

American Society for Metabolic and Bariatric Surgery

CODE OF ETHICS

Adopted by the Executive Council February 2005

Revised September 27, 2012

Revised March 16, 2016

I. General Purpose.

This Code of Ethics of the American Society for Metabolic and Bariatric Surgery is intended as a guide to assist all members of the Society in achieving the highest level of ethical conduct in their relations with patients, peers and the public.

II. Responsibility to Patients.

First and foremost, all actions by the healthcare provider should be in the best interest of the patient. It is the surgeon's responsibility to select appropriate candidates for metabolic and bariatric surgical procedures, to perform appropriate preoperative evaluation, to perform procedures which have acceptable safety and success outcomes as documented in peer reviewed literature, and to personally provide appropriate postoperative care and follow up.

III. Investigational Procedures.

The Society does not wish to discourage research and innovation. However, if new procedures or significant variations of established procedures are performed, accepted guidelines for human research should be followed. Patients should be informed and counseled and appropriate consent obtained. The procedures should be performed with the guidance and approval of the appropriate Institutional Review Board. Appropriate data collection and analysis with reporting of results by presentation at scientific meetings or publication in peer-reviewed literature is mandatory.

The Society strongly discourages the patenting of surgical procedures.

IV. Continuity of Care.

The surgeon must ensure appropriate continuity of care of the patient. It is not appropriate to delegate selection, preoperative evaluation and preparation, and counseling of the patient entirely to another medical professional. Consultation and evaluation by selected specialists are often required and indicated, but the surgeon must direct and supervise the overall management of the patient.

The surgeon is personally responsible for the patient's welfare throughout the operative procedure. The surgeon should be in the operating room or in the immediate vicinity for the entire procedure. If any part of the operative procedure is delegated to an associate, assistant,

or resident, general supervision and active participation in key components of the operation by the surgeon is required.

Occasional surgery may be performed in locations away from the surgeon's usual clinical or training location for education or training purposes and in unusual or unforeseen circumstances. The habitual or frequent performance of surgeries in locations away from the surgeon's usual clinical or training location, however, cannot be condoned.

Postoperative care is the responsibility of the operating surgeon. If the surgeon must be absent during any portion of the critical postoperative period, coverage must be provided by another surgeon with appropriate skills and experience to render care equivalent to that of the operating surgeon.

Long-term care and follow-up is also the responsibility of the operating surgeon. While distance and convenience to the patient may require a portion of this care to be provided by another health professional, it is the responsibility of the surgeon to establish communication, provide appropriate patient information, and ensure proper continuity of care.

V. Advertising; Release of Information to Media or Nonprofessional Publications.

Advertising and other disseminated information must be truthful and accurate. False, deceptive, inaccurate, or misleading information in any form is inappropriate and unethical. Unjustified expectations of results must not be created, either through statements, testimonials, photographs, or other means. Realistic reporting of risks and possible complications, as well as the benefits, must be included.

Advertisements and other disseminations of information must not misrepresent a surgeon's credentials, training, or experience and must not contain claims of superiority of the surgeon or the procedure that are inaccurate or cannot be substantiated.

While speaking engagements and evidence-based research are permissible, Executive Council members should not publicly endorse, advertise or otherwise promote any specific manufacturer's or distributor's medical device or pharmaceutical product during such member's term on the Executive Council.

VI. Fee Splitting.

A member shall not engage in "fee-splitting" or accepting or paying "kick-backs" or finder's fees for the referral of patients to his or her practice. If a surgeon has a vested financial interest in another corporate, solo or specialty practice, for which some form of payment, interest or dividend will be received for referral of a patient to that practice, the surgeon must inform the patient of his or her financial interest in the arrangement.

VII. Expert Testimony Guidelines.

1. Members should be encouraged to serve as expert witnesses, for plaintiffs as well as defendants. Members of the Executive Council should not serve as expert witnesses for bariatric surgery cases during their term of office on the Executive Council to avoid any appearance that such officer is expressing an opinion on behalf of the Society. An Executive Council member may complete their service as an expert witness if the case began prior to the

member's term of office on the Executive Council. Committee chairs and state chapter officers may serve as expert witnesses during their terms of service, but such officers are required to expressly disclose in discovery and at trial that any expressed opinions are the professional judgment of solely the individual officer, and in no manner represent a policy or position of the Society.

2. A member serving as an expert witness should not be an advocate or a partisan but should champion what is believed to be the truth. The expert should review the available medical information in the case and testify as to its content fairly and impartially.

3. A member serving as an expert must show demonstrated competence by experience in the specific area of bariatric surgery at issue in the legal proceedings.

4. Expert testimony should reflect the opinions of the expert and also describe where such opinions may vary from common practice. The expert should be prepared to state the basis of the testimony presented and whether it is based on personal experience, specific clinical references, or generally accepted opinion in the field. The expert should not present his or her opinions as the only correct opinions if they differ from what other bariatric surgeons might do under similar circumstances. Important alternate methods and views should be fairly presented and discussed.

5. An expert should be engaged in the active practice of bariatric surgery or have been engaged in the active practice of bariatric surgery at the time of the alleged incident at issue in the legal proceedings. The expert should review the standards of practice prevailing at the time of the alleged incident.

6. A member's compensation as an expert witness should not be based on the content of his or her testimony or on the outcome of the legal proceedings. The compensation of the expert witness should be reasonable and commensurate with the time and effort given in analysis and preparation for testimony.

7. The expert witness should be aware that transcripts of deposition and courtroom testimony under oath are public records and are subject to peer review.

8. The expert witness shall affirm under oath prior to offering testimony that the opinions expressed are solely those of the expert and not of the Society. The expert should make all reasonable efforts to avoid generating any liability on behalf of the Society. The expert should familiarize him or herself with any relevant position of the Society regarding the matter to be testified upon, in order to avoid any potential conflicts of interest with the Society.

9. Members providing expert testimony should avoid potential conflicts of interest including providing expert testimony against a direct competitor or a person with a financial or a personal relationship with the expert. Direct competitor is defined as another bariatric surgeon who practices independently within the catchment area of the expert's service. Members providing expert testimony should avoid even an appearance of a conflict of interest, and should not provide expert testimony where there is any potential for the expert to derive a competitive gain.