



California Society of Plastic Surgeons, Inc.

CODE OF ETHICS

Revised 2004

Membership in the California Society of Plastic Surgeons, Inc. ("the Society") is not a right, but is instead a privilege granted by the voting membership of the Society to those surgeons deemed to be ethical and competent practitioners of the art and science of plastic surgery. Evidence of scientific competence, as measured by the successful completion of the examinations of the American Board of Plastic Surgery is required. High ethical standards must also be demonstrated by acceptance of a uniform Code of Ethics, applicable to all members as a prerequisite for original and continued membership in the Society.

The principles of conduct described herein are designed to help all surgeons practicing plastic surgery to maintain a high level of ethical conduct. These are not laws, but guidelines, by which the individual may judge themselves and/or be judged by their peers in the complex relationships that exist between the doctor and patients, colleagues, allied health professionals, and the general public.

This code of ethics is divided into general principles of medical ethics and specific guidelines deemed particularly applicable to plastic surgery.

GENERAL PRINCIPLES

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

2. Constant Improvement. Physicians should strive continually to improve medical knowledge and skill and should make available to their patients and colleagues the benefits of their professional attainment.

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

4. Patient Service. Physicians may choose whom to serve. In an emergency, however, a member should render service to the best of their ability; and having undertaken the care of a patient, a member may not neglect such patient; and unless the member has been discharged, a member may discontinue their services only after giving adequate notice. Except as provided herein, a member should not solicit patients.

5. Unimpaired Medical Decisions. Physicians should not perform services under terms or conditions, which tend to interfere with or impair the free and complete exercise of their medical judgment and skill, or tend to cause a deterioration of the quality of medical care.

6. Fees. Physicians, in the practice of medicine, should limit the source of professional income to medical services actually rendered, or services rendered under their supervision, for which they are personally and identifiably responsible. Physicians' fees should be commensurate with the services rendered. Physicians should neither pay nor receive commissions for referral of patients. Physicians shall provide medications, remedies or appliances only in the best interests of their patients.

7. Consultations. Physicians should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of medical service may be enhanced thereby.

8. Confidentiality. Physicians may neither reveal any confidences entrusted in the course of medical attendance, nor reveal any observations regarding the character of a patient, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or the community.

9. Societal Participation. The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to the Society, where these responsibilities deserve the member's interest and participation in activities that have the purpose of improving both the health and the welfare of the individual and the community.

SPECIFIC GUIDELINES

I. Ethical Adherence. Members shall act in accordance with the precepts of this Code of Ethics in a member's contacts and dealings with patients, colleagues, and the general public.

II. Personal Responsibility. Each member shall be individually responsible and accountable for their own and their agent's actions, words, and the use of their name.

III. Regulatory Violations. Members may be subject to disciplinary action if their right to practice is suspended or terminated in any State, province, or country for violation of a medical practice act or other statute or governmental regulation.

IV. Medical Incompetence. Members shall be subject to disciplinary action if repeated medical incompetence is exhibited.

V. Improper Financial Dealings. Members shall be subject to disciplinary action if they are involved in improper financial dealings such as:

A. Fee-Splitting. Members of the Society shall not divide a fee for medical services with another individual licensed to practice medicine who is not a partner or an associate unless all three of the following conditions are met:

- (1) The patient consents to employment of the other person licensed to practice medicine after a full disclosure that a division of fees will be made;
- (2) Such division is made in proportion to the service performed or responsibility assumed by each; and
- (3) The total fee charged by all persons licensed to practice medicine is not increased solely by the division of the fee.

B. Rebates. With the general understanding that marketing is acceptable to our society, patients who are referred to physicians must be told of agreements between the referring source and the physician. This includes those who receive referrals because they are members of ASPS, CSPS, or HMOs as well as those who employ an independent referral source. No contingency fee, split fee commission or any form of case-by-case reimbursement shall be paid by or to any entity for referring a patient to a physician.

C. Unreasonable Fees. Members of this Society shall not enter into any agreement to charge or collect an illegal or unconscionable fee. A fee is unconscionable when it is so exorbitant and wholly disproportionate to the services performed as to shock the conscience of comparably trained member physicians of ordinary prudence practicing in the same community. Reasonableness shall be determined on the basis of circumstances existing at the time the agreement is entered into except where the party contemplates that the fee will be affected by later events. When peer review at a local level has

determined that the fees charged were unconscionable, or that fraudulent insurance claims have been filed, they should be referred to the Ethics Committee for disposition and possible referral to the Council. Among the factors to be considered in determining the reasonableness of the fee are the novelty and difficulty of the procedures involved; the skill required to perform the medical service properly; the time and labor required; and the informed consent of the patient to the procedures involved and the fee charged.

D. Promising Compensation. Members of the Society shall not compensate, give, or promise anything of value to any person, whether or not licensed to practice medicine, for the purpose of recommending or securing employment of the member or member's group by a patient, or as a reward for having made a recommendation resulting in employment of the member or the member's group by a patient; nor shall members of this Society accept anything of value from any person, whether or not licensed to practice medicine, for the purpose of recommending or securing employment of such person or such person's group by a patient, or as a reward for having made a recommendation resulting in employment of such person or such person's group by a patient.

VI. Marketing Principles Members have an ethical duty to ensure that their marketing practices comply with all applicable laws and regulations. When marketing over the Internet, or through any other medium, no member shall offer or accept any rebate, refund, commission, dividend, discount (defined as any reduction from the member's customary fees) or other form of consideration, monetary or otherwise, as compensation or inducement for patient referrals.

All members owe an ethical duty to ensure that the patient's best interests are given priority over all other considerations relating to patient referral and selection. No member shall accept any patient that the member is not competent or equipped to properly treat. No member shall agree to treat a patient at a fee which will in any way constrain treatment options or otherwise affect in any way the treatment rendered in a manner contrary to the patient's best interests.

In addition, no member will agree to treat any patient without first completing an appropriate evaluation and consideration of the patient's health and medical objectives. This includes ensuring that the patient is fully informed of risks, complications, side effects, and other consequences associated with the proposed course of treatment. Keeping in mind that every patient is unique, no member should allow discussions had through electronic mediums such as e-mail or the Internet to in any way substitute for a face-to-face evaluation of the patient prior to reaching any agreement as to the treatment to be rendered or the fee for the proposed course of treatment.

Advertising. Members shall be subject to disciplinary action if they solicit patients by advertising, which is

false, deceptive or misleading. Members may advertise services through public communications media, such as professional announcements, telephone and medical directories and broadcast media. The following are examples of the types of useful information that could be included in ethical advertising and should not be interpreted as excluding other relevant information consistent with ethical advertising.

A. Definitions. For the purpose of these specific guidelines and unless the context otherwise requires, the following definitions are such that:

1. A communication is a message transmitted orally or by written electronic media, the primary purpose of which is to notify the public, including a segment thereof, or person, of the availability of a member or member's group to practice medicine.

2. A material fact is one of which a member of the public ought to reasonably be informed before selecting a qualified plastic surgeon.

3. A written or electronic media communication includes, but is not limited to, communication by means of television, radio, motion picture, telephone, facsimile, telegram, letter, handbill, circular, newspaper, magazine, book, list, directory, business card, professional announcement card, office sign, letterhead, telephone directory listing or professional notice.

B. Permitted Information

1. A statement of addresses and telephone numbers of the member's offices.

2. A statement of office hours regularly maintained by the member.

3. A statement of language, other than English, fluently spoken by the member or a person in the member's offices.

4. A statement as to the member's specialty board certification or a statement that the member physician limits their practice to specific fields.

5. A statement that the member provides services under specified private or public insurance plans or health care plans.

6. A statement of names of schools and postgraduate clinical training programs from which the member has graduated, together with the degrees received.

7. A listing of the member's publications in educational journals.

8. A statement of teaching positions currently or formerly held by the member, together with pertinent dates.

9. A statement of the member's affiliations with hospitals or clinics.

10. A statement that the member regularly accepts installment payments and/or credit card payments for fees.

C. False, Deceptive or Misleading Claims. A communication by or on behalf of members seeking professional employment shall not contain any false, fraudulent, deceptive, or misleading statements or claims. Without limitation, a false, fraudulent, deceptive or misleading statement or claim:

1. Contains a misrepresentation of fact or omits to state any material fact necessary to make the statement, considered as a whole, not deceptive or misleading.

2. Contains images of persons or facsimiles thereof, which falsely or deceptively portray a physical or medical condition, injury or disease, including obesity, or recovery or relief therefrom.

3. Contains a testimonial pertaining to the quality and efficacy of medical care if the experience of the endorser does not represent the typical experience of other patients or if, due to the infrequency and/or complexity of such care, results in other cases cannot be predicted with any degree of accuracy.

4. Is intended or is likely to create a false or unjustified expectation of favorable results.

5. Contains a presentation or statement of opinion as to the superior quality of professional services which is not susceptible to verification by the public or contains a statement representing that the member possesses skills or provides services superior to those of other physicians with similar training, unless such representation can be factually substantiated.

6. Appeals primarily to a layperson's fears, anxieties, or similar emotions.

7. Contains in reference to any matter material to a patient's decision to utilize a member's services, a representation of fact or implication that is likely to cause an ordinarily prudent person to misunderstand or be deceived or fails to contain reasonable warnings or disclosures necessary to make a representation or implication not deceptive.

8. Contains a prediction of future success or guarantee that satisfaction or a cure will result from the performance of the member's services.

9. States or implies that a member is a certified specialist unless they are certified by a board recognized by the American Board of Medical Specialties.

10. Concerns illegal transactions.

11. Is not identified as a paid advertisement or solicitation, unless it is apparent from the context that it is a paid announcement or advertisement.

12. Relates to professional fees other than:

(a) A statement of the fixed fee charged for a specific professional service, provided that the description of such service would not be misunderstood or be deceptive and that the statement indicates whether additional fees may be incurred for related professional services which may be required in individual cases; and

(b) A statement of the range of fees for specifically described professional services, provided that there is reasonable disclosure of relevant variables and considerations affecting fees so that the statement would not be misunderstood or be deceptive including, with limitation, an indication whether additional fees may be incurred for related professional services which may be required in individual cases.

13. Is intended or is likely to attract patients by the use of puffery or exaggerated claims.

D. Media Perks. Members shall not compensate or give anything of value, directly or indirectly, to any representative of the press, radio, or television or other communication medium in anticipation of, or return for recommending the member's services or providing professional publicity. If communication to the public results from payment by a member, such as a payment to a public relations agent, this must be disclosed unless the nature, format or medium of the communication makes that fact apparent. Members may pay reasonable costs of advertising, as permitted by this Code of Ethics. A copy or record of the advertisement in its entirety shall be kept by the member for one year after its dissemination. If the paid advertisement is communicated by television or radio, it shall be prerecorded and approved for broadcast by the member and a recording of the actual transmission shall be retained by such member for a period of one year after its dissemination.

VII. Solicitations. Member solicitations, which are in-person communications to specific individuals to attract them as patients, shall be in accordance with the precepts of this Code of Ethics in a member's contacts and dealings with patients, colleagues and the general public, as follows:

A. Systematic Verbal Solicitation. Members shall refrain from engaging in systematic verbal solicitation of patients in person, by telephone or through agents.

B. Fragile Patients. Members shall not initiate contact with prospective patients if they should know that the physical, emotional or mental state or degree of education of the individuals solicited is such that they could not exercise reasonable judgment in employing a plastic surgeon.

C. Unsolicited Advice. Members who have given unsolicited in-person advice to a layperson that they should have medical or health care, shall not accept employment resulting from that advice if:

1. The advice embodies or implies a statement or claim that is false, fraudulent, deceptive or misleading within the meaning of Section VI C of this Code of Ethics.

2. The advice involves the use of undue influence, coercion, duress, harassment, intimidation, unwarranted promises of benefits, over persuasion, overreaching, or pressure for immediate response.

3. Any non-patient has given the member notice that they do not wish to receive communications from such member.

VIII. Unjustified Surgery. Each member may be subject to disciplinary action if they perform unjustified surgery or surgery that is not calculated to improve or benefit the patient.

IX. Donated Surgery. Each member may be subject to disciplinary action if they provide their service to people on a lottery basis, such as a raffle, door prize, or other similar "donation".

X. Unprofessional Conduct. Each member may be subject to disciplinary action if they exhibit unprofessional conduct as defined in the principles of this code.

XI. Ethics Committee Referrals. Any member whose conduct is suspected to be in violation of this code shall be submitted to the Ethics Committee. The Committee will determine if the complaint is justified. The complaint and recommendation of the Ethics Committee will be forward to the Council for determination of disciplinary action, which could include referral to the MBC. Disciplinary procedures are set forth in the Society's Bylaws. The Ethics Committee and the Council solicit the opportunity to review any material appearing in any medium originating from society members and request that any such material be sent to the Society Secretary and the Executive Director for appropriate distribution to the Committee.

XII. Expert Testimony. In keeping with CSPS' commitment to the best interests of plastic surgery patients and the public at large, the Society believes that it is imperative that those of its members who serve as expert witnesses do so only in a responsible and ethical manner. It is in the public interest that medical expert testimony be readily available, objective and unbiased. Members have an obligation to testify as expert witnesses when appropriate. However, members must not accept compensation contingent upon the outcome of the litigation, nor should a member agree to serve as an expert witness if circumstances relative to the case at issue, the physician(s) involved, the treatment locality, or any other circumstances present create an actual or potential conflict of interest which might in any

manner influence or impede the member's ability to serve as a completely unbiased witness. Members whose testimony, including testimony as to credentials or qualifications, is false, deceptive, or misleading, or which in any other way violates the mandates of this Code of Ethics may be subject to disciplinary action, including expulsion. To help limit false, deceptive and/or misleading testimony, members serving as expert witnesses must:

1. Have recent and substantive experience in the area in which they testify, including, without limitation, experience in the relevant subspecialty or the particular procedure performed on the plaintiff;
2. Thoroughly review the medical facts and testify to their content fairly, honestly and impartially;
3. Be familiar with the standards of practice prevailing at the time of the occurrence;
4. Provide evidence-based testimony regarding the standard of care, citing peer-reviewed plastic surgery literature where possible and identifying personal opinion as such;
5. Demonstrate (or be prepared to demonstrate) direct causation between an alleged substandard practice and an unexpected medical outcome;
6. Neither condemn performance that clearly falls within the standard of care in the community nor endorse or condone performances that clearly falls outside of such standard of care; and
7. Not testify that a maloccurrence is malpractice, and recognize and attest to the fact that all surgical procedures carry some degree of risk and that in many cases that which is claimed to be the result of malpractice is in fact an unfortunate but not unreasonable consequence of the risks associated with a given procedure.