7 Confidentiality and Release of Patient Information.)

Article 10 Provision of Care

Dentists shall not discriminate against or refuse to treat patients when this is contrary to applicable human rights laws. Other than in emergency situations, dentists have the right to refuse to accept individual patients.

Except as otherwise permitted by the MDA, no dentist shall practice dentistry on any street, park or other public place or in any type of vehicle.

Article 11 Arrangements for Alternative Care

Dentists having undertaken the care of patients shall not discontinue that care without first having given notice of that intention and shall endeavour to arrange for continuity of care with another dentist.

Article 12 Assignment of Duties

Dentists may assign duties to others in compliance with any applicable laws and standards of practice.

Delegation of duties or functions to dental nurses and/or dental therapists, dental assistants, dental hygienists or dental technicians must be in compliance with Section 2(2) of *The Dental Association Act*. Any duties or functions performed by those auxiliaries must be “*at the request and under the effective supervision and control of a dentist.*”

“*Effective supervision and control*” for intra oral procedures means that dentists have completed oral examinations and authorized auxiliaries to perform those intra oral procedures for which they have been formally trained. Dentists must be on the premises of the dental practice while such procedures are being performed by auxiliaries.

Article 13 Sexual Harassment/Abuse

Dentists are obliged to become familiar with the signs of abuse and to report suspected cases to the proper authorities in compliance with Manitoba laws.

Article 14 Prescribing Drugs

Dentists must not prescribe drugs for themselves. Dentists may prescribe drugs for patients (including family members) only when needed specifically for dental treatment.

B. Responsibilities to the Public

Article 1 Representation

Dentists shall represent themselves in a manner that contributes to the public's trust and confidence in the profession. Dentists shall not represent their education, qualifications or competence in any way that would be false or misleading.

Article 2 Contractual Services

When dentists enter into contracts with other parties related to the practice of dentistry, the professional, ethical, and legal responsibilities of the dentists are not reduced or transferred in any way to those other parties.

Commentary: Dentists may enter into agreements with other parties to provide dental health care provided that any such agreement is not contrary to The Dental Association Act, regulations, by-laws, this Code, or standards of practice. In the performance of such agreements, dentists are required to deal fairly with the public and fellow practitioners in the locality.

Article 3 Choice of Dentists

Dentists shall at all times respect and support the public's right to a free choice of dentist. Dentists shall not participate in any plan, scheme or arrangement which would limit or interfere with any person's freedom or ability to choose a dentist.

Article 4 Advertising and Promotional Activities

Dentists shall build their reputation on their professional competence and integrity. Dentists shall conduct any advertising and promotional activity in accordance with applicable legislation, this Code, and acceptable professional standards. Dentists shall not engage in advertising or any form of promotional activity which:

- (a) is false, misleading, or deceptive;
- (b) may create unreasonable expectations in patients or potential patients about the results dentists can achieve; or
- (c) is incapable of objective verification.

In addition, dentists shall not engage in advertising or any sort of promotional activities that tend to harm the dignity and honour of the profession.

Examples are set forth below to provide insight into the type of advertising and promotional activities which are prohibited. These examples are not meant to be all-

inclusive. Rather, by restating the concept in alternative language and giving general examples, it is hoped that the membership will gain a better understanding of permissible and prohibited activities. Dentists are encouraged to submit promotional or advertising material to the MDA for review in advance of their use to determine if the proposed material complies with the standards of this Code.

False, Misleading or Deceptive

Statements must be avoided which:

- a) contain misrepresentations of fact;
- b) omit facts which, if included, would contradict the statement.

Statements will be evaluated on a case by case basis, considering how patients are likely to respond to the impression made by any advertisement as a whole. The issue is whether any advertisement, taken as a whole, is false or misleading.

Dentists who advertise services or procedures, which are generally available from all dentists, must take great care to ensure that the advertising is not misleading. For example, suppose an advertisement states, "We have sterilization procedures in place." This statement is misleading since it may cause patients to conclude that they should patronize the advertising dentist because other dentists would not have the same sterilization standards.

Similarly, statements implying superior facilities using trade names of equipment and materials would also be considered misleading, for example Superior Dental Clinic , Best Dental Centre.

Objective Verification

Dentists are not to make statements which are not objectively verifiable. Subjective statements about the quality of dental services raise ethical concerns. Objectively verifiable means capable of being proven by facts independent of personal feelings, beliefs, opinions or interpretations. Express or implied representations that the advertised services are superior in quality to those of other dentists are usually not objectively verifiable. In particular, patients may misinterpret statements of opinion as implied statements of fact. The onus is on dentists to be able to provide, upon request, objective verification of any statements in advertising or promotional activities.

Articles and Newsletters

If a dental health article, message or newsletter is published or electronically communicated under any dentist's name to the public, without making truthful

disclosure of the source and authorship, then that dentist is engaged in making a false, misleading or deceptive representation to the public.

Similarly, any use of clinical photographs must identify the clinician and/or publication who provided the service. Dentists must also ensure that such information does not give rise to unreasonable expectations for the purpose of inducing the public to utilize the services of any sponsoring dentist.

Health Status

An advertisement or other communication intended to solicit patients, which omits material facts necessary to put the information conveyed in the advertisement in a proper context, can be misleading. An advertisement to the public of HIV negative test results, without conveying additional information that will clarify the scientific significance of this fact, is an example of a misleading omission. A dental practice shall not seek to attract patients on the basis of partial truths which create false impressions. Reference to, or advertising of any dentist's health status, whether its use is for internal or external office promotion, shall be considered unethical conduct. Should dentists wish to discuss this subject with their patients, it is appropriate to do so in person but not by advertising.

Name of Practice and Trade Names

Since the name under which dentists conduct their practice may be a factor in the selection process of the patient, the use of a trade name or an assumed name that is misleading or which may create unreasonable expectations is prohibited. For example, trade names such as the following may create unrealistic expectations in patients:

- Gentle, Caring Dentistry
- Painless Dentistry

Other trade names may not be objectively verifiable, for example "Best Dentistry".

Dentist Leaving a Practice

Use of the name of dentists no longer actively associated with the practices may be continued for a period not to exceed one year. Dentists leaving a practice who authorize continued use of their name should receive competent advice on the legal implications of this action. With permission of departing dentists, their names may be used for more than one year provided, if after the one year grace period, prominent notice is provided to the public through such media as signs at offices and short statements on stationery and business cards that departing dentists have retired from the practices.

Honorary Unearned Degrees or Membership in Professional Organization

An unearned academic degree is one which is awarded by an educational institution not accredited by a generally recognized accrediting body, is an honorary degree, or is a degree or fellowship not recognized by the MDA. Reference to unearned degrees in any general announcements to the public by dentists, or in promotional material or advertising, may be a representation to the public which is misleading. Dentists may refer to the degrees Doctor of Dental Surgery (“DDS”), Doctor of Medicine in Dentistry (“DMD”) and any earned academic degrees. The use of unearned degrees and unearned fellowships may be misleading because of the likelihood that it will indicate to the public the attainment of a specialty status. Honorary and unearned degrees shall not be used in any communication to the public or to patients.

Use of Titles and Announcement of Specialization

This section is designed to help the public make an informed selection between practitioners who have achieved specialty status and general practitioners. All members of the MDA may use the titles Doctor, Dr. or Dentist. However, only those dentists who are expressly authorized by the MDA may use any of the following titles for specialty areas of dental practice:

- a) Endodontist
- b) Oral and Maxillofacial Surgeon
- c) Orthodontist and Dentofacial Orthopedist
- d) Paediatric Dentist
- e) Periodontist
- f) Prosthodontist
- g) Oral Pathologist
- h) Oral and Maxillofacial Radiologist
- i) Oral Medicine Specialist
- j) Public Health Dentist

Dentists must not do anything which would lead the public to believe that specialty services are being rendered by qualified specialists in general practice offices when such is not the case.

Other than fellowships in specialties accredited by the CDA and recognized by the MDA, dentists using the attainment of non-academic fellowships in direct advertisements to the public may be making representations which are misleading or deceptive. Such use of a fellowship status may be misleading because of the likelihood that it will indicate to dental consumers the attainment of a specialty status. However, when such use does not conflict with the law, the attainment of fellowship status may

be indicated in scientific papers, curriculum vitae, third party payment forms, letter head and stationery when not used for the direct solicitation of patients.

General Practitioner Announcement of Services

General dentists who wish to announce the services available in their practices are permitted to announce the availability of those services so long as they avoid any communications that express or imply specialization. General dentists shall also state that the services are being provided by general dentists. Dentists shall not announce available services in any way that will be false, misleading or deceptive. General dentists may not represent expressly or by implication, to the public that they are certified in an area of dentistry not recognized as a specialty area by the MDA. General dentists may advertise that they are limiting their practice to specific areas of dentistry provided that they state that they are general dentists.

Article 5 Fees and Compensation for Service

Dentists are responsible for establishing their own practice fees for professional services performed. Dentists shall not pay to another party a fee for referring patients to them which is calculated on a basis of an amount for each patient referred.

Fee advertising by dentists shall be primarily to provide information to the public. Any reference to fees in an advertisement:

- a) shall not use the expressions “from minimum” or “and up to” or such similar expression;
- b) shall provide the maximum fees charged to anyone for services that are referred to any advertisement. No more than those advertised fees shall be charged whether or not an individual is aware of the existence of any advertisement.
- c) Must disclose if any laboratory cost is included when the service would usually involve a commercial dental laboratory cost.

Advertised fees shall remain as advertised for at least 30 days following the publication of advertisements.

Commentary: while dentists are entitled to reasonable compensation for services performed, dentists may not enter into an arrangement with another dentist or person whereby he/she receives part of the fee paid to the other, or by way of commission or discount for the referral of patients.

Referrals

When dentists determine that a patient requires the services of specialists, a referral to specific specialists is warranted and should occur in a timely and appropriate manner.

In the Province of Manitoba, dental specialists are limited to their field of specialization, except for the provision of emergency care. Patients should be informed of the need for referrals to specialists and referring general dentists should facilitate consultations, providing information to specialists from patient's files. Specialists also have an obligation to provide patients with results of assessments and report back to referring dentists. Once specialists have completed any agreed-upon specialty care, patients should be returned back to their referring dentists for continuation of dental care.

Dental Benefits

Dentists who submit claim forms to third parties which report incorrect patient information (treatment dates, procedure codes, and/or fees charged) may be engaging in fraud. Dentists shall not increase or decrease fees to patients whether or not the patients are covered by dental plans. Dentists are obligated to inform patients of the benefits, risks, disadvantages and costs of dental treatment options. Patients are entitled to make informed decisions as to the best treatment for them.

Commentary:

- a) Dentists who accept third party payments under co-payment plans as payment in full, without disclosing to third parties that the patient's payment portion will not be collected, may be engaging in fraud.
- b) Dentists who submit claim forms to third parties which report incorrect treatment dates for the purpose of assisting patients in obtaining benefits under dental plans, which benefits would otherwise be disallowed, may be engaging in fraud.
- c) Dentists who incorrectly describe on third party claim forms performance of dental procedures in order to receive greater payment or reimbursement, or incorrectly make non-covered procedures appear to be covered procedures on such claim forms may be engaged in fraud.
- d) Dentists must ensure that claims for care of patients are accurate statements of the services rendered to patients. Dentists must not determine treatment plans or fees to be charged based solely on the existence of third party dental plans.
- e) Dentists who recommend and perform unnecessary dental services or procedures based solely on the existence of third party dental plans may be engaged in unethical conduct.

Article 6 Community Activities

Dentists by virtue of their education and role in society, are encouraged to support and participate in community affairs, particularly when these activities promote the health and well being of the public.

C. Responsibilities to the Profession

Article 1 Support of the Profession

The Legislature of Manitoba has granted to the profession the privilege of self-regulation for the purpose of protecting the public and promoting the public interest. This responsibility is borne and implemented by the MDA and its Board of Directors, officers and committees. Dentists have an obligation to participate in the advancement of the profession and to support its professional organizations. A strong profession assists the MDA in promoting and protecting the public interest.

Article 2 Co-operation with the MDA

It is the duty of dentists to comply with reasonable requests of the MDA, its officials, committees, and other bodies to enable them to fulfill their responsibilities.

Dentists are ethically obligated to comply with decisions of the MDA.

Article 3 Inappropriate Conduct

If dentists have reasonable grounds to believe that other dentists have engaged in unprofessional conduct, then dentists have an obligation to report such conduct to the Registrar of the MDA.

Article 4 Patents and Copyrights

Dentists have the obligation of making the results of their investigative efforts available when such results are useful in safeguarding or promoting the health and well being of the public. Patents and copyright may be secured by dentists provided that such patents and copyright, and any remuneration derived from them, do not restrict research, practice, or the benefits of the patented or copyrighted material.

Article 5 MDA Spokespersons and the Media

The President of the MDA is the official spokesperson for the MDA. Communications with the press and broadcasting media, on matters relating to the MDA policies and legislative matters may only be made by spokespersons designated for that role by the President.

Article 6 Disclaimer

Information appearing in the press and broadcast media, from individual members of the MDA must be accompanied by a disclaimer that indicates that it is the personal opinion of the author and is not the MDA's official position.

D. Responsibilities to Colleagues

Article 1 Consultation and Referral

When patients are referred to other dentists for consultation and/or treatment, dentists, upon completion of the care contemplated in the referrals, shall refer the patients back to the referring dentists.

Commentary: Please refer to Article B5 on referrals.

Article 2 Judgments In Peer Relations: Justifiable Criticism

Before making critical comments to patients about other dentists' treatment, dentists shall take reasonable steps to ensure that they are fully informed about any patient's oral health and specific treatments provided by previous dentists. Dentists are encouraged to consult with any previous dentist with the patient's consent.

Commentary:

- a) Unprofessional conduct includes a lack of knowledge or a lack of skill or judgment in the provision of professional services. See Article C3 on a duty to report.
- b) When informing patients of the status of their oral health, dentists shall exercise care that any comments are justified. This will include finding out, from previous treating dentists, with patient's consent, the circumstances and conditions under which any treatment was performed.
- c) Dentists shall not make statements about other dentists' treatment which are not reasonably supportable.

Article 3 Interpretation and Application of Code of Ethics and Standards of Practise

The foregoing Code sets forth the ethical duties and standards of practise that are binding on members of the MDA. Anyone who believes that member dentists have acted unethically or in an unskilled manner should bring the matter to the attention of the Registrar, to be dealt with in accordance with the provisions of *The Dental Association Act*.

E DECLARATION OF ETHICAL COMMITMENT

At the time of application for membership in the Association, each applicant shall be requested to make the following declaration: (Page 17 of this by-law).

GENERAL BY-LAWS

BY-LAW NO. 6-02

THE MANITOBA DENTAL ASSOCIATION

A By-law to provide a Code of Ethics for Manitoba Dentists to describe ethical issues for them, and to provide guidance for acceptable standards of conduct for dentists in Manitoba.

By-law 6-94 is hereby repealed.

DONE AND PASSED by the Board of Directors of the Manitoba Dental Association at Winnipeg, in Manitoba, this 23rd day of January, 2002.

President

Secretary

This By-law will become effective on the 1st day of April , 2002, unless 10 (ten) members request in writing its ratification at a general meeting of the Association. (Section 70(2) of *The Dental Act*.)

Secretary

Effective Date: April 1, 2002.

DECLARATION OF ETHICAL COMMITMENT

I, _____,
PLEASE PRINT

having read the Manitoba Dental Association By-law 6-02, do solemnly declare that I will uphold the honour and dignity of the profession and adhere to the Code of Ethics adopted by the said Manitoba Dental Association and I further understand that I could be disciplined in a manner prescribed in the Act and the By-laws of the Association for failing to do so.

Signed: _____

Date: _____

Witness: _____

Manitoba Dental Association By-law 6-02