

## Inducements and Incentives in Dentistry

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Immediate Past Chair Ethics Committee



At NYCDS we are frequently asked questions about Ethics and Professionalism by colleagues in the dental field. Recent inquiries have centered around the areas of: (1) referral inducements and (2) incentivizing patients for positive social media reviews or comments. Let's take a look at each of these items from the perspective of the ADA Codes of Ethics.

### Inducements: Justice

This scenario can arise if a dentist, who I will call dentist A, tells another dental colleague, dentist B, that he will only refer to her if he receives a set percent of her fees for the treatment that she performs. Both the NYSDA and ADA Codes of Ethics address this topic. The ADA's Principles of Ethics and Code of Professional Conduct states in Section 4.E.1 "Split fees in advertising and marketing services" that "the prohibition against a dentist's accepting or tendering rebates or split fees applies to business dealings between dentists and any third party, not just other dentists." By dentist A asking dentist B to split her fee, he is asking her to violate the principle of Justice. Another consideration is that both state and federal fraud and abuse laws exist that regulate physician (and dentist) referral arrangements. Dentist A would also potentially be in violation of federal and state laws as well. For more information about this, there are two articles, one by Dr. Michael Davis and one by Dr. John Devlin, that provide good information and are cited at the end of this article.

### Incentivizing: Veracity

This scenario can arise when a dentist tells his or her patients that they will receive a bonus or reward for writing a positive review on a site like Yelp, "liking them" on facebook or providing positive testimonials for their practice's website. The concern in this scenario is that the ethical principle of Veracity is being violated. The ADA Code Section 5.F. Advertising states "Although any dentist may advertise, no dentist shall advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect." By providing a patient with an incentive to write a positive review or testimonial, the dentist is potentially providing false or misleading advertising. At question is whether or not the patient would have made the same positive review or testimonial were they not getting something for it. The ADA's Code also states, in Section 5.F.6 Web Sites and Search Engine Optimization (SEO) "Dentists have an ethical obligation to ensure their web sites, like their other professional announcements, are truthful and do not present information in a manner that is false

and misleading in a material respect. Also, any SEO techniques used in conjunction with a dentist's web site should comport with the ADA Principles of Ethics and Code of Professional Conduct."

With regard to veracity, please be aware that according to the New York State Dental Association's General Counsel Lance Plunkett, "The New York rules of professional conduct forbid giving bonuses or inducements to patients other than fee discounts – and the Federal Trade Commission considers it false advertising to pay or give anything of value in exchange for positive online reviews."

Alternatively, practioners can simply ask their patients for reviews, "likes," or testimonials without any incentives at all confident that their clinical skills and care of their patients is enough to ensure what is written will be positive.

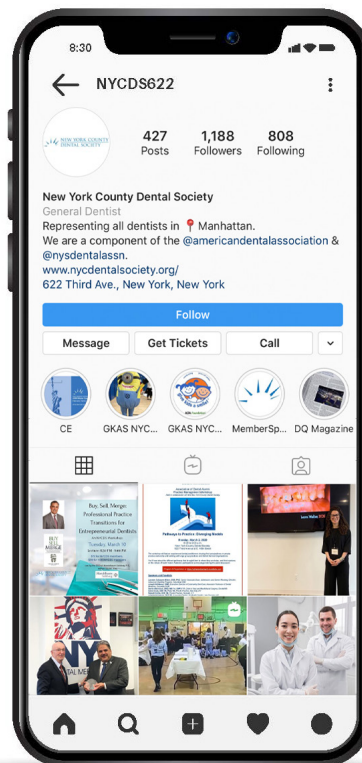
Resources:

ADA Principles of Ethics and Code of Professional Conduct

Davis, Michael W. "Focus on: Hot Topics in Ethics," Dentistry Today, July 17, 2017

Devlin, John "Is Your Dental Office Paying for Patients?" Endeavor Health Management Website, June 2, 2017

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