December 18, 1978

TO ALL THOSE USING THE "PRINCIPLES OF MEDICAL ETHICS WITH ANNOTATIONS ESPECIALLY APPLICABLE TO PSYCHIATRY"

An Administrative Law Judge of the Federal Trade Commission has ruled that the American Medical Association's "Principles of Medical Ethics" and interpretative opinions (Judicial Council's Opinions and Reports) are in violation of Section 5 of the FTC Act, insofar as they relate to physician advertising and solicitation, and to the "contract" practice of medicine. (1)

The AMA vigorously disputes these conclusions and intends to appeal the decision. In the meantime, the American Psychiatric Association will not enforce any ethical principles regarding physician advertising and solicitation or the contract practice of medicine.

Sincerely yours,

Melvin Sabshin, M.D.
Medical Director

(1) According to the opinion, the AMA defines contract practice as follows: "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 free schedule, or for a salary or for a fixed rate per capita."
The Principles of Medical Ethics
With Annotations Especially Applicable to Psychiatry

This statement was originally approved by the Assembly and the Board of Trustees of the American Psychiatric Association at their May 5-6, 1973 meetings, upon recommendation of the Ethics Committee. Additional annotations and the Procedures for Handling Complaints of Unethical Conduct were approved by the Assembly and the Board at subsequent meetings.

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. Psychiatrists are strongly advised to be familiar with these documents.

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.

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.

1The committee included C.H. Hardin Branch, M.D., Chairperson, Herbert Klemmer, M.D., Robert A. Moore, M.D., Robert P. Nenno, M.D., Alex D. Pokorny, M.D., Charles D. Prudhomme, M.D., Joseph S. Skobba, M.D., and Gene Usdin, M.D. William P. Camp, M.D., and Byron A. Eliasof, M.D., were members of the subcommittee that aided in the preparation of these annotations, and William A. Bellamy, M.D., was special consultant.


Chapter 8, Section 1 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, specifically defined in the Principles of Medical Ethics of the American Medical Association." In interpreting the APA Constitution and By-Laws, it is the opinion of the Board of Trustees that inactive status in no way removes a physician member from responsibility to abide by the Principles of Medical Ethics.
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 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. 4

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.

1. The patient may place his/her trust in his/her psychiatrist knowing that the psychiatrist's ethics and professional responsibilities preclude him/her from gratifying his/her 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.

2. 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/her behavior after that of his/her 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.

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

4. 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/her 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.

1. 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.

1. It would seem self-evident that a psychiatrist who is a law-breaker might be ethically unsuited to practice his/her profession. When such illegal activities bear directly upon his/her practice, this would obviously be the case. However, in other instances, illegal activities such as those concerning the right to protest social injustices might not bear upon either the image of the psychiatrist or the ability of the specific psychiatrist to treat his/her 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.

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

3. 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.

4. When a member has been found to have behaved unethically by the American Psychiatric Association or one of its constituent

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*Statements in italics are taken directly from the American Medical Association's Principles of Medical Ethics or annotations thereto.*
district branches, there should not be automatic reporting to the local authorities responsible for medical licensure, but the decision to report should be decided upon the merits of the case.5

5. Where not specifically prohibited by local laws governing medical practice, the practice of acupuncture by a psychiatrist is not unethical per se. The psychiatrist should have professional competence in the use of acupuncture (see Section 4, Annotation 2). Or, if he/she is supervising the use of acupuncture by non-medical individuals, he/she should provide proper medical supervision (see Section 6, Annotations 4 and 5).6

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.

1. 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.

2. What constitutes unethical advertising, in an attempt to solicit patients, varies in different parts of the country. Local guidance should be sought from the county or state medical society. Questions that should be asked include: to whom are materials distributed, when and what is distributed, and the form in which it is distributed.7

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.

1. 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.

2. 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 cause deterioration of the quality of the medical services rendered.

3. 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/her freedom to offer good quality medical care.

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

5. When the psychiatrist assumes a collaborative or supervisory role with another mental health worker, he/she 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/she allows himself/herself to be used as a figurehead.

6. In the practice of his/her specialty, the psychiatrist consults, associates, collaborates, or integrates his/her work with that of many professionals, including psychologists, psychometrists, social workers, alcoholism counselors, marriage counselors, public health nurses, etc. Furthermore, the nature of modern psychiatric practice extends his/her 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 para-professional with whom he/she is dealing is a recognized member of his/her 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/she refers patients. Whenever he/she has reason to doubt the training, skill, or ethical qualifications of the allied professional, the psychiatrist should not refer cases to him/her.

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

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

9. In case of dispute, the ethical psychiatrist has the following steps available:

a. Seek appeal from the medical staff decision to a joint conference committee, including members of the medical staff executive committee and the executive committee of the governing board. At this appeal, the ethical psychiatrist could request that outside opinions be considered.

b. Appeal to the governing body itself.

c. Appeal to state agencies regulating licensure of hospitals if, in the particular state, they concern themselves with matters of professional competency and quality of care.
d. Attempt to educate colleagues through development of research projects and data and presentations at professional meetings and in professional journals.

e. Seek redress in local courts, perhaps through an enjoining injunction against the governing body.

f. Public education as carried out by an ethical psychiatrist would not utilize appeals based solely upon emotion, but would be presented in a professional way and without any potential exploitation of patients through testimonials.

10. When involved in funded research, the ethical psychiatrist will advise human subjects of the funding source, retain his or her Freedom to reveal data and results, and follow all appropriate and current guidelines relative to human subject protection.

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.

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

2. 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.

3. 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.

4. 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.

5. An arrangement in which a psychiatrist provides supervision or administration to other physicians or non-medical persons for a percentage of their fees or gross income is not acceptable; this would constitute fee-splitting. In a team of practitioners, or in a multidisciplinary team, it is ethical for the psychiatrist to receive income for administration, research, education or consultation. This should be based upon a mutually agreed upon fee or salary, open to renegotiation when a change in the time demand occurs. (See also Section 6, Annotations 4, 5 and 6, and AMA Judicial Council Opinions and Reports, the section on “Public Responsibilities,” VI. 6.20, 6.21, 6.22, 6.24, 6.25, 6.26, pp. 37-40).

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.

1. 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 freedom of 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/she 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.

1. 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 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/she must be circumspect in the information that he/she chooses to disclose to others about a patient. The welfare of the patient must be a continuing consideration.

2. 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/her 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 posi-

*Approved by the Board of Trustees and the Assembly, 1976.

*Approved by the Board of Trustees and the Assembly, 1978.

*This paragraph is reprinted as an annotation to the section on “Office Practices” in AMA Judicial Council Opinions and Reports (IV 4.00), p. 13.

*Approved by the Board of Trustees, 1974, and the Assembly, 1975.
gathering, and of the law. When the psychiatrist is in doubt, the right of confidences entrusted to him/her by patients he/she may comply or truly raise the necessity to the examinee at the beginning of the examination. He/she should avoid offering speculation as fact. Sensitive information such as an individual's sexual orientation or fantasy material is usually unnecessary.

5. 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.

6. 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.

7. 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.

8. When the psychiatrist is ordered by the court to reveal the confidences entrusted to him/her by patients he/she may comply or he/she 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.

9. With regard for the person's dignity and privacy and with truly informed consent, it is ethical to present a patient to a scientific gathering, if the confidentiality of the presentation is understood and accepted by the audience. It is ethical to present a patient or former patient to a public gathering or to the news media only if that patient is fully informed of enduring loss of confidentiality, is competent, and consents in writing without coercion.

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.

1. 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/she speaks as an individual or as a representative of an organization. Furthermore, psychiatrists should avoid cloaking their public statements with the authority of the profession (e.g., "Psychiatrists know that. . .").

2. 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.

3. 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 professional opinion unless he/she has conducted an examination and has been granted proper authorization for such a statement.

4. The psychiatrist may only permit his/her certification to be used for the involuntary treatment of any person following his/her personal examination of that person. To do so, he/she must find that the person, because of mental illness, cannot form a judgment as to what is in his/her own best interests and without which treatment substantial impairment is likely to occur to the person or others.

13Approved by the Board of Trustees and the Assembly, 1975.
14Approved by the Executive Committee and the Assembly, 1977.