

ASPS Code of Ethics
Frequently Asked Questions
Revised 4/15/19

QUESTION

What is the Society's stance on participating in contests, auctions and raffles?

ANSWER

Members may donate any service that does not require an incision or is not an integral part of a procedure.

Section 2, Article I (I) provides that a member may be subject to disciplinary action, including expulsion, if the Member participates in a charity raffle, fund raising event, contest or other promotion in which the prize is any procedure, or an integral component of a procedure (e.g. breast implants), as defined in the Glossary to the Code.

Section VII, Article C defines "Procedure" for the purposes of Section 2, Article I(I) as a medical service that requires an incision. Examples of services that require an incision include, but are not limited to, facelift, breast augmentation, blepharoplasty and liposuction. Examples of medical services that would not be considered procedures for purposes of Section 2, Article I(I) include, but are not limited to, injections (botulinum toxin, hyaluronic acid), microdermabrasion and other skin surface treatments.

When asked whether a member may raffle off a 20% discount, the Ethics Committee concluded that the prize is the discount—not the procedure—so raffling the discount is not picked up by the aforementioned Code section.

QUESTION

What is the Society's position on Groupon or similar offerings?

ANSWER

The Society does not have a position against Groupon or similar offerings. Members are encouraged to review the Code and their arrangements with Groupon or similar group discount programs as they pertain to:

- Making false, deceptive or misleading statements or claims (reference **Section 2, Article I (F)**). The Preamble to the Code clearly states the member is responsible for those statements or claims.
- Advertising guidelines, which are outlined in **Section 2, Article II**.

Members are advised to ensure the terms and conditions permit them to decline to perform the procedure if they determine the purchaser is not a suitable candidate for the procedure.

Additionally, members are responsible for determining if there are any state or local laws that prohibit the use of these services.

There have been two articles published on this topic in *Plastic Surgery News*. The first was in the June 2011 issue (page 8). The second was in the January 2012 issue (Page 1). Members may click [here](#) to access archived issues of PSN.

QUESTION

What is the Society's stance on incentives for referring a friend?

ANSWER

Members may reward a patient for referring a friend as long as that reward is not a surgical procedure. Examples of acceptable rewards are: skin care products, microdermabrasion, facials, Starbucks gift card, Macy's gift card, etc.

Members also have programs where a patient referring a friend receives a discount on a service or procedure. The Society has not questioned these practices or treated them as a payment of a referral fee, which under most statutes, applies only to physician payments to other physicians. (See **Section 2, Article I (E) (2)**).

Members are encouraged to check with their state's medical board or society to be sure that their state does not have any specific regulations prohibiting referral programs.

QUESTION

Will the Ethics Committee pre-approve my advertisement to make sure it is in compliance with the Code of Ethics?

ANSWER

The Ethics Committee does not pre-approve any promotional materials. Members are encouraged to review the Code as it pertains to public and private communications (**Section 2, Article I (F)**), advertising (**Section 2, Article IV**) and the Glossary (**Section 2, Article VII**) which defines the various methods of communications, when developing their marketing materials.

Members who claim to be "the best," "unparalleled," "the top," or use similar superlatives may be in violation of **Section 2, Article I (F) (9)**, which provides that a member may be subject to disciplinary action, including expulsion, if the Member uses, participates in or promotes the use of any form of public communication (as defined in Glossary to the Code) or private communication (as defined in the Glossary to the Code) containing a false, fraudulent, deceptive, or misleading statement or claim, including a statement or claim which contains a representation or statement of opinion as to the superior quality of professional services which is not susceptible to verification by the public or contains a statement representing that the Member possesses skills or provides services superior to those of other physicians with similar training unless such representation can be factually substantiated.

QUESTION

Can I advertise pricing for services?

ANSWER

The Society's Code of Ethics does not prohibit members from advertising their prices.

QUESTION

Can my office sell gift certificates and gift cards?

ANSWER

The Society's Code of Ethics does not prohibit selling gift certificates and gift cards.

QUESTION

What is the Society's stance on Botox parties where alcoholic beverages are served?

ANSWER

Members should be mindful of the Code, particularly **Section 2, Article III (C)** when deciding whether to conduct events where alcoholic beverages are served.

QUESTION

How does the Solicitation section apply when trying to get more patients?

ANSWER

Section 2, Article III and **Section 2, Article VII (G)** of the Code prohibit direct solicitation to specific individuals.

QUESTION

Part 1: Does the October 2016 change to the Code of Ethics, "Members may not accept compensation contingent upon the outcome of the litigation, nor agree to testify in any case where the Member has a conflict of interest (including, without limitation, where the Member is or has been the treating physician for the patient at issue or where the physician has a personal or professional relationship with the patient or plaintiff in the case)" prohibit a member from testimony of any type for any reason if the member is the treating physician, or is this limited to cases of medical liability? For example, would testimony regarding an injury treated at a Level 1 trauma center, its future care, and the likelihood of permanent deficits in relation to a personal injury lawsuit, a worker's compensation claim, or a criminal matter be a violation of the Code if the member is compensated for the time involved in this testimony and its preparation?

Part 2: Does the conflict of interest extend to the defense? Is the physician also prohibited from testimony if s/he has a professional relationship with the defendant? If so, to what extent would a "professional relationship" extend – partners, physicians in the same hospital, same employer, working on the same committee, etc.?

ANSWER

Generally, the Ethics Committee has discretion and historically has exercised such discretion to distinguish among the various types of situations in which a physician may testify in a lawsuit. An “expert” would be testifying as to “what is the standard of care” and whether it was met in the case, rather than serving as a witness and providing the type of testimony that is intended to establish or disprove facts in the case based on personal knowledge. The former requires the objectivity the code demands, while the latter necessarily requires personal interaction with the patient. The Ethics Committee has and would use its discretion in taking action based upon a complaint for testimony as a “witness” rather than an “expert.”

QUESTION

The Doctors TV Show has invited me to offer my services pro bono to a guest on the show to correct a “botched” job in exchange for promotional consideration. Would that be a violation of the Society’s Code of Ethics?

ANSWER

Providing charitable care after evaluating the patient and developing a plan for pro bono care does not violate the Society’s Code of Ethics (the “Code”). Members are encouraged to be mindful that the TV show is entertainment, with the producers having the final say on editing. Consequently, it is possible that the producers may want the Member to criticize the previous result and the patient’s previous plastic surgeon.

Members contemplating participating in this type of activity are advised to read the Code and have his/her lawyer review the contract. The Ethics Committee cannot say what the Member does or doesn’t do will or will not violate the Code. Members should let their conscience guide them.

Specific sections that may be pertinent include

- Section 1, Article VI, which states that Members should provide services under the terms and conditions which permit the free and complete exercise of sound medical judgment and skill.
- Section 1, Article XI, which requires that in their public and private communications with or concerning patients and colleagues made in a professional capacity or environment, Members shall strive to use accurate and respectful language and images.
- Section 2, Article I(E)(2) which provides that each Member may be subject to disciplinary action, including expulsion, if the Member is involved in improper financial dealings including, but not limited to payment and/or acceptance of rebates or referral fees to or from any person, including agents and employees of the member, in exchange for the referral of patients. Nothing in this Principle shall be construed to prohibit a Member from participating in a referral service, in which the member’s paid participation is disclosed, where permitted by state law.
- Section 2, Article I(F)(7), which provides that each Member may be subject to disciplinary action, including expulsion, if the Member uses, participates in or promotes the use of any form of public communication (as defined in Glossary to the Code) or private communication (as defined in the Glossary to the Code) containing a false, fraudulent, deceptive, or misleading statement or claim, including a statement or claim which contains a testimonial or endorsement pertaining to the quality of the member’s medical care or the member’s qualifications if the endorser has

been compensated by the Member or a third party retained by the Member for making such testimonial or endorsement.

- Section 2, Article I(I), which provides that each Member may be subject to disciplinary action, including expulsion, if the Member participates in a charity raffle, fund raising event, contest or other promotion in which the prize is any procedure, or an integral component of a procedure (e.g. breast implants), as defined in the Glossary to the Code.
- Section 2, Article II(B), which provides that a Member shall not compensate or give anything of value directly or indirectly to a representative of the press, radio, television, or other public communication media in anticipation of or return for recommending the member's services. A Member shall approve all advertisements before dissemination or transmission, and shall retain a copy or record of all such advertisements in their entirety for one year after its dissemination. A Member shall be held personally responsible for any violation of the Code of Ethics incurred by a public relations, advertising or similar firm which he or she retains, or any entity that advertises on the member's behalf.

QUESTION

Does using Search Engine Optimization (SEO) tools such as meta tags with "best" or other superiority language violate the Society's Code of Ethics?

ANSWER

Section 2, Article I(F)(9) of the Code of Ethics provides that a member may be subject to disciplinary action including expulsion if the member uses, participates in or promotes the use of any form of public communication (as defined in the Glossary to the Code) or private communication (as defined in the Glossary to the Code) containing a false, fraudulent, deceptive, or misleading statement or claim, including a statement or claim which contains a representation or statement of opinion as to the superior quality of professional services which is not susceptible to verification by the public or contains a statement representing that the member possesses skills or provides services superior to those of other physicians with similar training unless such representation can be factually substantiated.

However, the Ethics Committee has determined that it will no longer pursue investigations of complaints about Society members who use hash tags, meta tags, and title tags that claim superiority as a way to optimize their search engine results. The committee considered that doing so would put Society members at a competitive disadvantage to non-members.

Notwithstanding the foregoing, the Ethics Committee will continue to investigate complaints of Society members who use paid ads with unsubstantiated superiority claims to optimize their search engine results.

QUESTION

How do I file a complaint?

ANSWER

The Ethics Committee may investigate only Active and Life Active members. Please refer to the [Instructions for Filing an Ethics Complaint](#) for specific requirements. All complaints regarding

possible ethical misconduct must be in writing, must cite the aspect of the Code that the member allegedly violated, and must include supporting evidence of the alleged violation. Complaints should be addressed to:

EthicsComplaints@plasticsurgery.org

or

ASPS Ethics Committee
444 E. Algonquin Road
Arlington Heights, IL 60005

Please note that the Society is unable to address quality of care complaints. State medical licensing agencies are better equipped to deal with these types of complaints. A directory of State Medical and Osteopathic Boards may be accessed [here](#).

QUESTION

Once I file a complaint, how long will it take to learn the outcome?

ANSWER

Generally, the Ethics Committee acknowledges each complaint it receives within five (5) business days. A full investigation may take three (3) to four (4) months. If the Ethics Committee determines that the Code of Ethics may have been violated, the matter is referred to the Judicial Council, which meets only twice a year – generally in March and October. Members present at the Judicial Council hearing may appeal to the Trustees. The Trustees meet only twice a year – generally in March and October. Consequently, it may take a year or more to learn the outcome of an ethics complaint. Questions about the status of any complaint may be directed to EthicsComplaints@plasticsurgery.org.

QUESTION

Who can I contact if my question was not answered?

ANSWER

Unfortunately, the Society's Ethics Committee is unable to offer advance opinions, advice, or direction on activities its members are contemplating. Questions about the Code may be directed to EthicsComplaints@plasticsurgery.org.