

Ethics and Practice

Federation of Chiropractic Licensing Boards

Part I

1. Personal Values

- a. What shapes our personal values?
- b. What is your moral profile?
- c. Chiropractor's Responsibility to Public Health

- *Do you bring your personal values to your practice?*
- *Are your personal values stringent enough for practice?*

2. Regulatory Boards' Responsibility: to Protect the Public

- a. Statutes / Rules: Adopted by legislature
- b. Regulations: Adopted by Boards through stringent process
- c. Boards clarify and explain statutes
- d. Boards draft and enforce rules and regulations

3. Moral Turpitude

- a. Gross violation of standards of moral conduct, vileness, intentional evil
- b. Your license reflects the integrity by which you are supposed to conduct your personal and professional life.
- c. You are a professional 24/7

4. Common Violations

- a. Felony
- b. Fraud
- c. Incompetent or negligent practice
- d. Aiding an unauthorized person to practice
- e. Practicing outside of scope
- f. Breaches of confidentiality or privacy
- g. Substance abuse
- h. Advertising violations
- i. Failure to renew license
- j. Unprofessional conduct
- k. Sexual Impropriety

- *It doesn't matter what you intended, if your patient or employee felt offended, there was a boundary violation.*
- *The ultimate authority on the boundaries is the patient.*

1 Year of Headlines

Chiropractor Sentenced on Tax Charges
Chiropractor Denies Alleged Improper Client Contact
Bay Head Man Tried Frame-Up, Cops Say
Judge Awards Teen \$103,000 in Lawsuit
Man Faces Sex Charges Involving Teenagers
Progressive Suit Alleges Fraud by Minn. Chiropractor, Seeks More Than \$900,000 in Damages
Chiropractor Pleads Guilty to Mail Fraud
Local Chiropractor Faces Charges
N.J. Doc, Niece Keep Insurance Fraud a Family Matter
Feds Say Chiropractor Defrauded Medicare
Man Pleads Guilty in Insurance Scheme
DA: Queens Clinics Filed More than \$1M in False Claims
Nicholson Chiropractor Charged with Sex Assault
Palm Harbor Chiropractor Pleads Guilty to Filing False Income Tax Return
Man is Convicted in Fraud Scheme
Con Artist Sentenced Under Plea Agreement
Chiropractor Among Drug Arrests
Chiropractor Pleads Guilty in Patient Assault
Chiropractor Gets Sentence Slashed
Chiropractor Pleads No Contest
Napa Mom who Abducted Son Pleads Guilty
Chiropractor Allegedly Exposes Himself to Employee
Macon Chiropractor Indicted on Fraud Charges
Health Firm Accused of \$134 Mil Fraud
Chiropractor, Mom Face More Charges
Progressive Files Suit Against Operators of Philadelphia Chiropractic Clinic

Case # 1

- 17-year-old patient – you have adjusted her for about 3 years
- She does not have a good relationship with her father, who lives in another state, and tells you about it
- She's sitting on the exam table, crying, with her hands over her face

What do you do?

1. *Put your arm around her, give her a quick hug and maybe a peck on the cheek to comfort her*
2. *Offer her advice on confronting her father*
3. *Give her the phone number of your brother-in-law, the family counselor*
4. *Begin the exam and change the subject to focus on her spine*

Case # 2

- Middle aged female patient comes in for independent exam ordered by insurance company to determine further coverage
- She has neck and shoulder injuries from car accident 2 years ago
- She is legally blind
- You ask her to completely disrobe, but she refuses, taking off only blouse and bra under the gown

What should you do?

1. *Tell her it's office policy to completely disrobe or you can't effectively examine her, but continue if she won't*
2. *Tell her she must completely disrobe or leave*
3. *Carry on without further discussion, allowing her to determine her own comfort level*
4. *Ask a staff person to be in the room with you as this patient has special needs*

5. Boundaries and Respect

- a. Patients set the boundaries
- b. Your intentions don't matter – patient's interpretation does
- c. Boundaries may differ among patients and between visits
- d. Patients are not considered sufficiently independent of bias or vulnerability to consent to romantic or sexual intimacy
- e. Power differentials make patients especially vulnerable
- f. Even after care is terminated, boundaries may exist
- g. Because chiropractic treatment requires physical contact, it is easy for chiropractors to inadvertently cross boundaries

6. Power Differentials

- a. Transference
- b. Fiduciary relationship
- c. Inequality of power

Chiropractor Sentenced to 28 Months for Insurance Fraud Scheme
Lawrence Chiropractor Gets 30-Month Suspension, 18-Month Probation
Chiropractor Pleads Innocent to Molesting Patients
Canby Chiropractor Suspended After Violating Probation
Undercover Investigations Nab Chiropractors
Chiropractor Sentenced to 28 Months for Insurance Fraud
20 Charged in Porn Ring After Minors Seen on Web
State Suspends Chiropractor
Arrests Made in Medicare Fraud Cases
International Internet Pornography Ring Busted
Unlicensed Health Care Provider Indicted in Texas
Billing Fraud Brings Prison
Independence Chiropractor Faces Disciplinary Action
Chiropractor Sentenced to 30 Years for Crimes Involving the Sexual Exploitation of Children
State Pulls License of Chiropractor
Chiropractor Surrenders License in Wyoming County
10 Charged with Phony Crash Claims
NR Chiropractor Suspended by State
5 Year Jail Term for Crooked Chiropractor
Modesto Chiropractor Jailed on Multiple Fraud Charges
Owner of Clinic Charged in Fraud
Case Builds Against Chiropractor
Chiropractor Indicted by Grand Jury
State Board Suspends Local Chiropractor
Westmoreland Chiropractor to get Special Probation in Alleged Assault
Solana Beach Chiropractor Convicted of Insurance Fraud
Deadly Confrontation at Car Wash Stuns Friends
Thirds Suspect in Drug Death Case Enters Plea
Lawsuit Indicates Workers' Compensation Data Bought, Sold
Deal Draws "No Contest" Plea in Chiropractor Fraud Case
Chiropractor Beat Me Up, Claims Colleague

Case # 3

- You have been in a longstanding intimate relationship with a vibrant and charismatic church leader
- Your friend is very supportive of your practice, often discussing difficult cases with you with great insight and sensitivity
- You find yourself shorthanded – your friend offers to give you a hand at the office, showing a real knack for chiropractic

What should you do?

1. *Take the help – you trust your friend not to break patient confidences – after all, we're talking about a church leader!*
2. *Expand your friend's duties to include some of the easier manipulations – this is a person with a real knack*
3. *Some of your patients have emotional problems – send them to counseling with your friend, as there is already trust established*
4. *Suffer shorthanded*

Part II

1. Power Inequality

- a. Patients feel vulnerable
- b. Feel like supplicants to their doctors
- c. Feel defenseless compared to wisdom and authority of doctor
- d. Sense of helplessness may prevent patients from taking charge of their health or protecting themselves from boundary violations

2. Power Inequality - Causes

- a. Intimate details of health and lifestyle
- b. Financial inequality
- c. Intellectual / knowledge inequality
- d. Body issues and disrobing
- e. Psychological issues

3. Power Inequality - Effects

- a. Intentional abuse
- b. Seduced by power
- c. Unintentional abuse

4. Power Inequality – How Abuses Happen

- a. Justification
- b. Ego
- c. Moral deficiency

Trio Arrested After Probe of Practices Inside Clinic
Jupiter Chiropractor Accused of Income-tax Evasion
Lafayette Chiropractor Child Porn Plea? Chiropractor Trial Set
Ten Arrested in Alleged South Bay Insurance Scams
Area Chiropractor Busted
Narbeth Chiropractor Nabbed in Internet Sex Sting
Chiropractor Arrested
Killer Walks Free
State Suspends License of Westfield Chiropractor
5-yr. Jail Term for Crooked Chiropractor
Chiropractor's License Suspended Over Fondling Allegations
Chicagoan Charged with Murder in Deaths of Ex-Girlfriend, Her Mother
Man Accuses Doctor and Preacher of Brainwashing His Daughter
Chiropractor Suspended Amid Sex Accusations
Bellevue Chiropractor's License Pulled
Chiropractor, Assistant Convicted of Pushing Prescription Pills
Second Woman Accused Chiropractor
Chiropractor Charged with Patient Assault
Ten Arrested in Alleged South Bay Insurance Scams
Chiropractor Charged with Harassment
Man Arrested for Making Harassing Phone Calls to VA
Gaffney Man Charged with Criminal Sexual Conduct with Child
Chiropractic Insurance Scam Netted over \$1 Mil, Say Cops
Chiropractor: County Lacks Evidence in Assault Case
Prosecutors: Chiropractor Filed Fraudulent Claims
East Wenatchee Chiropractor Charged with Tax Evasion
Local Restaurant Tips Off Police to Wanted Doctor
Docs Accused of Bogus Oxy Prescriptions
Former N.J. Chiropractor Charged in Billing Scam
Chiropractor Denies Charges
City Chiropractor Faces Abuse Charges
Chiropractor Gets Jail on Drug Charges

Case # 4

- Doctor enters into written agreement with partners to exchange child pornography over the Internet
- Each partner only films their own children
- Does not take place in the office

What's the board's role?

1. *Board should not be involved - case is primarily an issue for social services, did not involve patients, did not occur in Dr's office*
2. *Board should be involved AFTER criminal legal issues are resolved*
3. *Board should file an ESO – Emergency Suspension Order – and quickly conduct its own investigation*

Case # 5

- Doctor develops attractive public website, lists address in State A
- Under "About our Team" cites his various educational degrees, notes he is licensed in states A, B, C, and D
- THE FACTS...

- License in good standing in State A
- License is "inactive status" in State B
- License lapsed in State C
- Never licensed in State D

1. *State A is the only one here he has an active license – they have jurisdiction and should ding him for false advertising*
2. *He did have a license in States A, B, and C so only State D should pursue this matter*
3. *Give the guy a break – there are worse cases where we should spend our investigative resources*

5. Board Responsibility

- a. Boards have to question the unfortunate victims.
- b. Boards have to try to figure out who's telling the truth.
- c. Boards have to answer to the public for the actions of all licensees.
- d. Boards have to decide whether to dismiss, rehabilitate, or revoke.

6. Board Intervention

- a. Sanctions
- b. According to FCLB's CIN-BAD database, boards average more than
 - i. **530** violations every year
 - ii. **680** sanctions every year
- c. At least $\frac{1}{2}$ of all violations reported to CIN-BAD relate to ethical misconduct
- d. Boards are seeking more creative interventions

Chiropractor to Appeal Allegations, Suspension
Man Pleads Guilty in Insurance Scheme
Client Sues Chiropractor for Alleged Misconduct
Ambler Chiropractor Pleads Guilty in Insurance Scam
Chiropractic Insurance Scam Netted Over \$1 Million, Say Cops
Convicted Mastermind of Multi-Million \$ Staged Accident & Insurance Fraud Ring Sentenced to 29 Years in State Prison
Owatonna Chiropractor Charged with Sex Crimes
Chiropractor Charged with Racketeering
Feds Allege \$10M Fraud
FBI Arrests Eight Suspects in Child-Sex Sting
Chiropractor Pleads "Not Guilty"
Accused Doctor's License in Jeopardy
WVC Doctor Charged with Fraudulent Billing
Chiropractor Hit with More Molestation Charges
Billing Fraud Brings Prison; Chiropractor Must Also Pay \$371,901
Chiropractor Accused of Sex Charge
Two Local Men Face Fraud
Former Chiropractor on Probation, House Arrest
Naples Chiropractor Suspended for Not Carrying Malpractice Insurance
14 Accused of Insurance Fraud
Baldwin Legislator Charged with DWI, Leaving the Scene of an Accident
Chiropractor Charged in Insurance Fraud
State Revokes License of Cherry Hill Chiropractor
Chiropractor Loses License, Fined \$150,000
Chiropractor Loses License in Sex Scandal
Chiropractor's License Revoked by Board
He Led
Clinic Patient Doubts Therapy
Dog Shooter to Serve 45 Days in Jail
Huntersville Chiropractor Accused of Fraud
Chiropractor Retrial May be Held in July
Modesto Chiropractor Nabbed in \$10 Million Workers' Compensation Scam
Boston Area Chiropractors Named in Million Dollar Fraud Case

7. Consequences of Violations

- a. D.C.s
 - i. Legal burdens
 - ii. Financial burdens
 - iii. Loss of reputation
 - iv. Loss of business
 - v. Family difficulties
 - vi. Criminal penalties
 - vii. Malpractice generally does not cover violations of misconduct, leaving practitioner to bear all financial burdens
- b. Patients
 - i. Psychological damage
 - ii. Feelings of vulnerability, fear, mistrust
 - iii. Physical pain/damage
 - iv. Financial loss
 - v. Failure to seek treatment in the future

Case # 6

- Doctor claims new device emits light rays which detect and realign molecules, thus helping the body cure any overt or hidden cancer
- Seminar instructor advises doctor that device is FDA approved
- Blue light bulb actually purchased at K-Mart, but doc doesn't know this
- Doc tells patient with known cancer "this doesn't cure cancer, but it helps the body cure it by itself."
- Doc allegedly telephones patient and says Blue Light results show decrease in number of her cancer cells
- Patient stops chemo and radiation in favor of Blue Light Therapy, later dies
- Family says doc told her to stop traditional chemo and radiation, doc denies he said that
- Doc admits to using Blue Light Therapy and says he just did what he learned at the seminar

As a board member, what do you do?

1. *No sanction – there's no proof that he told her to discontinue traditional therapy (which would be practice of medicine), and he just did what he was taught at a CE course approved by the board*
2. *Moderate sanction, maybe a letter of reprimand, more education, and a reasonable fine*
3. *Serious sanction: 2 years suspension followed by lengthy probation*
4. *Ultimate sanction: revoke the license – he should have known better*

8. What should YOU do to protect the public, yourself, and the profession?

- a. Empower patients
- b. Monitor yourself
- c. Police your peers

Ex-Chiropractor Jailed for Zapping Baby Daughter with Stun Gun
Investigation of Alleged Overbilling Lands Chiropractor, Legal Assistant Behind Bars
License Suspended for Doctor Charged with Indecent Assault
Ohio Chiropractor Gets 1 Year of Probation for Comp Fraud, Pays Back \$216,000
Comp Doctor Kicked off Provider List
PA State Board of Chiropractic Issues Immediate, Temporary Suspension Against Chiropractor
Chiropractor Charged with Indecent Assault on Patient
Doctors Arrested for Criminal Sexual Conduct and Child Neglect
State Says man Violated Order Not to Run Chiropractic Office
Man Pleads Guilty in Insurance Scheme
Woman Busted in Search of Hit Man
Fondling Allegations Lead to Chiropractor Suspension
Chiropractor Charged with Patient Assault
Attorney General and State Treasurer Target Tax Cheats
Lawrence Chiropractor Allegedly Doctored Insurance Claims
Federal Inspectors Arrest Bettendorf Man on Harassment Charges
Insurer Accuses Clifton Chiropractor of Fraud; Says in Suit Essex Group Faked Car Crashes, Medical Claims
Ex-Reno Chiropractor and Wife Sentenced in Tax Fraud Case
Runner Suspect Points Finger at Chiropractor
Chiropractor's Office Conducted Test without Permit, Fraudulently Billed More than \$500,000
Chiropractor Arrested
Waterville Man Indicted for Illegal Medical Practice
Health Orders Chiropractor to Halt Live Blood Analysis Tests
Witnesses Say Insult Led to Death
Chiropractor to Face Charges in Death of Man at LV Car Wash
Chiropractor Indicted after Girl's Death
Two Doctors to Stand Trial in Prescription Scheme; Third Apprehended
Chiropractic Office is Called "Script Mill"
Doctors Charged in Drug Scheme
Wis. Woman Convicted on Fraud Charge

Risk Management

- Monitor your own behavior.
 - If a joke or comment is inappropriate to share with a child, don't share it with a patient.
 - Conduct yourself as if your peers were looking over your shoulder.
 - Any behavior you would be ashamed to share with your state association or regulatory board is probably behavior you should avoid.
 - Even if you meant no malice or harm, if the patient felt violated, threatened, or insulted, you have put yourself at risk for accusations of ethical and legal transgression.
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- **Danger signs and behavior to avoid:**
 - Removal of patients' undergarments unless absolutely necessary for the treatment or exam.
 - Performing exams outside of normal business hours or when no one else is in the office.
 - Forcing or pressuring patients to consent to treatments or procedures that make them uncomfortable.
 - Sharing personal information with or seeking emotional support from patients.
 - Building relationships with patients outside the office.
 - Exchanging gifts with patients.
 - Asking patients to perform personal favors.
 - Any behavior you would wish to have kept secret.
-
- **Problem Patients**
 - Seek legal advice.
 - Reestablish boundaries.
 - Include a chaperone.
 - Document everything.
 - Terminate the doctor/patient relationship.

▪ Proactive steps:

- Explain everything and be sure the patient understands.
- Do not afford some patients special treatment.
- Give all patients the same options for privacy, payment, and chaperones.
- Pay attention: patients may feel uncomfortable if
 - They pull away when touched.
 - They complain to staff.
 - They frequently miss appointments.
- Empower your patients.
- Cultivate your own compassion and humility.

Empowering patients— what patients can do

- **Knowledge is power**
 - Ask about examination, treatment, and options.
 - Ask doctors what they are doing and why.
- **Remember who is in control**
 - It is the patients who hire doctors; the patient has the ultimate authority to retain or dismiss.
 - Doctors need to know when patients are dissatisfied with treatment.
- **Protection**
 - Use chaperones.
 - Establish and maintain boundaries YOU are comfortable with.
 - Document everything

The Texas Instruments Ethics Quick Test

- Is the action legal?
- Does it comply with our values?
- If you do it, will you feel bad?
- How will it look in the newspaper?
- If you know it's wrong, don't do it!
- If you're not sure, ask.
- Keep asking until you get an answer.

American Medical Association Council on Ethical Judicial Affairs Report

Most researchers agree that the effects of physician-patient contact are almost universally negative or damaging to the patient. Similar to the reactions of women who have been sexually assaulted, female patients who had sexual contact with their physicians tended to feel abandoned, humiliated, or mistreated at the hands of their physician. Many were angry and felt they had been exploited. Victims have been reported to experience guilt, severe distrust of their own judgment, and many were left mistrustful of both men and physicians. (CEJA, 3)

Protect the Public: Report colleagues for...

- Alcohol or drug abuse
- Excessive questions about patients' personal sex life
- Disrespectful sharing of information with peers
- Making patient calls that seem personal in nature
- Frequent late-night hours without staff
- Strange or unconventional treatments
- Inappropriate use of language, touching, or personal space violations
- Quid Pro Quo

American Chiropractic Association statement on ethics:

The physician / patient relationship requires the Doctor of Chiropractic to exercise the utmost care that he or she will do nothing to "exploit the trust and dependency of the patient." Doctors of chiropractic should 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.

American Chiropractic Association Code of Ethics:
addendum to A(6), A(7), A(10) and C(2).
<http://www.acatoday.com> Accessed 6/8/05

International Chiropractic Association statement on ethics:

- The doctor of chiropractic shall avoid participating or assisting in all practices of questionable propriety either with his/her patients, colleagues, family or other business associates.
- The doctor of chiropractic shall conduct his/her practice in surroundings which will not compromise the quality of patient care.
- The doctor of chiropractic shall not initiate or otherwise knowingly participate in any illegal or fraudulent action. He/she should maintain the highest standards of professional conduct so the practice is above reproach.
- The doctor of chiropractic shall not take physical, emotional or financial advantage of the public or any patient he/she serves.

International Chiropractic Association Code of Ethics: Principle 1K.
<http://www.chiropractic.org/ica/ethics.htm>
Accessed 8/19/05

“Honor is better than honors.”

--Abraham Lincoln

“It is high time that the ideal of success should be replaced by the ideal of service.”

--Albert Einstein

“Legality is the minimum standard of action to follow; a person’s standard of action should be based on what is right and not merely what is technically legal.”

--Justice Elizabeth B. Lacy

“To educate a person in mind and not in morals is to educate a menace to society.”

--Theodore Roosevelt

“To sin by silence when they should protest makes cowards of men.” --Abraham Lincoln

“The reputation of a thousand years may be determined by the conduct of one hour.”

--Japanese Proverb

“A business that makes nothing but money is a poor kind of business.”

--Henry Ford

“The first step in the evolution of ethics is a sense of solidarity with other human beings.”

--Albert Schweitzer

“Ethics and religion must not stay at home when we go to work.”

--Achille Silvestrini

Moral Inventory

Do you recognize yourself or a colleague in any of the following statements?

“I’m coding this way because the vendor told me it was okay.”

“I was in a hurry, so I just put checkmarks on the page; I know what they mean.”

“I’m not current on my student loan payment because business has been so slow. I’ll catch up just as soon as things get better.”

“My patients are my best source for dirty jokes!”

“So what if I sometimes code for more expensive procedures than I actually administer? We all know insurance companies are biased against chiropractors.”

“If a patient and I are both consenting adults, there’s no reason we can’t date occasionally. We’re both mature enough to keep our personal lives separate from our doctor/patient relationship.”

“It’s tough to build a practice, so I sometimes reward patients by giving them a perk for every referral.”

“I haven’t had time to research every technique I use, but I have colleagues who swear by them.”

“I sometimes ask my wife to go over a patient’s file with me; her insight is often very valuable and she’s quite trustworthy.”

“I haven’t paid my child support because my ex will only waste it.”

“I know my colleague keeps poor records, but he’s a nice guy and a good healer. If I report him to the board they’ll revoke his license, and he doesn’t deserve that.”

“I can always tell what kind of underwear a patient wears just by looking at her.”

“Our practice is really busy and my intern is very good. I’m just down the hall when she’s adjusting.”

“Patients don’t want to hear every detail about their health conditions; so much of it is over their heads.”

“Six essential qualities that are the key to success: Sincerity, personal integrity, humility, courtesy, wisdom, charity.”

--Dr. William Menninger

“We do not act rightly because we have virtue or excellence, but we rather have those because we have acted rightly.”

--Aristotle

“All that is necessary for the triumph of evil is that good men do nothing.”

--Edmund Burke

“A people that values its privileges above its principles soon loses both.” --Dwight D. Eisenhower

“Try not to become a man of success but rather try to become a man of value.”

--Albert Einstein

“Integrity is doing the right thing, even if nobody is watching.”

--Jim Stovall

“The time is always right to do what is right.”

--Martin Luther King, Jr.

Moral Inventory

Do you recognize yourself or a colleague in any of the following statements?

“Just like everyone else, I sometimes adjust my friends or family. I’m not filing with insurance so it’s ridiculous to expect me to keep records for that.”

“By recruiting patients to sell nutritional supplements for me, I can help a lot of people get good quality vitamins and herbs.”

“I haven’t pressured him, so there’s no reason my patient can’t invest in my sideline business. He stands to make really good money!”

“Sure, some people might consider that screen-saver offensive, but I only mean it as a joke, and my staff is okay with it.”

“If I want to stay competitive, I have to build my clientele. The people I hire to recruit car accident victims don’t use pressure and I do help patients who otherwise wouldn’t know the benefit of chiropractic care.”

“Yes, I sometimes drink too much, but what does my personal life have to do with the kind of chiropractor I am?”

“Right now, my nephew bills under my name. He’s not yet licensed in this state, but he’s in the process, and he’s fully trained and qualified.”

“I forgot to renew my license. I’ll get that done as soon as I have a moment to spare. In the meantime, I’m fully qualified, and I don’t want to abandon my patients.”

“A little kiss helps comfort patients who are going through tough times. I’m a naturally friendly and compassionate person.”

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