

Montana Chiropractic Association Code of Ethics

Preamble

This Code of Ethics is based upon the fundamental principle that the ultimate end and object of the Chiropractor's professional services and effort should be

“The greatest good for the patient.”

This Code of Ethics is for the guidance of the profession with respect to responsibilities to patients, the public, and to fellow practitioners and for such consideration as may be given to them by the legislature, state administrative agencies, the Chiropractic Legal Panel, and the Montana Chiropractic Association to the extent that they are authorized under state law to exercise enforcement or disciplinary functions.

A. Responsibility to the Patient

- A(1) Doctors of Chiropractic should hold themselves ready at all times to respond to the call of those needing their professional services, although they are free to accept or reject a particular patient except in an emergency.
- A(2) Doctors of Chiropractic should attend to their patients as often as they consider necessary to ensure the well-being of their patients.
- A(3) Having once undertaken to serve a patient, doctors of chiropractic should not neglect the patient. Doctors of Chiropractic should take reasonable steps to protect their patients prior to withdrawing their professional services; such steps shall include due notice to them allowing a reasonable time for obtaining professional services of others and delivering to the patients all papers and documents in compliance with A(5) of the Code of Ethics.
- A(4) Doctors of Chiropractic should be honest and endeavor to practice with the highest degree of professional competency and honesty in the proper care of their patients.
- A(5) Doctors of Chiropractic should comply with a patient's authorization to provide records, or copies of such records, those who the patient designates as authorized to inspect or receive all or part of such records. A reasonable charge may be made for the cost of duplicating records.
- A(6) Subject to the foregoing Section A(5), Doctors of Chiropractic should preserve and protect the patient's confidences and records, except as the patient directs or consents or the law requires otherwise. They should not discuss a patient's history, symptoms, diagnosis, or treatment with any third party until they have received the written consent of the patient or the patient's personal representative. They should not exploit the trust and dependency of their patients.

- A(7) Doctors of Chiropractic owe loyalty, compassion, and respect to their patients. Their clinical judgment and practice should be objective and exercised solely for the patient's benefit.
- A(8) Doctors of Chiropractic should recognize and respect the right of every person to free choice of Chiropractors or other health care providers and to the right to change such choice at will.
- A(9) Doctors of Chiropractic are entitled to receive proper and reasonable compensation for their professional service commensurate with the value of the services they have rendered taking into consideration their experience, time required, reputation, and the nature of the condition involved. Doctors of Chiropractic should terminate a professional relationship when it becomes reasonably clear that the patient is not benefiting from it. Doctors of Chiropractic should support and participate in proper activities designed to enable access to necessary chiropractic care on the part of persons unable to pay such reasonable fees.
- A(10) Doctors of Chiropractic should maintain the highest standards of professional and personal conduct, and should refrain from all illegal conduct.
- A(11) Doctors of Chiropractic should be ready to consult and seek the talents of other health care professionals when such consultation would benefit their patients or when their patients express a desire for such a consultation.
- A(12) Doctors of Chiropractic should employ their best good faith efforts that the patient possesses enough information to enable an intelligent choice in regard to proposed chiropractic treatment. The patient should make his or her own determination on such treatment.
- A(13) Doctors of Chiropractic should utilize only those laboratory and imaging procedures, and such devices or nutritional products that are in the best interest of the patient and not in conflict with state statute or administrative rulings.

B. Responsibility to the Public

- B(1) Doctors of Chiropractic should act as members of a learned profession dedicated to the promotion of health, the prevention of illness and the alleviation of suffering.
- B(2) Doctors of Chiropractic should observe and comply with all laws, decisions and regulations of state governmental agencies and cooperate with the pertinent activities and policies of associations legally authorized to regulate or assist in the regulation of the chiropractic profession.
- B(3) Doctors of Chiropractic should comport themselves as responsible citizens in the public affairs of their local community, state, and nation in order to improve laws, administrative procedures, and public policies that pertain to chiropractic and the

system of health care delivery. Doctors of Chiropractic should stand ready to take the initiative in the proposal and development of measure to benefit the general public health and well-being, and should cooperate in the administration and enforcement of such measures and programs to the extent consistent with law.

- B(4) Doctors of Chiropractic may advertise but should exercise utmost care that such advertising is relevant to health awareness, is accurate, truthful, not misleading, false, or deceptive, and scrupulously accurate in representing the chiropractor's professional status and area of special competence. Communications to the public should not appeal primarily to an individual's anxiety or create unjustified expectations of results. Doctors of Chiropractic should conform to all applicable state laws, regulations, and judicial decisions in connection with professional advertising.
- B(5) Doctors of Chiropractic should continually strive to improve their skill and competency by keeping abreast of current development contained in the health and scientific literature, and by participating in continuing chiropractic educational programs and utilizing other appropriate means.
- B(6) Doctors of Chiropractic may testify either as experts or when their patients are involved in court cases, workers' compensation proceeding, chiropractic legal panel proceedings, or in other similar administrative proceedings in personal injury or related cases.
- B(7) The chiropractic profession should address itself to improvements in licensing procedures consistent with the development of the profession and of relevant advances in science.
- B(8) Doctors of Chiropractic who are public officers should not engage in activities which are, or may be reasonably perceived to be in conflict with their official duties.
- B(9) Doctors of Chiropractic should protect the public and reputation of the chiropractic profession by bringing to the attention of the appropriate public or private organizations the actions chiropractors who engage in deception, fraud, or dishonesty, or otherwise engage in conduct inconsistent with the Code of Ethics or relevant provisions of applicable law or regulations within the state of Montana.

C. Responsibility to the Profession

- C(1) Doctors of Chiropractic should assist in maintaining the integrity, competency and highest standards of the chiropractic profession.

- C(2) Doctors of Chiropractic should by their behavior, avoid even the appearance of professional impropriety and should recognize that their public behavior may have an impact on the ability of the profession to serve the public. Doctors of Chiropractic should promote public confidence in the chiropractic profession.
- C(3) As teachers, Doctors of Chiropractic should recognize their obligation to help others acquire knowledge and skill in the practice of the profession. They should maintain high standards of scholarship, education, training, and objectivity in the accurate and full dissemination of information and ideas.
- C(4) Doctors of Chiropractic should attempt to promote and maintain cordial relationships with other members of the chiropractic profession and other professions in an effort to promote information advantageous to the public's health and well-being.

D. Administrative Procedures

- D(1) Ethics Committee: The Montana Ethics Committee is to serve under the Montana Chiropractic Association. The President of the Montana Chiropractic Association appoints at least five, but not more than seven Doctors of Chiropractic who are members of the MCA, to serve staggered four-year terms, as members of the Ethics Committee. All appointments to the Ethics Committee are subject to the approval of the Board of Directors of the MCA. The President will make the appointment to the committee from among respected Doctors of Chiropractic who will, to the extent practical, assure that the Committee's composition is balanced as to relative age and experience and as to emphasis of the appointee's years in practice, education, research, or other endeavors within chiropractic. Members of the Ethics Committee may serve no more than two four-year terms. Members may resign from the Committee at any time, or membership on the Ethics Committee may be terminated by the Board of Directors of the MCA at any time for any just reason. Vacancies on the Committee are filled by the President. The Ethics Committee is responsible for (I) investigating, with the advice of the MCA staff and legal counsel, each inquiry regarding ethics, and should issue an advisory opinion interpreting the Code of Ethics; (II) investigate, with the advice and assistance of the MCA staff and/or legal counsel, each challenge regarding ethics and recommend after investigation whether the Board of Directors of the MCA, should make a determination that a member of the MCA to observe a provision of the Code of Ethics and recommend an appropriate authorized sanction, and periodically assess the Code of Ethics and recommend an amendment to the MCA Board of Directors; (III) investigate each inquiry or challenge which involves a specific rule of law, in which case a violation of Section 37-12-101-32A, MCA, and refer to the Board of Chiropractors. No action will be taken by the Ethics Committee until the Board of Chiropractors has made a determination or referred such case back to the Ethics Committee.

- D (2) The Ethics Committee members should elect among themselves a Chair who shall have been a member of the MCA and the Ethics Committee for at least two years. The members of the Ethics Committee shall elect a Vice Chair to preside in the absence or disqualification of the Chair, or in which instance the Chair refuses or is unable to act.
- D (3) Meetings of the Ethics Committee are to be called with at least seven days written notice to committee members and shall include a copy of the agenda for the meeting. A quorum consists of a majority of all appointed members. Voting is by those present at the meeting. (Voting by proxy is not permitted.) A meeting may be conducted by telephone conference call. A member of the committee must decline to participate in the consideration of, or the decision in, and matter before the committee in which the member has a personal interest.
- D (4) Reports and copies of all transcripts and documents involved in the operation of the Ethics Committee shall be forwarded to the MCA President and executive office for reference and distribution to the Board of Directors and others, to the extent necessary. Actions by the committee involving MCA Members are considered confidential. The Chair of the Ethics Committee shall submit a written activity report to the Board of Directors of the MCA annually. However, all such records, reports, and proceedings are confidential and shall not be released for general information without the approval of the parties involved or legal counsel.
- D (5) Indemnification. All Ethics Committee Members and staff, when acting at the request of the Chair, are indemnified and defended by the MCA against liability arising from Committee related activities.

ADVISORY OPINIONS

Rental Arrangements and Clinic or Laboratory Referrals

It is unethical for a Doctor of Chiropractic to receive a fee, rebate, rental payment, or any other form of remuneration for the referral of a patient to a clinic, laboratory, or other health care entity.

The MCA Code of Ethics mandates, as primary obligation of the Doctor of Chiropractic, the exercise of clinical judgment and practice “solely for the patient’s benefit”. In the view of this Association, the receipt of any form of remuneration for a patient referral runs directly counter to this primary obligation and tends to adversely impact upon the relationship between chiropractor and patient.

Arrangements in which “rental fees”, “rebates”, or free gifts are received in return for patient referrals are, in the MCA’s view, unethical and unacceptable in the professional practice of chiropractic.

The MCA recognizes that there are some forms of rental agreements for space or equipment which are legitimate arms-length business transactions not conditioned on patient referrals. However, some forms of rental agreements may be designed to conceal the real nature of the payment, that is, to induce referrals. The MCA also recognizes that the federal government has developed guidelines which outline those circumstances in which space or equipment rentals would not constitute an illegal or improper form of remuneration in return for Medicare or Medicaid referrals.

The MCA feels these federal guidelines provide an excellent basis by which a Doctor of Chiropractic can ethically evaluate and engage in space or equipment rental agreements. These guidelines appear in Title 40 of the Code of Federal Regulations, Part 1001 and may be summarized and adapted for the purposes of our ethical standards as follows:

A lease agreement for space or equipment in which a Doctor of Chiropractic refers a patient to an entity which either leases to or from the doctor space or equipment, will not constitute an unethical practice where:

- 1. The lease agreement is in writing and signed by the parties.*
- 2. The lease specifies the space or equipment covered by the lease.*
- 3. If the lease is intended to provide the lessee with access to the premises or equipment for periodic intervals of time, rather than on a full-time basis for the term of the lease, the lease specifies exactly the schedule of such intervals, their precise length, their periodic, and the exact rent for such intervals.*
- 4. The term of the lease is for not less than one year.*
- 5. The rental charge is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of any referral of business between the parties.*

Doctors of Chiropractic are advised to consult with the Board of Chiropractors or other regulatory agencies for specific requirements which may relate to clinic or laboratory referrals.

Sexual Intimacies with a Patient

The MCA has received numerous requests for clarification relative to the ethical implications of sexual intimacies between Doctor of Chiropractic and a patient he or she is treating. This advisory opinion is intended to resolve any misunderstanding to state that it is in the opinion of the Ethics Committee that sexual intimacies, whether verbal or physical, is unprofessional and unethical based on existing ethical provisions in the ACA Code of Ethics: A(6), A(7), A(10), and C(2).

The physician/patient relationship requires the Doctor of Chiropractic to exercise utmost care that he or she will do nothing to “exploit the trust and dependency of the patient”. Doctors of Chiropractic shall make every effort to avoid dual relationships that could impair their professional judgment or risk the possibility of exploiting the confidence placed in them by the patient.