

Report of the Council on Ethics, Bylaws and Judicial Affairs on Advisory Opinion 3.E.1.
REPORTING ABUSE AND NEGLECT

Reporting Abuse and Neglect under ADA Code: The American Dental Association recognizes the responsibility of its members to report suspected cases of abuse and neglect of patients to appropriate authorities, consistent with the members' legal obligations in the jurisdictions where they practice. Section 3.E of the *ADA Principles of Ethics and Code of Professional Conduct ADA Code* states:

Dentists shall be obliged to become familiar with the signs of abuse and neglect and to report suspected cases to the proper authorities, consistent with state laws.

This Code section emphasizes dentists' duty to educate themselves on how to recognize signs of possible abuse or neglect of patients and to report such cases as required by law. This section also recognizes that laws mandating reports of suspected abuse or neglect vary by jurisdiction.

Ethical and Legal Concerns Related to Reporting Suspected Cases of Abuse and Neglect: The Council observes that, in considering whether to report suspected abuse or neglect of a patient, a dentist must keep in mind two principles that could, at times, conflict: the principles of beneficence and patient autonomy. Moreover, if a dentist is not a mandated reporter who is protected by an immunity statute in his or her jurisdiction, the dentist could face legal liability for reporting suspected abuse or neglect.

First, dentists must remember their duty to promote their patients' welfare. Dentists should be aware of signs of possible abuse or neglect that may be observed in patients. Dentists also should learn appropriate techniques for interviewing a potential victim of abuse or neglect, if possible, to assist in making a good-faith determination as to whether abuse or neglect should be suspected. If legally obligated to do so, the dentist must report a suspected case of abuse and neglect to proper authorities.

However, a dentist's legal obligation to report suspected abuse or neglect will vary, depending on the jurisdiction where the dentist practices. For example, dentists are obligated to report suspected cases of child abuse in virtually all jurisdictions, but dentists may not necessarily be required to report suspected child neglect. Laws vary as to whether dentists are required to report possible mistreatment of older adults, disabled adults, and spouses. If a dentist is not a mandated reporter of a particular type of suspected abuse, and is not immunized from liability for making such good-faith reports, the dentist could be legally liable for making the report. The Council concluded that a dentist should not be ethically bound to report suspected abuse or neglect under circumstances that could subject the dentist to liability.

Additionally, dentists must respect adult patients' rights to self-determination and confidentiality. If a dentist suspects an adult patient has been abused or neglected, but

the dentist is not a mandated reporter, and the patient does not want the dentist to report the suspected mistreatment, the dentist should respect the patient's wishes. Failure to do so would not only violate the principle of patient autonomy, but could also subject the dentist to legal liability for violating the confidentiality of the dentist-patient relationship. The dentist may inform the patient of appropriate community resources, and assist the patient in accessing those resources, if the patient agrees.

Need for the Advisory Opinion: The Council decided it would be helpful to the membership to elaborate upon Section 3.E of the *ADA Code*, which recently was amended to require dentists to report suspected cases of abuse and neglect of all individuals, not just children, consistent with state laws. Previously, dentists were obliged to report only perioral signs of child abuse, as consistent with state laws.

In its discussions of the amendment of Section 3.E, the Council observed that state laws were evolving to mandate reporting of suspected abuse and neglect of various populations. According to statistics compiled by the U.S. Department of Health and Human Services' National Clearinghouse on Child Abuse and Neglect Information, all states mandate that health care professionals report suspected cases of child abuse. Some states also mandate reporting of suspected neglect, and expand the definitions of abuse or the populations whose possible mistreatment will be cause for mandated reporting.

Dentists, among all healthcare professionals mandated to report, account for only a small percentage of total reports filed, even though a study showed 65 percent of all physical trauma associated with child abuse occurs in the face or neck area. The Council noted this and the increasing social concern over abuse and neglect of other populations, such as the elderly and disabled. Based on its research, the Council decided that the public and profession would be better served if dentists' ethical obligations reflected evolving state laws that mandate reporting of suspected abuse and neglect of various populations. The Advisory Opinion is designed to further explain the rationale behind the newly amended Section 3.E of the *ADA Code*.

Text of Advisory Opinion: Advisory Opinion 3.E.1. REPORTING ABUSE AND NEGLECT of the *ADA Code* reads as follows:

The public and the profession are best served by dentists who are familiar with identifying the signs of abuse and neglect and knowledgeable about the appropriate intervention resources for all populations.

A dentist's ethical obligation to identify and report the signs of abuse and neglect is, at a minimum, to be consistent with a dentist's legal obligation in the jurisdiction where the dentist practices. Dentists, therefore, are ethically obliged to identify and report suspected cases of abuse and neglect to the same extent as they are legally obliged to do so in the jurisdiction where they practice. Dentists have a concurrent

ethical obligation to respect an adult patient's right to self-determination and confidentiality and to promote the welfare of all patients. Care should be exercised to respect the wishes of an adult patient who asks that a suspected case of abuse and/or neglect not be reported, where such a report is not mandated by law. With the patient's permission, other possible solutions may be sought.

Dentists should be aware that jurisdictional laws vary in their definitions of abuse and neglect, in their reporting requirements and the extent to which immunity is granted to good faith reporters. The variances may raise potential legal and other risks that should be considered, while keeping in mind the duty to put the welfare of the patient first. Therefore a dentist's ethical obligation to identify and report suspected cases of abuse and neglect can vary from one jurisdiction to another.

Dentists are ethically obligated to keep current their knowledge of both identifying abuse and neglect and reporting it in the jurisdiction(s) where they practice.

Council Authority to Issue Advisory Opinions: The Council has authority under the *ADA Bylaws* to issue advisory opinions that give guidance on how the Council would interpret the *ADA Code* if faced with a particular question on appeal. As expressions of the Council's position, advisory opinions take effect when they are adopted by the Council. Advisory Opinion 3.E.1 was adopted by the Council on April 7, 2000.