



National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

January 23, 2018

Dr. Joseph P. Crowley
President, The American Dental Association
211 East Chicago Avenue
Chicago, Illinois 60611

Dear Dr. Crowley,

I write to you on behalf of the National Council on Disability (NCD), an independent federal agency charged with providing advice and recommendations regarding disability policy to the President, Congress, and other federal agencies, to request that the American Dental Association (ADA) revise its current *Principles of Ethics & Code of Professional Responsibility* (“the ADA Code”) to better reflect the rights of people with disabilities. NCD requests a meeting with you and your staff to engage in a constructive dialogue regarding this matter.

NCD has observed that, presently, the ADA Code prohibits dentists from refusing to accept patients into their practice or deny dental service to patients because of the patient’s race, creed, color, sex or national origin; however, the ADA Code does not similarly prohibit dentists from refusing to accept or treat patients because of their disabilities.¹ This exclusion is at odds with the legal intent of the Americans with Disabilities Act.² While NCD acknowledges that the advisory opinion of section 4.A.1. of the ADA Code states that a dentist’s decision not to provide treatment to an individual with, specifically, a bloodborne pathogen based solely on that fact is unethical, this opinion is only just that, an opinion. The ADA Code must better reflect the rights of patients with all disabilities. As has been stated by the ADA, “the ADA Code is, in effect, a written expression of the obligations arising from the implied contract between the dental profession and society.”³ Further, the ADA Code is often the model used by state governments when adopting their own legally required ethical obligations, thus the rights

¹American Dental Association. *Principles of Ethics and Code of Professional Conduct*. 4.A. (Accessed January 23, 2018.)

² 42 U.S.C. § 12101, et seq.

³ The American Dental Association. <http://www.ada.org/en/about-the-ada/principles-of-ethics-code-of-professional-conduct>. (Accessed on January 23, 2018.)

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of patients with disabilities within the ADA Code's patient selection standards must not be ignored.

NCD recommends that the ADA revise its Code at section 4.A. with respect to Patient Selection whereby it is established that:

"While dentists, in serving the public, may exercise reasonable discretion in selecting patients for their practices, dentists shall not refuse to accept patients into their practice or deny dental service to patients because of the patient's race, creed, color, sex, national origin or disability, unless it is medically necessary due to the patient's disability or medical condition, in which case the dentist shall refer the patient to another care provider with the specialized skill and training required to meet the patient's needs" (emphasis added).

For further insights regarding NCD's positions on the need for improved dental care for individuals with intellectual and developmental disabilities, please find attached NCD's policy brief on the subject, including NCD's recommendation that the ADA Code be revised to better reflect the rights of patients with disabilities, generally.

Again, we respectfully request a meeting with your staff to engage in further dialogue on this topic, to assist in the convening of stakeholders from the disability community and representatives of the American Dental Association, and to discuss the information and perspectives of NCD on this matter. Thank you for your time and consideration of this issue. Please contact Amged M. Soliman, NCD Attorney Advisor, at asoliman@ncd.gov or 202-272-2116, to arrange a time to meet. We look forward to further discussion on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde Terry".

Clyde Terry
Chair, National Council on Disability