

THE PRINCIPLES OF MEDICAL ETHICS With Annotations Especially Applicable to Psychiatry

The American Psychiatric Association

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This statement was approved by the Assembly of District Branches and the Board of Trustees of the American Psychiatric Association at their May 5-6, 1973, meetings, upon recommendation of the Committee on Ethics.¹

Members of the American Psychiatric Association will find additional value in the publication *Opinions and Reports of the Judicial Council*, the latest revision is dated 1971.

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FOREWORD

ALL PHYSICIANS should practice in accordance with the medical code of ethics set forth in the *Principles of Medical Ethics* of the American Medical Association. An up-to-date expression and elaboration of these statements is found in the *Opinions and Reports of the Judicial Council* of the American Medical Association (1). Psychiatrists are strongly advised to be familiar with these documents.²

However, these general guidelines have sometimes been difficult to interpret for psychiatry, so further annotations to the basic principles are offered in this document. While psychiatrists have the same goals as all physicians, there are special ethical problems in psychiatric practice that differ in coloring and degree from ethical problems in other branches of medical practice, even though the basic principles are the same. The annotations are not designed as absolutes and will be revised from time to time so as to be applicable to current practices and problems. Although the material appears in this form for the first time, it is derived from the work of many committees and task forces over the years.

Following are the AMA *Principles of Medical Ethics*, printed in their entirety, and then each principle printed separately along with an annotation especially applicable to psychiatry.

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²Chapter 8, Section I of the By-Laws of the American Psychiatric Association states: "All members of the American Psychiatric Association shall be bound by the ethical code of the medical profession especially defined in the Principles of Medical Ethics of the American Medical Association."

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PRINCIPLES OF MEDICAL ETHICS, AMERICAN MEDICAL ASSOCIATION

PREAMBLE

These principles are intended to aid physicians individually and collectively in maintaining a high level of ethical conduct. They are not laws but standards by which a physician may determine the propriety of his conduct in his relationship with patients, with colleagues, with members of allied professions, and with the public.

SECTION 1

The principal objective of the medical profession is to render service to humanity with full respect for the dignity of man. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

SECTION 2

Physicians should strive continually to improve medical knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

SECTION 3

A physician should practice a method of healing founded on a scientific basis; and he should not voluntarily associate professionally with anyone who violates this principle.

SECTION 4

The medical profession should safeguard the public and itself against physicians deficient in moral character or professional competence. Physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

SECTION 5

A physician may choose whom he will serve. In an emergency, however, he should render service to the best of his ability. Having undertaken the care of a patient, he may not neglect him; and unless he has been discharged he may discontinue his services only after giving adequate notice. He should not solicit patients.

SECTION 6

A physician should not dispose of his services under terms or conditions which tend to interfere with or impair the free and complete exercise of his medical judgment and skill or tend to cause a deterioration of the quality of medical care.

SECTION 7

In the practice of medicine a physician should limit the source of his professional income to medical services actually rendered by him, or under his supervision, to his patients. His fee should be commensurate with the services rendered and the patient's ability to pay. He should neither pay nor receive a commission for referral of patients. Drugs, remedies or appliances may be dispensed or supplied by the physician provided it is in the best interest of the patient.

SECTION 8

A physician should seek consultation upon request; in doubtful or difficult cases; or whenever it appears that the quality of medical service may be enhanced thereby.

SECTION 9

A physician may not reveal the confidences entrusted to him in the course of medical attendance, or the deficiencies he may observe in the character of patients, unless he is required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

SECTION 10

The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to society where these responsibilities deserve his interest and participation in activities which have the purpose of improving both the health and the well-being of the individual and the community.

Principles with Annotations

Following are each of the AMA *Principles of Medical Ethics* printed separately along with an annotation especially applicable to psychiatry.

PREAMBLE

These principles are intended to aid physicians individually and collectively in maintaining a high level of ethical in his relationship with patients with colleagues, with members of allied professions, and with the public.³

SECTION 1

The principal objective of the medical profession is to render service to humanity with full respect for the dignity of man. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

The patient may place his trust in his psychiatrist knowing that the psychiatrist's ethics and professional responsibilities preclude him from gratifying his own needs by exploiting the patient. This becomes particularly important because of the essentially private, highly personal, and sometimes intensely emotional nature of the relationship established with the psychiatrist.

The requirement that the physician "conduct himself with propriety in his profession and in all the actions of his life" is especially important in the case of the psychiatrist because the patient tends to model his behavior after that of his therapist by identification. Further, the necessary intensity of the therapeutic relationship may tend to activate sexual and other needs and fantasies on the part of both patient and therapist, while weakening the objectivity necessary for control. Sexual activity with a patient is unethical.

The psychiatrist should diligently guard against exploiting information furnished by the patient and should not use the unique position of power afforded him by the psychotherapeutic situation to influence the patient in any way not directly relevant to the treatment goals.

Physicians generally agree that the doctor-patient relationship is such a vital factor in effective treatment of the patient that preservation of optimal conditions for development of a sound working relationship between a doctor and his patient should take precedence over all other considerations. Professional courtesy may lead to poor psychiatric care for physicians and their families because of embarrassment over the lack of a complete give-and-take contract.

SECTION 2

Physicians should strive continually to improve medical knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

Psychiatrists are responsible for their own continuing education and should be mindful of the fact that theirs must be a lifetime of learning.

SECTION 3

A physician should practice a method of healing founded on a scientific basis and he should not voluntarily associate professionally with anyone who violates this principle.

SECTION 4

The medical profession should safeguard the public and itself against physicians deficient in moral character or professional competence. Physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

It would seem self-evident that a psychiatrist who is a lawbreaker might be ethically unsuited to practice his profession. When such illegal activities bear directly upon his practice, this would obviously be the case. However, in other

³Statements in italics are taken directly from the American Medical Association's *Principles of Medical Ethics* or annotations thereto (1).

instances, illegal activities such as those concerning the right to protest social injustices might not bear on either the image of the psychiatrist or the ability of the specific psychiatrist to treat his patient ethically and well. While no committee or board could offer prior assurance that any illegal activity would not be considered unethical, it is conceivable that an individual could violate a law without being guilty of professionally unethical behavior. Physicians lose no right of citizenship on entry into the profession of medicine.

A psychiatrist who regularly practices outside his area of professional competence should be considered unethical. Determination of professional competence should be made by peer review boards or other appropriate bodies.

Special consideration should be given to those psychiatrists who, because of mental illness, jeopardize the welfare of their patients and their own reputations and practices. It is ethical, even encouraged, for another psychiatrist to intercede in such situations.

SECTION 5

A physician may choose whom he will serve. In an emergency, however, he should render service to the best of his ability. Having undertaken the care of a patient, he may not neglect him; and unless he has been discharged he may discontinue his services only after giving adequate notice. He should not solicit patients.

A psychiatrist should not be a party to any type of policy that excludes, segregates, or demeans the dignity of any patient because of ethnic origin, race, sex, creed, age, or socioeconomic status.

SECTION 6

A physician should not dispose of his services under terms or conditions which tend to interfere with or impair the free and complete exercise of his medical judgment and skill or tend to cause a deterioration of the quality of medical care.

Contract practice as applied to medicine means the practice of medicine under an agreement between a physician or a group of physicians, as principals or agents, and a corporation, organization, political subdivision, or individual whereby partial or full medical services are provided for a group or class of individuals on the basis of a fee schedule, for a salary, or for a fixed rate per capita.

Contract practice per se is not unethical. Contract practice is unethical if it permits features or conditions that are declared unethical in these Principles of Medical Ethics or if the contract or any of its provisions causes deterioration of the quality of the medical services rendered.

The ethical question is not the contract itself but whether or not the physician is free of unnecessary nonmedical interference. The ultimate issue is his freedom to offer good quality medical care.

In relationships between psychiatrists and practicing licensed psychologists, the physician should not delegate to the psychologist or, in fact, to any nonmedical person any matter requiring the exercise of professional medical judgment.

When the psychiatrist assumes a collaborative or supervisory role with another mental health worker, he must expend sufficient time to assure that proper care is given. It is contrary to the interests of the patient and to patient care if he allows himself to be used as a figurehead.

In the practice of his specialty, the psychiatrist consults, associates, collaborates, or integrates his work with that of many professionals, including psychologists, psychometricians, social workers, alcoholism counselors, marriage counselors, public health nurses, etc. Furthermore, the nature of modern psychiatric practice extends his contacts to such people as teachers, juvenile and adult probation officers, attorneys, welfare workers, agency volunteers, and neighborhood aides. In referring patients for treatment, counseling, or rehabilitation to any of these practitioners, the psychiatrist should ensure that the allied professional or paraprofessional with whom he is dealing is a recognized member of his own discipline and is competent to carry out the therapeutic task required. The psychiatrist should have the same

attitude toward members of the medical profession to whom he refers patients. Whenever he has reason to doubt the training, skill, or ethical qualifications of the allied professional, the psychiatrist should not refer cases to him.

Also, he should neither lend the endorsement of the psychiatric specialty nor refer patients to persons, groups, or treatment programs with which he is not familiar, especially if their work is based only on dogma and authority and not on scientific validation and replication.

In accord with the requirements of law and accepted medical practice, it is ethical for a physician to submit his work to peer review and to the ultimate authority of the medical staff executive body and the hospital administration and its governing body.

SECTION 7

In the practice of medicine a physician should limit the source of his professional income to medical services actually rendered by him, or under his supervision, to his patients. His fee should be commensurate with the services rendered and the patient's ability to pay. He should neither pay nor receive a commission for referral of patients. Drugs, remedies or appliances may be dispensed or supplied by the physician provided it is in the best interests of the patient.

The psychiatrist may also receive income from administration, teaching, research, education, and consultation.

Charging for a missed appointment or for one not cancelled 24 hours in advance need not, in itself, be considered unethical if a patient is fully advised that the physician will make such a charge. The practice, however, should be resorted to infrequently and always with the utmost consideration of the patient and his circumstances.⁴

Psychiatric services, like all medical services, are dispensed in the context of a contractual arrangement between the patient and the treating physician. The provisions of the contractual arrangement, which are binding on the physician as well as on the patient, should be explicitly established.

It is ethical for the psychiatrist to make a charge for a missed appointment when this falls within the terms of the specific contractual agreement with the patient.

SECTION 8

A physician should seek consultation upon request; in doubtful or difficult cases; or whenever it appears that the quality of the medical service may be enhanced thereby.

The psychiatrist should agree to the request of a patient for consultation or to such a request from the family of an incompetent or minor patient. The psychiatrist may suggest possible consultants, but the patient or family should be given free choice of the consultant. If the psychiatrist disapproves of the professional qualifications of the consultant or if there is a difference of opinion that the primary therapist cannot resolve he may, after suitable notice, withdraw from the case. If this disagreement occurs within an institution or agency framework, the differences should be resolved by the mediation or arbitration of higher professional authority within the institution or agency.

SECTION 9

A physician may not reveal the confidences entrusted to him in the course of medical attendance, or the deficiencies he may observe in the character of patients, unless he is required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

Psychiatric records, including even the identification of a person as a patient, must be protected with extreme care. Confidentiality is essential to psychiatric treatment. This is based in part on the special nature of psychiatric therapy as well as on the traditional ethical relationship between physician and patient. Growing concern regarding the civil rights of patients and the possible adverse effects of computerization, duplication equipment, and data banks

⁴This paragraph is reprinted as an annotation to Section 7 in the AMA's *Opinions and Reports of the Judicial Council* (1, p. 39).

makes the dissemination of confidential information an increasing hazard. Because of the sensitive and private nature of the information with which the psychiatrist deals, he must be circumspect in the information that he chooses to disclose to others about a patient. The welfare of the patient must be a continuing consideration.

A psychiatrist may release confidential information only with the authorization of the patient or under proper legal compulsion. The continuing duty of the psychiatrist to protect the patient includes fully apprising him of the connotations of waiving the privilege of privacy. This may become an issue when the patient is being investigated by a government agency, is applying for a position, or is involved in legal action. The same principles apply to the release of information concerning treatment to medical departments of government agencies, business organizations, labor unions, and insurance companies. Information gained in confidence about patients seen in student health services should not be released without the student's explicit permission.

Clinical and other materials used in teaching and writing must be adequately disguised in order to preserve the anonymity of the individuals involved.

The ethical responsibility of maintaining confidentiality holds equally for the consultations in which the patient may not have been present and in which the consultee was not a physician. In such instances, the physician consultant should alert the consultee to his duty of confidentiality.

Ethically the psychiatrist may disclose only that information which is immediately relevant to a given situation. He should avoid offering speculation as fact. Sensitive information such as an individual's sexual orientation or fantasy material is usually unnecessary.

Psychiatrists are often asked to examine individuals for security purposes, to determine suitability for various jobs, and to determine legal competence. The psychiatrist must fully describe the nature and purpose and lack of confidentiality of the examination to the examinee at the beginning of the examination.

Psychiatrists at times may find it necessary, in order to protect the patient or the community from imminent danger, to reveal confidential information disclosed by the patient.

Careful judgment must be exercised by the psychiatrist in order to include, when appropriate, the parents or guardian in the treatment of a minor. At the same time the psychiatrist must assure the minor proper confidentiality.

When the psychiatrist is ordered by the court to reveal the confidences entrusted to him by patients he may comply or he may ethically hold the right to dissent within the framework of the law. When the psychiatrist is in doubt, the right of the patient to confidentiality and, by extension, to unimpaired treatment, should be given priority. The psychiatrist should reserve the right to raise the question of adequate need for disclosure. In the event that the necessity for legal disclosure is demonstrated by the court, the psychiatrist may request the right to disclosure of only that information which is relevant to the legal question at hand.

SECTION 10

The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to society where these responsibilities deserve his interest and participation in activities which have the purpose of improving both the health and the well-being of the individual and the community.

Psychiatrists should foster the cooperation of those legitimately concerned with the medical, psychological, social, and legal aspects of mental health and illness. Psychiatrists are encouraged to serve society by advising and consulting with the executive, legislative, and judiciary branches of the government. A psychiatrist should clarify whether he speaks as an individual or as a representative of an organization. Furthermore, psychiatrists should avoid clouding their public statements with the authority of the profession (e.g., "Psychiatrists know that...").

Psychiatrists may interpret and share with the public their expertise in the various psychosocial issues that may affect mental health and illness.

Psychiatrists should always be mindful of their separate roles as dedicated citizens and as experts in psychological medicine.

On occasion psychiatrists are asked for an opinion about an individual who is in the light of public attention, or who has disclosed information about himself through public media. It is unethical for a psychiatrist to offer a diagnosis unless he has conducted an examination and has been granted proper authorization for such a statement.

The psychiatrist should not permit his certification to be used for the involuntary commitment of any person except when this is clearly necessary for the patient's own protection or the protection of others from probable injury at the patient's hands.

" A complaint concerning the behavior of a member of this Association shall be in writing, signed by the complainant, and filed with the Secretary." (Chapter 10, Section 1, By-Laws, American Psychiatric Association.)

REFERENCE

1. Judicial Council, American Medical Association: Opinions and Reports of the Judicial Council. Chicago, AMA, 1971

Procedures for Handling Complaints of Unethical Conduct

A complaint concerning the behavior of a member of this Association shall be in writing, signed by the complainant, and filed with the Secretary. The Secretary shall refer it to the appropriate district branch for investigation and action. The Secretary shall notify the accused member that he has received such a complaint and has forwarded it to the member's local district branch, and shall inform the accused member of his right to appeal any forthcoming action to the Board of Trustees.

The district branch may appeal to the Board of Trustees for relief from responsibility for considering any complaint.

The complainant shall have the right of appeal to the Board for reconsideration of the decision of the district branch. (Chapter 10, Section 1, By-Laws, American Psychiatric Association, 1973 Revision)

A complaint, as noted above, must be written, must be signed by the complainant, and must be filed with the Secretary of the Association.

I. Secretary

- A. Clarifies the complaint and relates it to violation of a specific section of the Principles of Medical Ethics with APA's Annotations Especially Applicable to Psychiatry.
- B. Indicates the membership status of the defendant.
- C. Refers it to the appropriate district branch for investigation and action.
- D. Sends the material to the Ethics Committee for information.
- E. Notifies the accused member that he has received a complaint and has forwarded it to the member's local district branch, informing the accused member of his right to appeal any forthcoming action to the Board of Trustees.
- F. Notes that a charge has been filed and will be investigated by the assigned district branch.
- G. Notes to the district branch the right of the complainant and the defendant to representation by counsel.

II. District Branch

- A. Rejects the assignment and returns the complaint to Board of Trustees under certain circumstances (possible reasons: defendant is member-at-large or the nature of the complaint justifies a change of venue).
- B. Investigates the complaint, permitting both the defendant and complainant to be heard, with representation by counsel if requested.
- C. Determines:
 1. The complaint to be without merit and recommends that it be dismissed
 2. That the complaint has been sustained and the defendant is found:
 - (a) Not guilty
 - (b) Guilty, with the following alternatives:
 - (1) Admonishment
 - (2) Reprimand
 - (3) Suspension from membership for a specific period of time
 - (4) Expulsion from the district branch
- D. Notifies the Board of Trustees, which:
 1. Sends information to the national Ethics Committee
 2. Takes action on recommendations of the district branch
 3. Notifies the complainant and the defendant of the actions taken

III. National Ethics Committee

If the case is sent by the Board of Trustees to the national Ethics Committee it may, in investigating a complaint, designate two Fellows not on the committee to serve as investigators. Any member under investigation shall be entitled to 30 days' notice in writing, advising him of the charges, and the date and place of the hearing before the Ethics Committee. He shall have the right to personal appearance and determination. The final action taken by the Ethics Committee is a recommendation to the Board of Trustees. The Board of Trustees will then inform the district branch of its action so that the appropriate parallel action may be taken.

The committee may:

- A. Determine that the complaint is without merit and recommend that it be dismissed.
- B. Advise the Board that a complaint has been sustained and recommend that the member be admonished, reprimanded, suspended from membership for a specific period of time, or expelled from the Association.

The Board of Trustees informs the district branch of its action so that an appropriate parallel action may be taken.

IV. Appeal Procedure

A disciplined member may appeal to the membership by filing a notice of such intent with the Secretary within 30 days after notification of the action of the Board. Expelled members shall be denied all membership privileges pending the appeal. All other penalties shall be suspended pending the appeal. Appeals shall be heard at the next Annual Meeting at a session attended only by voting members and the necessary secretarial staff selected by the President. The member shall have the right to be heard and to be represented. If two-thirds of those present vote by secret written ballot to reverse the Board's action, the complaint shall be dismissed.

NOTE—Alternate IV. Appeal Procedure

If the defendant or complainant appeals within 30 days after notification of the action of the district branch, the national Ethics Committee proceeds as in III above, and in addition reviews the procedure of the district branch. The final appeal may be to the general membership.