

CODE OF MEDICAL ETHICS AND PROFESSIONALISM FOR ORTHOPAEDIC SURGEONS

PREAMBLE

Concerns for patient welfare and the appropriate behavior of the physician are a part of the heritage of medicine originating with the Code of Hammurabi, a code of ethics dating from 2000 B.C. Although the themes remain similar throughout history, guidelines for ethical behavior must address the demands of contemporary orthopaedic practice. The American Academy of Orthopaedic Surgeons (AAOS) developed *The Principles of Medical Ethics for the Orthopaedic Surgeon* and the *Code of Ethics for Orthopaedic Surgeons* primarily for the benefit of our patients. They serve as guides for conduct of the physician in the physician-patient relationship. These documents are, in part, derived from the *Current Opinions of the Council on Ethical and Judicial Affairs* of the American Medical Association (AMA). Since the AMA document is necessarily broad, the Academy documents are directed to concerns of specific interest to orthopaedic surgeons. Orthopaedic surgeons are encouraged to refer to the *Current Opinions of the Council on Ethical and Judicial Affairs* of the AMA for guidance if the particular ethical matter at issue is not addressed in the AAOS's *Principles of Medical Ethics for the Orthopaedic Surgeon* or *Code of Medical Ethics and Professionalism for Orthopaedic Surgeons*.

The Academy's *Principles of Medical Ethics for the Orthopaedic Surgeon* and *Code of Medical Ethics and Professionalism for Orthopaedic Surgeons* provide standards of conduct that define the essentials of honorable behavior for the orthopaedic surgeon. *The Principles of Medical Ethics for the Orthopaedic Surgeon* and *Code of Medical Ethics and Professionalism for Orthopaedic Surgeons*, while taking into account the legal requirements of medical practice, call for and espouse a standard of behavior that is often higher than that required by the law.

Orthopaedic surgeons should recognize that they are role models for orthopaedic surgeons-in-training and other health care professionals and should by their deeds and actions comply with the AAOS's *Principles of Medical Ethics for the Orthopaedic Surgeon* and *Code of Medical Ethics and Professionalism for Orthopaedic Surgeons*.

I. The Physician-Patient Relationship

- I. A. The orthopaedic profession exists for the primary purpose of caring for the patient. The physician-patient relationship is the central focus of all ethical concerns.
- I. B. The physician-patient relationship has a contractual basis and is based on confidentiality, trust, and honesty. Both the patient and the orthopaedic surgeon are free to enter or discontinue the relationship within any existing constraints of a contract with a third party. An orthopaedist has an obligation to render care only for those conditions that he or she is competent to treat.
- I. C. The orthopaedist shall not decline to accept patients solely on the basis of race, color, gender, sexual orientation, religion, or national origin or on any basis that would constitute illegal discrimination.

- I. D. The orthopaedic surgeon may choose whom he or she will serve. An orthopaedic surgeon should render services to the best of his or her ability. Having undertaken the care of a patient, the orthopaedic surgeon may not neglect that person. Unless discharged by the patient, the orthopaedic surgeon may discontinue services only after giving adequate notice to the patient so that the patient can secure alternative care. Both orthopaedic surgeons and patients may have contracts with managed care organizations, and these agreements may contain provisions which alter the method by which patients are discharged. If the enrollment of a physician or patient is discontinued in a managed care plan, the physician will have an ethical responsibility to assist the patient in obtaining follow-up care. In this instance, the orthopaedic surgeon will be responsible to provide medically necessary care for the patient until appropriate referrals can be arranged.
- I. E. It is not ethical for an orthopaedic surgeon to sever his or her relationship with a patient because of failure of a treatment or because no further operative treatment is indicated. The orthopaedic surgeon is ethically obligated to assist the patient in transferring care to a specialist appropriate to treat the problem.
- I. F. When obtaining informed consent for treatment, the orthopaedic surgeon is obligated to present to the patient or to the person responsible for the patient, in understandable terms, pertinent medical facts and recommendations consistent with good medical practice. Such information should include alternative modes of treatment, the objectives, risks and possible complications of such treatment, and the complications and consequences of no treatment.

II. Personal Conduct

- II. A. The orthopaedic surgeon should maintain a reputation for truth and honesty. In all professional conduct, the orthopaedic surgeon is expected to provide competent and compassionate patient care, exercise appropriate respect for other health care professionals, and maintain the patient's best interests as paramount.
- II. B. The orthopaedic surgeon should conduct himself or herself morally and ethically, so as to merit the confidence of patients entrusted to the orthopaedic surgeon's care, rendering to each a full measure of service and devotion.
- II. C. The orthopaedic surgeon should obey all laws, uphold the dignity and honor of the profession, and accept the profession's self-imposed discipline. Within legal and other constraints, if the orthopaedic surgeon has a reasonable basis for believing that a physician or other health care provider has been involved in any unethical or illegal activity, he or she should attempt to prevent the continuation of this activity by communicating with that person and/or identifying that person to a duly-constituted peer review authority or the appropriate regulatory agency. In addition, the orthopaedic surgeon should cooperate with peer review and other authorities in their professional and legal efforts to prevent the continuation of unethical or illegal conduct.
- II. D. Because of the orthopaedic surgeon's responsibility for the patient's life and future welfare, substance abuse is a special threat that must be recognized and stopped. The orthopaedic surgeon must avoid substance abuse and, when necessary, seek rehabilitation. It is ethical for an orthopaedic surgeon to take actions to encourage colleagues who are chemically dependent to seek rehabilitation.
- II. E. Orthopaedic surgeons should promote their own physical and mental well being by maintaining healthy lifestyles. They should be attuned to evolving mental or physical impairment, both in themselves and in their colleagues, and take or encourage necessary measures to ensure patient safety. These measures might include medical intervention, professional counseling, or, in situations where reasonable offers of assistance are declined, reporting the impairment to appropriate authorities.

III. Conflicts of Interest

- III. A. The practice of medicine inherently presents potential conflicts of interest. When a conflict of interest arises, it must be resolved in the best interest of the patient. The orthopaedic surgeon should exercise all reasonable alternatives to ensure that the most appropriate care is provided to the patient. If the conflict of interest cannot be resolved, the orthopaedic surgeon should notify the patient of his or her intention to withdraw from the relationship.
- III. B. If the orthopaedic surgeon has a financial or ownership interest in a durable medical goods provider, imaging center, surgery center or other health care facility where the orthopaedic surgeon's financial interest is not immediately obvious, the orthopaedic surgeon must disclose that financial interest to the patient. The orthopaedic surgeon has an obligation to know the applicable laws regarding physician ownership, compensation and control of these services and facilities.
- III. C. When an orthopaedic surgeon receives anything of value, including royalties, from a manufacturer, the orthopaedic surgeon must disclose this fact to the patient. It is unethical for an orthopaedic surgeon to receive compensation (excluding royalties) from a manufacturer for using a particular product. Fair market reimbursement for reasonable administrative costs in conducting or participating in a scientifically sound research clinical trial is acceptable.
- III. D. An orthopaedic surgeon reporting on clinical research or experience with a given procedure or product must disclose any financial interest in that procedure or product if the orthopaedic surgeon or any institution with which that orthopaedic surgeon is connected has received anything of value from its inventor or manufacturer.
- III. E. Except when inconsistent with applicable law, orthopaedic surgeons have a right to dispense medication, products, assistive devices, orthopaedic appliances, and similar related patient-care items, and to provide facilities and render services as long as their doing so provides a convenience or an accommodation to the patient without taking financial advantage of the patient. Ultimately, the patient must have the choice of accepting the dispensed medication, products or patient-care items or obtaining them outside the physician's office.

IV. Maintenance of Competence

- IV. A. The orthopaedic surgeon continually should strive to maintain and improve medical knowledge and skill, and should make available to patients and colleagues the benefits of his or her professional attainments. Each orthopaedic surgeon should participate in relevant continuing medical educational activities.

V. Professional Relationships

- V. A. Good relationships among physicians, nurses, and other health care professionals are essential for good patient care. The orthopaedic surgeon should promote the development and utilization of an expert health care team that will work together harmoniously to provide optimal patient care.
- V. B. The professional conduct of the orthopaedic surgeon may be scrutinized by local professional associations, hospitals, managed care organizations, peer review committees, and state medical and/or licensing boards. These groups merit the participation and cooperation of orthopaedic surgeons.

- V. C. Orthopaedic surgeons are frequently called upon to provide expert medical opinions or testimony. In providing opinions, the orthopaedic surgeon should ensure that the opinion provided is non-partisan, scientifically correct, and clinically accurate. The orthopaedic surgeon should not offer opinions concerning matters about which the orthopaedic surgeon is not knowledgeable. It is unethical for an orthopaedic surgeon to accept compensation that is contingent upon the outcome of litigation.

VI. Relationship to the Public

- VI. A. The orthopaedic surgeon should not publicize himself or herself through any medium or form of public communication in an untruthful, misleading, or deceptive manner. Competition between and among surgeons and other health care practitioners is ethical and acceptable.
- VI. B. Professional fees should be commensurate with the services provided. It is unethical for orthopaedic surgeons to bill individually for services that are properly considered a part of the "global service" package where defined, i.e., services that are a necessary part of the surgical procedure. It is unethical for orthopaedic surgeons to submit billing codes that reflect higher levels of service or complexity than those that were actually required. It is unethical for orthopaedic surgeons to charge for services not provided.
- VI. C. Physicians should be encouraged to devote some time and work to provide care for individuals who have no means of paying.
- VI. D. The orthopaedic surgeon may enter into a contractual relationship with a group, a prepaid practice plan, or a hospital. The physician has an obligation to serve as the patient's advocate and to ensure that the patient's welfare remains the paramount concern.

VII. General Principles of Care

- VII. A. The orthopaedic surgeon should practice only within the scope of his or her personal education, training, and experience. If an orthopaedic surgeon contracts to provide comprehensive musculoskeletal care, then he or she has the obligation to ensure that appropriate care is provided in areas outside of his or her personal expertise.
- VII. B. It is unethical to prescribe, provide, or seek compensation for unnecessary services. It is unethical not to provide services that are medically necessary. It is unethical to prescribe controlled substances when they are not medically indicated. It is also unethical to prescribe substances for the sole purpose of enhancing athletic performance.
- VII. C. The orthopaedic surgeon should not perform a surgical operation under circumstances in which the responsibility for diagnosis, care, or decision-making is delegated to another who is not qualified to undertake it.
- VII. D. When a patient submits a proper request for records, the patient is entitled to a copy of such records as they pertain to that individual. Charges should be commensurate with the services provided to reproduce the medical records. Certain correspondence from insurance carriers or attorneys may call for conclusions on the part of the orthopaedic surgeon. As such, a reasonable fee for professional services is permissible.

VIII. Research and Academic Responsibilities

- VIII. A. All research and academic activities must be conducted under conditions of full compliance with ethical, institutional, and government guidelines. Patients participating in research programs must have given full informed consent and retain the right to withdraw from the research protocol at any time.
- VIII. B. Orthopaedic surgeons should not claim as their own intellectual property that which is not theirs. Plagiarism or the use of others' work without attribution is unethical.
- VIII. C. The principal investigator of a scientific research project or clinical research project is responsible for all aspects of the research, including reporting. The principal investigator may delegate portions of the work to other individuals, but this does not relieve the principal investigator of the responsibility for work conducted by the other individuals.
- VIII. D. The principal investigator or senior author of a scientific report is responsible for ensuring that appropriate credit is given for contributions to the research described.

IX. Community Responsibility

- IX. A. The honored ideals of the medical profession imply that the responsibility of the orthopaedic surgeon extends not only to the individual but also to society as a whole. Activities that have the purpose of improving the health and well-being of the patient and/or the community in a cost-effective way deserve the interest, support, and participation of the orthopaedic surgeon.

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