

## Ethics and Laws in Dentistry

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### Abstract

The American Dental Association believes that dentists should possess not only knowledge, skill, and technical competence but also those traits of character that encourage adherence to ethical principles. The dental profession holds a special position of trust within society. A philosophical study of moral issues of right and wrong is called ethics and deals with the moral duties of the professional dentists toward their patient, society and professional colleagues. The core issues in dental ethics are the ethics of the dentist-patient relationship, patient's confidentiality, and the need to obtain informed consent. The dentists have a duty to conduct their professional life, in accordance with the fundamental principles of ethics. This article reviews the evolution and philosophy of ethics, theories of ethics and the fundamental principles of ethics that the dentist should follow.

**Keywords:** Ethics, Consent, Dental Council, Dental ethics, Law.

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### I. Introduction

Oral health is a key indicator of overall health, well-being, and quality of life. It encompasses a range of diseases and conditions that include dental caries, periodontal diseases, tooth loss, oral cancer, oral manifestations of HIV infection, noma and birth defects such as cleft lip and palate. The Globe Burden of Disease Study 2017 estimated that oral diseases affect 3.5 billion people worldwide.<sup>(1)</sup>

The health profession has long been considered as the 'noble profession'. Dentistry is one of the important health care profession. The dental profession is a vocation in which knowledge and skill is used for the service of others. As in many other healthcare fields, dentistry has undergone many changes in recent years. With new developments in areas, such as technology, equipment and materials, policies in managed care, third-party payment and infection control requirements as well as a rise in litigation, there are many new challenges for the private practitioner. One of the characteristics of a profession is adherence to a code of ethics. Being a healthcare provider, it carries with it a responsibility to individual patient and society. Therefore the aim of this review article is to highlight the evolution and philosophy of ethics, theories of ethics and the fundamental principles of ethics that the dentist should follow.

### Evolution and Philosophy of Ethics

The word ethics comes from the Greek word 'ethos' originally meaning character or conduct. It is typically used interchangeably with the word moral which is derived from the Latin word 'mores', which means customs or habits. Together these two terms refer to conduct, character and motivations involved in moral acts.<sup>(2)</sup> Thus, ethics are not imposed by a profession or by law, but by moral obligation. Ethics are an unwritten code of conduct that encompasses both professional conduct and judgment. Though the details of the written ethical code may vary from profession to profession, the underlying principles of ethics remain the same.

Ethics is that branch of discipline of philosophy that studies morality. It is the 'science' of moral values.<sup>(3)</sup> As **David T Ozar** and **David J Sokol** suggest in *Dental Ethics at Chairsides: Professional Principles and Practical Applications*, the ethical issues faced by dentists in today's society have become more complex and seem to arise more often than those faced by dentists in the past. Given the current direction of health and dental care, it is essential that dental professionals understand and practice whole heartedly.<sup>(4)</sup>

The original ethical concept was based upon mysticism. Tracing the history of ethics, it has been progressing gradually into the world of mystery which speculates on the unknown. Subsequently, people started accumulating and recording knowledge based on their facts. In the history of Egypt and Babylonia, people were interested in their destiny and belief in life hereafter. The Egyptian 'Book of the Dead', dated 3500 BC, describes immortality of the soul and lists behaviour conducive to a desirable destiny. Prior to 1000 BC, India produced the 'Vedas'. Among expanded versions of Vedas were the 'Upanishads', which were remarkable for their discourses on many problems, such as ethics, God, death and immortality. In 470 BC, Greek philosophy evolved. According to philosophers like Aristotle, Plato, Socrates, one's action was either right or wrong, based entirely on the philosophy of individual's group. They follow one code for all. During the middle ages,

philosophy and religion, united by a common ethical interest, transferred old theories to a new setting. Individuals were recognized as Christian, and scientific discoveries sparked the revival of learning. The 19th century was, generally, a time of equality and plenty for all and the scientific theories become more pronounced during these years.<sup>(2)</sup>

The 21<sup>st</sup> century brought a great variety of moral beliefs, allowing a freedom in which each man could select his own values.<sup>(5)</sup> Nowadays, ethical standards in modern dentistry are in a cadence of rapid advance. However, despite the significant growth of ethics in dental literature, dental ethics as a field of study and as a subdiscipline within the study of moral theories and principles of professional ethics is underdeveloped and analysis of dentally related ethical problems and application of ethical theories to them is still a young field.

#### **American Dental Association (ADA) Principles of Ethics and Code of Professional Conduct (ADA Code):**

The dental profession holds a special position of trust within society. As a consequence, society affords the profession certain privileges that are not available to members of the public-at-large. In return, the profession makes a commitment to society that its members will adhere to high ethical standards of conduct. These standards are embodied in the ADA Principles of Ethics and Code of Professional Conduct (ADA Code). ADA Code is, in effect, a written expression of the obligations arising from the implied contract between the dental profession and society. The ADA Code has three main components: **The Principles of Ethics, the Code of Professional Conduct and the Advisory Opinions.**

The Principles of Ethics are the aspirational goals of the profession. They provide guidance and offer justification for the Code of Professional Conduct and the Advisory Opinions. There are five fundamental principles that form the foundation of the ADA Code: patient autonomy, nonmaleficence, beneficence, justice and veracity. Principles can overlap each other as well as compete with each other for priority. More than one principle can justify a given element of the Code of Professional Conduct. Principles may at times need to be balanced against each other, but, otherwise, they are the profession's firm guideposts.<sup>(6)</sup>

#### **DCI Code of ethics and dentist act, 1948**

In exercise of the powers conferred by the dentists Act, 1948 the Dental Council of India as of 2014, issues a copy of the Declaration at the time of registration. This includes Ethical code regarding character and responsibilities of dentists in maintaining good clinical practice, dental records, display of registration number, drugs prescription, fees and other remuneration and signing professional certificates, reports and other documents are provided.

Dentist should act as good responsible citizen and work towards public welfare and should promote practice of different paramedical. Unethical acts related to advertisement, soliciting, publicity and signage, patents and copyrights, rebates and commissions, human rights and unethical practice are discussed. In unethical practice regarding signing certificates, use of abbreviations, naming and styling of dental establishments, doctor patient's relationship and relationship with pharmaceuticals and dental companies.<sup>(7,8)</sup>

#### **Issues in dental ethics(Figure 1) :**

##### **Access to dental care**

Care should be available, within reason, to all seeking treatment. A dentist must not unlawfully restrict access to professional services and barriers that restrict the access of physically impaired individuals should be eliminated to the extent that this can be reasonably accomplished.<sup>(9,10)</sup>

##### **Advertising**

While the practice of advertising is considered acceptable by most professional organizations, it must never be false or misleading. Advertising by a dentist must not misrepresent or mislead or deceive by partial disclosure of relative facts. It should neither create false or unjustified expectations of favourable results nor imply unusual circumstances.<sup>(8,10,11)</sup>

##### **Confidentiality**

It is assumed that health professionals and ancillary personnel, such as record keepers may need patient's information. Further, relevant facts may be communicated to students and other appropriate health care professionals for educational purposes. For some infectious diseases there may be no community standard regarding the dentist's obligation to protect patient confidentiality when third parties are at risk of infection.<sup>(11)</sup>

##### **Veracity**

This includes truthful communication without deception and maintaining intellectual integrity. Areas included under veracity are truthfulness in billing issues and referral. Another area in which veracity comes into play revolves around credentials. It is imperative that a dentist be truthful regarding specializations and degrees held.<sup>(9,11)</sup>

## Consent

The term “consent” means *voluntary agreement, compliance, or permission*.<sup>(12)</sup> The concept of consent comes from the ethical issue of respect for autonomy, individual integrity and self-determination, also it is the legal issue that protects every patient’s right not to be touched or in any way treated without the patient’s authorization’. The confidence, co-operation and, critically, the agreement of the patient will contribute to a successful administration of treatment and a satisfactory outcome for everyone. It acts as an evidence that the clinician has sought, and been given, permission to intervene and affect the physical integrity of the patient.<sup>(12,13)</sup>

## Types of Consent

Depending upon the circumstances, in each case, consent may be implied, expressed, informed, proxy consent, loco parentis or blanket consent.

### 1. Implied consent

It implies consent to dental examination in a general sense i.e. when a patient approaches the dentist for treatment; it is presumed that there is consent for routine physical examination. This is the most common variety of consent in both general and hospital practice.<sup>(14)</sup> Most dental treatment is carried out while the patient is conscious and they are therefore capable to stop the dentist when they wish to. Though an implied consent is not written and its existence is not expressly asserted but nonetheless, it is legally effective.<sup>(14,15)</sup>

### 2. Expressed consent (Tacit consent)

Expressed consent is one, the terms of which are stated in distinct and explicit language. Express written consent should be obtained for all major diagnostic procedures, general anaesthesia, for surgical operations, intimate examinations, and examination for determining age, potency and virginity and in medico-legal cases. When the patient expresses his consent verbally it is termed as “**oral or verbal expressed consent**” and when express in writing is known as “**written expressed consent**”.<sup>(16)</sup>

### 3. Informed consent

Informed consent is the process of obtaining permission of a subject to participate in research and to give an opportunity to decide about his or her healthcare. Informed consent also implies that a dialogue has taken place about the nature of the decision, reasonable alternatives, relevant risks, benefits and uncertainties of the decision, and the comprehension and acceptance of the health-care decision by the patient/subject.<sup>(17)</sup>

### 4. Proxy consent (Substitute Consent)

This type of consent is utilized in the event the patient is unable to give consent because he/she is a minor or mentally unsound/ unconscious. In such situations a parent or close relative can provide proxy consent.<sup>(18)</sup>

### 5. Loco (consent) parentis

In an emergency situation in case of children, when parents/ guardians are not available, consent can be obtained from the person bringing the child for dental examination or treatment (For example: schoolteacher, warden, etc).<sup>(17,18)</sup>

### 6. Blanket consent

It is a consent taken on a printed form that covers (like a blanket) almost everything a dentist or a hospital might do to a patient, without mentioning anything specifically. Blanket consent is legally inadequate for any procedure that has risks or alternative.<sup>(17,18)</sup>

### 7. Valid Consent

Valid consent consists of three related aspects:

1. **Voluntariness:** Patients should give consent completely voluntarily without any pressure either from the dentist or any third party (e.g. relatives).
2. **Capacity to consent:** The patient should be in a position to understand the nature and implication of the proposed treatment, including its consequences.
3. **Age of consent:** The age of consent is bound by legal definitions and within the context of the Indian law, there are two schools of thought. Section 90 of the Indian Penal Code of 1860 states that “Consent by intoxicated person, person of unsound mind or a person below twelve years of age is invalid”. This therefore implies that a person above 12 years of age can consent to medical/surgical/dental treatment if it is intended for their benefit and undertaken in good faith. On the other hand, according to Section 11 of the Indian Contract Act of 1872 - a competent person of sound mind who has attained the age of majority of 18 years can legally enter into a contract.

Since the dentist-patient relationship is essentially a contract, it implies that only persons 18 years of age and above can enter into a doctor-patient contract and can give consent for treatment. In the absence of clear legislation, the majority of doctors/dentists in India considers the consent of a person above twelve and less than eighteen years of age valid for medical/dental examination only, but for dental interventions prefers to take the consent of the parents/ guardians. This is a definite safeguard against civil liability.

The primary responsibility for providing care and consent for the child or young person should lay with his/her parents. Patients under the age of minority or adults with diminished mental capacity should have treatment consent obtained from a parent or legal guardian. The adult accompanying the paediatric patient may not be a legal guardian allowed by law to consent to dental procedures.<sup>(12,14,17)</sup>

**Table 1: Consent may not be obtained in the following situations,<sup>(19)</sup>**

Person suffering from a notifiable disease	Prisoners and criminals
Spread of infection	Child offenders-when the Magistrate makes the request.
Examination of immigrants.	Attempted suicide
Members of armed forces, handlers of food and dairy products.	Medical emergencies
Vaccination	

### Consent in medical and dental photographs

Informed consent should be obtained for all uses that will be made of medical and dental images, including worldwide distribution through various electronic media.<sup>(20)</sup>

### The Bio-medical waste (Management and handling) Rules,1998

The Bio-medical waste (Management and handling) Rules 1998 lay down clear methods for disposal of biomedical waste. These rules apply to all persons included dentist, who generate, collect, receive, store, transport, treat, dispose, or handle bio-medical waste in any form. Duty of occupier (generator) to take all steps to ensure that such waste is handled without any adverse effect to human health and the environment. Therefore, dentist should be aware of biomedical waste management to prevent transmission of disease to patients and oral health care professionals.<sup>(21)</sup>

### Drug prescription policy and Drugs and Cosmetics Act, 1990

It regulates the import, manufacture, distribution, and sale of drugs and cosmetics. It deals with all drugs used for treatment, diagnosis, or prevention of disease in man and animals. All drugs used in dentistry should be regulated by Drugs and Cosmetics Act 1990. In India there is no separate Dental formulator for drugs prescription.<sup>(22)</sup>

### Clinical Establishment Act,2010

In 2010 Clinical Establishments (Registration and Regulation) Act, 2010 has been enacted by the Central Government to provide for registration and regulation of all clinical establishments in the country with a view to prescribe the minimum standards of facilities and services provided by them. This Act is applicable to all kinds of clinical establishments from the public and private sectors, of all recognized systems of medicine including single doctor clinics. The only exception will be establishments run by the Armed forces.<sup>(22)</sup>

### Protection against Litigation

Dental records are documentary evidence as per the Indian Evidence Act, 1872 (Amended in 1952 and 1961). These are generally summoned to the court of law in various types of cases in our country. All records must be contemporaneous and must be signed and dated. Legally, dentist's written records carry more weight than patient's recollection. Records contain a written evidence in the form of letter, circulars, reports, contracts, invoices, vouchers, minutes of meetings, books of accounts etc.<sup>(12)</sup>

Routine case records should be preserved up to 6 years after completion of treatment and up to 3 years after death of the patient. Medico-legal importance records should be preserved up to 10 years, however where there is chance of litigation arising for purpose of negligence records should be preserved at least 25 years, after which they can be destroyed after making index and recording summary of the case. If negligence happened during the period of minority, the minor has the rights to sue the doctor within three years after majority.<sup>(23)</sup>

Disclosure of complete information that is necessary to the patient regarding the treatment is essential to avoid any clauses of negligence against the doctor, even if there is no contract between the doctor and patient.

A tertiary level of protection against outcome of litigation would be to go for insurance cover. Professional indemnity insurance cover became available for doctors and medical establishments from December 1991. These insurances are designed to provide the insured person protection against the financial consequences of legal liability. The importance of professional indemnity insurance as a preventive measure helps to avoid litigation and provide security to the dental professionals.<sup>(12,24)</sup>

### Ethical vs Legal

Dental ethics is closely related to law.<sup>(25,26)</sup> In many countries, there are laws that specify the way in which the dentist must deal with ethical problems occurring in the practice of the profession. Although law and ethics have similarities, law may be better defined as the sum/total of rules and regulations by which a society is governed. Ethics, on the contrary, is informal or formal rule of behaviour that guides individuals or groups of people. Legal rights are grounded in the law, and ethical rights are grounded in ethical principles and values.

Dental practitioners must be familiar with the legal aspects of the profession they practice, particularly because it may sometimes happen that the law and ethics conflict. In these cases, dentists must judge whether to obey the laws or principles of ethics, placing first the interest and well-being of the patient.

Dental ethics is a very wide and complex field of study, with many branches and subdivisions, which has developed its own specialized vocabulary, mainly structured on problems that are generated by the dental practice. Dental ethics generated the publication of ethical codes that vary from one country to another, even if they have common features, such as dentist's obligations to place the patient's interests above his own, not to discriminate patients based on race, religion or other human rights, to protect patient confidentiality, etc.<sup>(27)</sup>

In most countries, the dentistry associations are responsible for the development and application of the standards of ethics,<sup>(28)</sup> which have a general character, that makes impossible to the dentist to solve any situation that he/she may encounter while practicing his/her job. The dental codes of ethics tried an international standardization materialized in guidelines for universities or authorities when they give dentists permission to practice or to offer private services. The principles contained in these codes reflect consensus about how the dentist must act. In 1997, The International Dental Federation adopted The International Principles of Ethics for the Profession of Dentist Everywhere, which must be considered as guidance by any dentist.<sup>(29)</sup> These principles are not above the local and national traditions, laws or circumstances. According to these principles, the dentist must practice following the art and dental science, but also the principles of humanity.

### The future perspectives of Dental Ethics

The future of dental ethics depends on the future or scope of dentistry and the progress of science, so it is difficult to predict it. In principle, dental ethics should be flexible and open to change. Since dental practice involves many ethical challenges, physicians should be kept informed on the progress of the principles of dental ethics, which is in close relation with the technical aspects of this profession.

## II. Conclusion

Professionalism is a core competency and concern in all health professional education. Dentistry in India is governed by Dental council of India. It is the responsibility of the DCI to ensure high ethical and legal standards for the dental profession. However, individual dentists have the responsibility to act in the patient's best interest and to provide the highest standards of clinical care. An important component of clinical care is the informed consent, which corresponds to the basic principle of patient autonomy and respect. There is a need for maintaining the records officially and professionally to protect against any commercial, legal and medico-legal litigation. Aggrieved or indignant patients can seek redress in the Consumer Protection Act when negligence exists on the part of the dentist. This can result in monetary compensation to the patient, the consumer, for deficient services on the part of dental professional. The best defence is avoiding the lawsuit in the first place and maintaining ethical standards is the key for successful practice.

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