

Code of Ethics

2012

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Preamble

The following Statement of Principles and Code of Ethics articulate principles of conduct that are deemed appropriate and acceptable by the American Academy of Otolaryngology–Head and Neck Surgery Foundation, Inc. The statements and principles contained herein are not laws, but rather guidelines for honorable behavior. We believe that these ethical principles should be honored by all Fellows and Members intent on maintaining good standing in the Academy. The ethical principles should serve to bring clarity and definition to areas where confusion might occur in the course of contemporary Otolaryngology practice.

The Academy further endorses the current opinions of the Council on Ethical and Judicial Affairs (CEJA) of the American Medical Association. Adhering to these principles should provide guidance to Otolaryngologists in acting honorably and professionally toward their patients.

Principles

1. The best interest of the patient must be the foremost concern of the physician in all circumstances.
2. The patient must be treated with competence, respect, dignity and honesty. Confidences shall be kept except as required by law.
3. The physician must maintain proficiency and competence through continuing study and be diligent in the administration of patient care.
4. Fees must be commensurate with the service rendered.
5. The impaired physician must withdraw from that part of the practice that is affected by the impairment.
6. Academy members should assist fellow members in complying with these principles.

The Physician-Patient Relationship

Each patient must be treated with respect, dignity, compassion, and honesty. The patient's right to participate in the treatment process must be recognized and promulgated by the otolaryngologist. The otolaryngologist shall be free to choose whom to serve, however, discrimination against a patient on the basis of race, color, gender, gender identity, age, sexual orientation, socioeconomic status, religion or national origin is inappropriate. Confidentiality of patient information is to be maintained, within the constraints of the law and the obligation to protect the welfare of the individual and the community. The otolaryngologist must establish and maintain appropriate relational boundaries, avoiding exploitation of patient vulnerability and specifically avoiding sexual misconduct with patients.

The otolaryngologist must disclose actual or potential conflicts of interest to patients, including but not limited to, fee arrangements and professionally related commercial interests. If a conflict of interest cannot be resolved, the otolaryngologist should withdraw from the relationship in a timely, appropriate

manner. After having accepted a patient for care, the otolaryngologist may not neglect that patient.

Colleague Interactions

Interactions with colleagues should be based on mutual respect and a desire to improve patient care. Otolaryngologists must recognize their own professional limitations and expertise. Consultation and referral must be sought when appropriate. Communication with colleagues must be truthful and forthright. Disparagement of any kind is to be discouraged.

Commercial Interests

This Code of Ethics does not seek to restrict legal trade practices. However, a physician's commercial or financial interests should never be placed ahead of the interests and welfare of patients. Conflicts of interest undermine the trust that patients place in their physician. For this reason, physicians should endeavor to avoid any venture that creates a conflict of interest between personal financial interests and the best interests of the patient. Conflicts that develop between a physician's financial interests and the physician's responsibilities to the patient should be resolved to the benefit of the patient.

Referral Practices

All decisions regarding patient referral should be based primarily upon consideration of the needs and best interests of the patient. A physician's referral practice should never lead to exploitation of patients or third-party payors. Referral to a health facility in which a physician has a financial interest is not in and of itself unethical. However, such referrals are best when the referring physician will be directly involved in providing care to the patient at the facility. In cases where it is not possible or feasible to provide direct care, disclosure of financial interests should be made.

Prescribing Practices

Financial interests that the physician might have in the company supplying the product should not influence a physician in the prescribing of drugs, devices, appliances, or treatments. Neither should a physician's referral or admission patterns be constructed so as to enhance the physician's financial interests in any health facility. Physicians should not accept gifts from industries that would influence their prescribing patterns or practices.

Patents

Physicians should be allowed to patent devices, but the use of these devices must be in accordance with the patient's best medical interests, without regard to the physician's financial interests. Although it is currently lawful in the United States to patent medical and surgical procedures, such patents issued after October 1, 1996, may not be lawfully enforced against physicians or their affiliated health care institutions. This law is consistent with established principles of medical ethics. Medical and surgical procedures contribute to a universal body of medical knowledge. Unrestricted access to that knowledge is one of the defining characteristics of the medical and surgical profession. Enforcing patent restrictions on medical and surgical procedures limits access to medical knowledge, denies potential benefit to patients, and thus is unethical. Physicians should be allowed to charge a reasonable fee for instructional courses which describe and teach techniques and procedures to other physicians.

Advertising

It is not unethical for Otolaryngologists to advertise their services. Advertisement must be truthful and not misleading. An Otolaryngologist should not misrepresent his/her qualifications and/or training, and

should not exaggerate the efficacy or uniqueness of treatments rendered. Advertisements should also conform to local legal and commercial requirements with regard to format and content.

Research

Otolaryngologists – Head & Neck Surgeons must conduct biomedical research according to ethical, moral, medical, and legal guidelines. All research should respect the dignity and sanctity of human life. The goal of research should be the betterment of mankind, the alleviation of suffering, and the ultimate improvement of medical practice. Research that knowingly and unnecessarily jeopardizes the health, safety, or longevity of human subjects is unethical.

Biomedical research projects should be approved by institutional animal research boards, or human subject boards when appropriate. When possible, animal studies should precede the use of new and experimental techniques in humans. All human research subjects should be fully informed of the benefits and risks of the research being conducted and should give their informed consent prior to participating as a subject in any prospective trial. Further, any subject should be allowed to withdraw from a research protocol at any time without penalty. Research protocols should not be designed in a manner such that the research subject would receive a treatment which knowingly provides less benefit than the currently accepted standard of care.

The patient's right to privacy must be observed. Communications to the public must not convey false, untrue, deceptive, or misleading information. In addition, these communications should not misrepresent a surgeon's credentials, training, experience, or ability. Otolaryngologists should seek to avoid conflicts of interest in research. When unavoidable, such conflicts should be publicized. Credit should be given to all investigators who contribute in a material way to a project. Conversely, co-authorship should not be assigned to individuals who do not participate in the project.

Character Issues

Patients and society at large place a high level of trust in physicians. Physicians are held to the highest moral standards in the community. This level of trust is based on an assumption that the physician maintains a high degree of personal integrity and adheres to a professional code of ethics. Physicians are expected to be truthful and honest. Otolaryngologists should conduct themselves morally and ethically so as to merit the confidence placed in them. Anything that detracts from the ability of an Otolaryngologist to conduct himself or herself in such a fashion should be avoided. Otolaryngologists have an obligation to their colleagues to assist them in avoiding or eliminating behavior which is not conducive to maintaining personal integrity.

Impairment

Physician impairment represents a potential hazard to patients and to the affected physician. Otolaryngologists should make every effort to recognize the signs of physician impairment in themselves and in their colleagues. The Otolaryngologist who suspects impairment in a colleague has an ethical obligation to the impaired physician and his/her patients. Self-referral for appropriate treatment should be advised and encouraged. The physician should withdraw from any component of practice that adequate assessment deems impaired. Appropriate management, including counseling, should follow. Should a physician refuse to self-refer when presented with evidence of impairment, Otolaryngologists have an obligation to report the suspected physician to their supervisor or medical licensing authorities, particularly if the impairment is a threat to safe patient care. Confidentiality should be maintained for

physicians undergoing evaluation and treatment for impairment. Physicians who have completed rehabilitation for impairment should not be restricted from practice provided that proper post-rehabilitation monitoring shows no evidence of relapse.

Illegal Activity

Otolaryngologists should realize that they are subject to all civil and criminal statutes applicable to the region in which they practice. They are further subject to federal regulations governing medical practice. Illegal activity by an otolaryngologist compromises his or her own personal integrity, and casts aspersions on the medical profession at large. Otolaryngologists who knowingly participate in illegal or fraudulent behavior should be reported to the appropriate local authorities.

Fees

Fees must be commensurate with the service(s) rendered. It is unethical for a physician to charge an illegal or excessive fee. Illegal fee arrangements include charges for services not rendered, fee-splitting in exchange for referrals, and repeated upcoding (i.e., submitting claims with higher codes than is appropriate for the services rendered). Fee collection efforts should take into account the ability of the patient to pay.

Physicians should not withhold vital and emergent treatment to a patient because of their inability to pay. Physicians should not abandon a patient in a post-operative period because of that patient's inability to pay.

Community Relations

Physicians have been bestowed by society with trust and respect that no other profession can claim. Physicians in turn have a responsibility to their communities that goes beyond that of other commercial enterprises. Physicians must preserve their role as health advocates within the community. This may involve participation in health education programs. It also may involve the physician adopting a protective role when the health and safety of a community is threatened. Academy members should refuse to cooperate in policies that violate the patients' interests and should become advocates for the sick whenever economics, organizations, or regulations threaten the good and welfare of our patients. Physicians may be called upon to act in other roles as civic leaders within the community. Each physician must respond within the scope of his or her abilities. Activities that promote the health and well-being of the community in a cost-effective way should be supported.

Otolaryngologists should not abandon the underprivileged segments of our society and should be encouraged to devote some time in caring for patients who are unable to pay.

Otolaryngologists should work hard to preserve their good reputation within the community, and should avoid activities that undermine the trust and high regard society places in them.

Disciplinary Actions

Otolaryngologists have an ethical duty to report colleagues to state licensing authorities when documentary evidence exists of illegal activity. The Academy's Board of Directors shall have the power to censure, suspend or expel any member who violates the Academy's Code of Ethics, as amended from time to time, including violations of the ethical guidelines of expert witness qualifications and testimony as stated in this code. The Board shall follow the procedures set forth in Section 2.23 of the Academy

Bylaws and other procedures that it establishes before taking any disciplinary action based on violation of the Code of Ethics.

Expert Witness Qualifications and Testimony

The Academy believes it is important for Otolaryngologists to serve as expert witnesses in legal proceedings to assist in the administration of justice. The Otolaryngologist, as a medical expert witness, shall be appropriately qualified and shall be thoroughly prepared with relevant facts so that he or she can, to the best of his or her ability, provide the court with opinions that are accurate and capable of substantiation with respect to the matters at hand. Physicians serving as expert witnesses must provide informed, objective, and truthful testimony without adopting a position of advocacy, and serve as spokesman for the field of special knowledge the medical expert witness represents. It is unethical for physicians to accept compensation for expert witness testimony that is linked to the outcome of the case. Academy members must follow the "Statement on Qualifications and Guidelines for the Physician Expert Witnesses," attached to this Code of Ethics as Appendix A and incorporated herein by reference.

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