

# Code of Professional Conduct

## PREFACE

The Ethics and Humanities Subcommittee of the Practice Committee of the American Academy of Neurology developed the Code of Professional Conduct to formalize the standards of professional behavior for neurologist members of the Academy. The primary goal of the Code is to promote the highest quality of neurologic care. The Code is framed to outline the set of professional standards that neurologists must observe in their clinical and scientific activities.

The Code embodies traditional medical ethical standards dating from the time of Hippocrates as well as more contemporary standards. It includes general principles of medical ethics and provides their application to the specific demands of neurologic practice. The Code is delineated to be generally consistent with the American Medical Association Code of Medical Ethics and the American Medical Association Current Opinions of the Council on Ethical and Judicial Affairs.

The Code is written in relatively broad language. It is designed to be a dynamic instrument that can grow and change in response to future developments in the practice and science of neurology. While ethical principles do not change with time, developments in science, technology, and clinical practice may lead to a change in application of these ethical principles.

The Code outlines the standards of professional conduct for Academy members. Violations of these standards may serve as the basis for disciplinary action as provided in the Bylaws of the Academy.

## 1.0 The Neurologist-Patient Relationship

### 1.1 The Practice of Neurology

- The profession of neurology exists primarily to study, diagnose and treat disorders of the nervous system. The neurologist-patient relationship forms the foundation for neurologic care.

### 1.2 Fiduciary and Contractual Basis

- The neurologist has fiduciary and contractual duties to patients. As a fiduciary, the neurologist has an ethical duty to consider the interests of the patient first. As a party to an implied contract, the neurologist has a duty to practice competently and to respect patients' autonomy, confidentiality, and welfare.

### 1.3 Beginning and Ending the Relationship

- The neurologist is free to decide whether or not to undertake medical care of a particular person. The neurologist must not decline a patient on the basis of race, religion, nationality, or gender. Once the relationship has begun, the neurologist must provide care until care is complete, the patient ends the relationship, or the neurologist returns the patient to the care of the referring physician. If the neurologist justifiably desires to end the relationship, and if continued neurologic care is appropriate, he/she should assist in arranging care by another

neurologist.

#### **1.4 Informed Consent**

- The neurologist must obtain the patient's consent for tests or treatment. The neurologist should disclose information that the average person would need to know to make an appropriate medical decision. This information should include benefits, risks, costs, and alternatives to the proposed treatment. If the patient lacks medical decision-making capacity, the neurologist must obtain informed consent from an appropriate proxy.

#### **1.5 Communication**

- The neurologist has a duty to communicate effectively with the patient. The neurologist should convey relevant information in terms the patient can understand and allow adequate opportunity for the patient to raise questions and discuss matters related to treatment.

#### **1.6 Emergency Care**

- In an emergency situation, the neurologist should render services to the patient to the best of his/her ability. While obtaining informed consent is desirable before beginning treatment, the neurologist should not delay urgently needed treatment because of concerns about informed consent.

#### **1.7 Medical Risk to the Physician**

- A neurologist should not refuse to care for a patient solely because of the real or perceived medical risk to the neurologist. The neurologist should take appropriate precautions to minimize his/her medical risk.

#### **1.8 Medical Decision-Making**

- The patient has the ultimate right to accept or reject the neurologist's recommendation about medical treatment. The neurologist should respect decisions made by patients with decision-making capacity and by the lawful proxy of patients who lack decision-making capacity. If the neurologist cannot honor the patient's or proxy's decision, the neurologist should seek to arrange transfer of the patient's care to another physician.

## **2.0 General Principles of Neurologic Care**

### **2.1 Professional Competence**

- The neurologist must practice only within the scope of his/her training, experience, and competence. The neurologist should provide care that represents the prevailing standards of neurologic practice. To this end, neurologists should participate in a regular program of continuing education.

### **2.2 Consultation**

- The neurologist should obtain consultations when indicated. The neurologist should refer patients only to competent practitioners and should assure that adequate information is conveyed to the consultant. Any differences of opinion

between the neurologist and consultant or between the neurologist and their referring physician should be resolved in the best interest of the patient.

### **2.3 Confidentiality**

- The neurologist must maintain patient privacy and confidentiality. Details of the patient's life or illness must not be publicized.

### **2.4 Patient Records**

- The neurologist should prepare records that include relevant history, neurologic findings, assessment, and plan of evaluation and treatment. Patients are entitled to information within their medical records.

### **2.5 Professional Fees**

- The neurologist is entitled to reasonable compensation for medical services to or on behalf of patients. The neurologist should receive compensation only for services actually rendered or supervised. The neurologist must not receive a fee for making a referral ("fee-splitting") or receive a commission from anyone for an item or service he/she has ordered for a patient ("kickback"). The agreed upon division of practice income among members of an organized medical group is acceptable.

### **2.6 Appropriate Services**

- The neurologist should order and perform only those services that are medically indicated.

## **3.0 Special Categories of Neurologic Care**

### **3.1 The Dying Patient**

- The neurologist should strive to relieve the suffering of dying patients. The neurologist should respect the expressed wishes of dying patients about life-prolonging therapy, including lawful advance directives.

### **3.2 The Profoundly Paralyzed Patient**

- The neurologist should attempt to enhance the independence and communication of profoundly paralyzed patients. Patients with advanced degrees of paralysis who retain decision-making capacity should be encouraged and assisted to participate in decisions about their medical care including decisions about withdrawing life-support.

### **3.3 The Demented Patient**

- The neurologist should define a course of treatment which respects the wishes expressed by the patient before dementia had impaired decision-making capacity. If such wishes are not ascertainable, the neurologist should be guided about appropriate treatment by the patient's lawful proxy.

### **3.4 The Patient in a Persistent Vegetative State**

- The neurologist managing the patient in a persistent vegetative state should

follow the provisions of lawful advance directives for medical care and, in their absence, the health care decisions of a lawfully authorized proxy.

### **3.5 The Brain-Dead Patient**

- The neurologist should determine brain death using accepted tests and techniques. The neurologist should be mindful that some patients may have religious or other strongly held objections to the concept of brain death. Compassionate management in these situations is desirable.

## **4.0 Personal Conduct**

### **4.1 Respect for the Patient**

- The neurologist must treat patients with respect, honesty, and conscientiousness. The neurologist must not abuse or exploit the patient psychologically, sexually, physically, or financially.

### **4.2 Respect for Agencies and the Law**

- The neurologist should observe applicable laws. Because agencies may impact on patients' welfare, the neurologist should cooperate and comply with reasonable requests from insurance, compensation, reimbursement, and government agencies within the constraints of patient privacy and confidentiality.

### **4.3 Maintenance of the Neurologist's Personal Health**

- The neurologist should strive to maintain physical and emotional health. The neurologist should refrain from practices that may impair capacities to provide adequate patient care.

## **5.0 Conflicts of Interest**

### **5.1 The Patient's Interest is Paramount**

- Whenever a conflict of interest arises, the neurologist must attempt to resolve it in the best interest of the patient. If the conflict cannot be eliminated, the neurologist should withdraw from the care of the patient.

### **5.2 Avoidance and Disclosure of Potential Conflicts**

- The neurologist must avoid practices and financial arrangements that would, solely because of personal gain, influence decisions in the care of patients. Financial interests of the neurologist that might conflict with appropriate medical care should be disclosed to the patient.

### **5.3 Dispensing Medication**

- The neurologist may dispense medication, assistive devices, and related patient-care items as long as this practice provides a convenience or an accommodation to the patient without taking financial advantage of the patient. The patient should be given a choice to accept the dispensed medication or device or to have a prescription filled outside the neurologist's office.

#### **5.4 Health-Care Institutional Conflicts**

- The neurologist generally should support his patient's medical interests when they are compromised by policies of a health-care institution or agency. Physicians employed by healthcare institutions should represent the patient's medical interests and serve as their medical advocate to the institutional administration.

#### **5.5 Conflicting Ethical Duties**

- While a neurologist ordinarily must respect a patient's confidentiality, there are circumstances in which a breach of confidentiality may be justified. When the neurologist is aware that an identifiable third party is endangered by a patient, the neurologist must take reasonable steps to warn the third party. When the neurologist is aware that members of the general public are endangered by a patient, the neurologist must take reasonable steps to advise responsible public officials or agencies of that danger.

### **6.0 Relationships with other Professionals**

#### **6.1 Cooperation with Health Care Professionals**

- The neurologist should cooperate and communicate with other health care professionals, including other physicians, nurses, and therapists, in order to provide the best care possible to patients.

#### **6.2 Peer Review**

- The neurologist should participate in peer review activities in order to promote the best care possible of patients.

#### **6.3 Criticism of a Colleague**

- The neurologist should not unjustifiably criticize a colleague's judgment, training, knowledge, or skills. Neurologists should not knowingly ignore a colleague's incompetence or professional misconduct, thus jeopardizing the safety of the colleague's present and future patients.

#### **6.4 Legal Expert Testimony**

- The neurologist called upon to provide expert medical testimony should testify only about those subjects for which the neurologist is qualified as an expert by training and experience. Before giving testimony the neurologist should carefully review the relevant records and facts of the case and the prevailing standards of practice. In providing testimony, the neurologist should provide scientifically correct and clinically accurate opinions. Compensation for testimony should be reasonable and commensurate with time and effort spent, and must not be contingent upon outcome.

#### **6.5 Health Care Organizations**

- The neurologist may enter into contractual agreements with managed health care organizations, prepaid practice plans, or hospitals. The neurologist should retain

control of medical decisions without undue interference. The patient's welfare must remain paramount.

### **6.6 The Impaired Physician**

- The neurologist should strive to protect the public from an impaired physician and to assist the identification and rehabilitation of an impaired colleague.

## **7.0 Relationships with the Public and Community**

### **7.1 Public Representation**

- The neurologist should not represent himself/herself to the public in an untruthful, misleading, or deceptive manner. A patient's medical condition must not be discussed publicly without the patient's consent.

### **7.2 Duties to Community and Society**

- Neurologists should work toward improving the health of all members of society. This may include participation in educational programs, research, public health activities, and the provision of care to patients who are unable to pay for medical services. The neurologist should be aware of the limitation of society's health care resources and should not squander those finite resources by ordering unnecessary tests and ineffective treatments.

### **7.3 Disclosure of Potential Conflicts**

- Neurologists who make written or oral public statements concerning a product of a company from which they receive compensation or support, or in which they hold a significant equity position, have a duty to disclose their financial relationship with the company in that public statement.

## **8.0 Clinical Research**

### **8.1 Institutional Review**

- The neurologist who participates in clinical research must ascertain that the research has been approved by an Institutional Review Board (IRB) or other comparable body and must observe the requirements of the approved protocol.

### **8.2 Disclosure of Potential Conflicts**

- The neurologist who is paid for treating patients in a clinical research project should inform the patient of any compensation the neurologist receives for the patient's participation. The compensation for patient treatment should be reasonable in amount. The neurologist should not bill the patient or the insurer for services already compensated by the study sponsor.

### **8.3 Individual Patient Experimentation**

- The neurologist who begins a patient on an experimental therapy that has not been approved as a valid clinical study by an IRB should obtain informed consent from the patient.

## 8.4 Reporting Research Results

- The neurologist should publish research results truthfully, completely, and without distortion. In reporting research results to the news media, the neurologist should make statements that are clear, understandable, and supportable by the facts. Neurologists should not publicize results of research until after the data have been subjected to appropriate peer review.

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### References

Portions of this Code were modified from the following codes of professional ethics and professional conduct: 1. American Academy of Orthopaedic Surgeons: Guide to the Ethical Practice of Orthopaedic Surgery, 1990. 2. American Association of Neurological Surgeons: American Association of Neurological Surgeons Code of Ethics. 3. American Academy of Ophthalmology: Code of Ethics of the American Academy of Ophthalmology, Inc., 1991. 4. American College of Physicians: American College of Physicians Ethics Manual. Part I: history; the patient; other physicians; Annals of Internal Medicine; 1989; 111:245-252. 5. American College of Physicians: American College of Physicians Ethics Manual. Part II: the physician and society; research; life-sustaining treatment; other issues. Annals of Internal Medicine; 1989; 111:327-335. 6. American College of Surgeons: American College of Surgeons Statements on Principles, 1989. 7. American Psychiatric Association: The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, 1989. 8. American Medical Association: Code of Medical Ethics and Current Opinions of the American Medical Association Council on Ethical and Judicial Affairs, 1992.

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