

FEDCAR'S EURO PEAN CODE OF CON DUCT



for Dentists

FEDCAR'S CODE OF CONDUCT



FORE WORD

Dear Reader,

It is our pleasure to recommend this European Code of Conduct for Dentist to you.

This is a reference document. Adopted by members of the FEDCAR -representing the Dental Competent Authorities in 20 countries-, this Code aims to serve as guidance for the dentist profession throughout Europe.

The increase in cross-border professional activities and the development of an Internal Market for services call for a greater convergence of professional rules at European level. As they are invited by the EU legislator, it is therefore important that professional organizations reach agreement between them-selves at European level on a common set of rules which will ensure an equal level of protection for recipients and quality of health services.

Such a Code of Conduct should apply both to the provision of cross-border services as well as to the provision of services within the territory where the service provider is established: the aim is to establish a set of rules that are common at European level and that does not draw a distinction between na-tional and cross-border provision of services.

As a reference document, this Code provides with minimal provisions. Obviously Member States, national com-petent authorities or regulators complete their national law or Code with further detailed provisions of conduct.

This code clearly outlines the way the dentist profession looks upon its role and responsibilities in society.

It shows the profession's view on its tasks, the way these should be carried out, as well as the profession's wish to be accountable for these tasks.

We are particularly pleased that this Code has been designed to apply to any dentist, wether in public or in private sector, serving as employee or being self-employed.

By sharing this Code of conduct, competent authorities and dentists will reinforce their contributions to oral health and welfare of people in Europe.

SANDRO SANVENERO
Vice-Chair



ULLAR KALJUMAE
Chair



MIGUEL ANGEL
Vice-Chair



FEDCAR'S CODE OF CONDUCT



GLOS SARY

••• *Patients Directive* refers to :

Directive 2011/24 of 9 March 2011 on the application of patients' rights in crossborder healthcare.

••• *RPQ Directive* refers to :

revised Directive 2005/36 of 7 September 2005 on the recognition of professional qualifications

••• *Electronic Commerce Directive* refers to :

Directive 2000/3 of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market

••• *Health initiative* refers to :

the Green Paper on mobile Health ("mHealth") published on 10 April 2014 along with a public consultation on the merits of mHealth and on the needs to enhance its regulation.

••• *Draft General Data Protection Regulation* :

Proposal for a Regulation updating and modernising the protection of personal data.

FEDCAR'S CODE OF CONDUCT

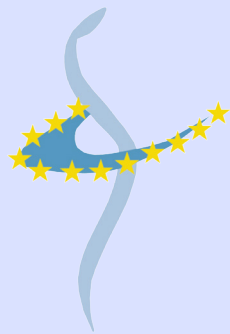
Dental Authorities of FEDCAR agree to consider there is a core of 18 principles that registered dental professionals in the EU must keep to at all times during their activity, whatever the country of services and of establishment is.

Those principles covers the links with the patient, with the public health activity and with the profession.

As a dentist registered to your national dental authority you must:



FEDCAR'S CODE OF CONDUCT



ABOUT THE PATIENT'S TREATMENT

1 • PUT PATIENTS' HEALTH INTERESTS FIRST

2 • RESPECT THE RIGHT OF PATIENTS TO BE CARED FOR BY THE DENTIST OF THEIR CHOICE

> Recall of minimum EU law : *individual patients may seek healthcare in a Member State other than the Member State of affiliation (Recital 11 & 29 of Patients Directive).*

3 • PROVIDE CARE WITH RESPECT, DIGNITY AND WITHOUT DISCRIMINATION

> Recall of minimum EU law : *«Member States shall ensure that the healthcare providers on their territory apply the same scale of fees for healthcare for patients from other Member States, as for domestic patients in a comparable medical situation, or that they charge a price calculated according to objective, non-discriminatory criteria if there is no comparable price for domestic patients.» (Article 4(4) of Patients Directive)*

4 • NEVER OVERSTATE OR EMBELLISH YOUR ABILITIES AND QUALIFICATIONS, OR EN-GAGE IN ANY ACTIVITY, INCLUDING ADVERTISING OR SPEECH THAT COULD MISLEAD A REASONABLE PERSON

4.1 You must make sure that any material you produce is accurate and not misleading, and complies with the Dental Authority's guidance on ethical advertising of the country where you are registered and where you apply the promotional material.

> Recall of minimum EU law : *«'commercial communication': any form of communication designed to promote, directly or indirectly, the goods, services or image of a company, organisation or person pursuing a commercial, industrial or craft activity or exercising a regulated profession. The following do not in themselves constitute commercial communications:*

- *information allowing direct access to the activity of the company, organisation or person, in particular a domain name or an electronic-mail address,*

- *communications relating to the goods, services or image of the company, organisation or person compiled in an independent manner, particularly when this is without financial consideration;» (Article 2(f), Electronic Commerce Directive)*

- *«This concept therefore covers (...) professional cards mentioning the title and specialisation of the service provided. » (DG Internal Market in The role of European Code of Conduct, 2007)*

> Recall of minimum EU law : «1. Member States shall ensure that the use of commercial communications which are part of, or constitute, an information society service provided by a member of a regulated profession is permitted subject to compliance with the professional rules regarding, in particular, the independence, dignity and honour of the profession, professional secrecy and fairness towards clients and other members of the profession.» (Article 8, Electronic Commerce Directive).

> Recall of minimum EU law : « In order to remove barriers to the development of cross-border services within the Community which members of the regulated professions might offer on the Internet, it is necessary that compliance be guaranteed at Community level with professional rules aiming, in particular, to protect consumers or public health; codes of conduct at Community level would be the best means of determining the rules on professional ethics applicable to commercial communication; the drawing up or, where appropriate, the adaptation of such rules should be encouraged without prejudice to the autonomy of professional bodies and associations.» (Recital 32, Electronic Commerce Directive).

> Recall of minimum EU law : «1. Unfair commercial practices shall be prohibited.
2. A commercial practice shall be unfair if: (a) it is contrary to the requirements of professional diligence, and (b) it materially distorts or is likely to materially distort the economic behaviour with regard to the product of the average consumer whom it reaches or to whom it is addressed, or of the average member of the group when a commercial practice is directed to a particular group of consumers.» (Article 5, Directive 2005/29 on Unfair commercial practices).

> A commercial practice that misleads consumers is unfair and, therefore, prohibited, and there is no need to show that it is contrary to the requirements of professional diligence (EU case-law C-435/11).

5 • COMMUNICATE EFFECTIVELY WITH PATIENTS

5.1 Use a language that you are sure the patient understands.

> Recall of minimum EU law : «Professionals benefiting from the recognition of professional qualifications shall have a knowledge of languages necessary for practising the profession in the host Member State.» (Article 53 of RPQ Directive).

« Member States may require that, where the service provider first moves from one Member State to another in order to provide services, he shall inform the competent authority in the host Member State in a written declaration to be made in advance including (...) for professions that have patient safety implications, a declaration about the applicant's knowledge of the language necessary for practising the profession in the host Member State;» (Article 7(f) of RPQ Directive).

5.2 Provide the patient with information complaints procedure

> Recall of minimum EU law : «The Member State of treatment shall ensure that : (...) there are transparent complaints procedures and mechanisms in place for patients,

in order for them to seek remedies in accordance with the legislation of the Member State of treatment if they suffer harm arising from the healthcare they receive; » (Article 4(2)(c) of Patients Directive).

6 • OBTAIN VALID CONSENT FROM THE PATIENT

6.1 Obtain valid consent before starting treatment, explaining all the relevant options with associated benefits, risks and costs.

6.2 Make sure that patients (or their representatives) understand the decisions they are being asked to make.

6.3 Make sure that the patient's consent remains valid at each stage of investigation or treatment.

> Recall of minimum EU law : «The Member State of treatment shall ensure that: (b) healthcare providers provide relevant information to help individual patients to make an informed choice, including on treatment options, on the availability, quality and safety of the healthcare they provide in the Member State of treatment and that they also provide clear invoices and clear information on prices, as well as on their authorisation or registration status, their insurance cover or other means of personal or collective protection with regard to professional liability. To the extent that healthcare providers already provide patients resident in the Member State of treatment with relevant information on these subjects, this Directive does not oblige healthcare providers to provide more extensive information to patients from other Member States;» (Article 4(2)(b) of Patients Directive)

7 • ACCEPT RESPONSIBILITY FOR THE CARE PROVIDED BY AUTHORIZED DENTAL PERSONNEL

> Recall of minimum EU law : «The Member State of treatment shall ensure that: (b) healthcare providers provide relevant information to help individual patients to make an informed choice, including on treatment options, on the availability, quality and safety of the healthcare they provide in the Member State of treatment and that they also provide clear invoices and clear information on prices, as well as on their authorisation or registration status, their insurance cover or other means of personal or collective protection with regard to professional liability. To the extent that healthcare providers already provide patients resident in the Member State of treatment with relevant information on these subjects, this Directive does not oblige healthcare providers to provide more extensive information to patients from other Member States;» (Article 4(2)(b) of Patients Directive).

8 • ESTABLISH FEES WITH TACT AND MODERATION IN THE INTEREST OF THE PATIENT AND NATIONAL HEALTH SYSTEM

FEDCAR'S CODE OF CONDUCT

ABOUT THE PROVISION OF PUBLIC HEALTH SERVICE



9 • DECIDE IN INDEPENDENCE AND WITH IMPARTIALITY ABOUT THE TREATMENT AND SERVICES NEEDED FOR THE PATIENT'S ORAL HEALTH.

> Recall of minimum EU law : «(...) this Directive includes also liberal professions, which are, according to this Directive, those practised on the basis of relevant professional qualifications in a personal, responsible and professionally independent capacity by those providing intellectual and conceptual services in the interest of the client and the public. The exercise of the profession might be subject in the Member States, in conformity with the Treaty, to specific legal constraints based on national legislation and on the statutory provisions laid down autonomously, within that framework, by the respective professional representative bodies, safeguarding and developing their professionalism and quality of service and the confidentiality of relations with the client .» (RQP Directive, Recital 43)

10 • MAINTAIN A SAFE AND HEALTHY OFFICE ENVIRONMENT

11 • WORK WITH COLLEAGUES IN A WAY THAT IS IN PATIENTS' BEST INTERESTS

12 • PROTECT THE CONFIDENTIALITY OF THE PERSONAL AND HEALTH INFORMATION OF PATIENTS

12.1 Protect the confidentiality of personal and health patients' information and only use it for the purpose for which it was given. Only release a patient's information without their permission in exceptional circumstances.

> Recall of minimum EU law : «1. Member States shall prohibit (...) the processing of data concerning health or sex life. (...) Paragraph 1 shall not apply where processing of the data is required for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment or the management of health-care services, and where those data are processed by a health professional subject under national law or rules established by national competent bodies to the obligation of professional secrecy or by another person also subject to an equivalent obligation of secrecy.» (Data Protection Directive, Article 8(3)).

12.2 Ensure that patients can have access to their records.

> Recall of minimum EU law : «The Member State of treatment shall ensure that : in order to ensure continuity of care, patients who have received treatment are entitled to a written or electronic medical record of such treatment, and access to at least a copy of this record in conformity with and subject to national measures implementing Union provisions on the protection of personal data, in particular Directives 95/46/EC and 2002/58/EC.» (Article 4(2)(f) of Patients Directive).

12.3 Keep patients' information secure at all times, whether your records are held on paper or electronically. (*mHEALTH initiative, draft General Data Protection Regulation*).

13 • ENSURE THAT THE DENTAL TEAM MAY RAISE CONCERNS IF PATIENTS OR COLLEAGUES ARE AT RISK

13.1 Act promptly if patient's or colleague's health is at risk and take measures to protect them.

13.2 Make sure if you employ, manage or lead a team that you encourage and support a culture where staff can raise concerns openly and without fear of reprisal.

13.3 Make sure if you employ, manage or lead a team that there is an effective procedure in place for raising concerns, that the procedure is readily available to all staff and that it is followed at all times.

> Recall of minimum EU law : *healthcare professionals are encouraged to report to the manufacturer or to their competent authority in accordance with national guidance, any serious incident in respect of devices made available on the Union market (current Guidelines on a medical devices vigilance system ; Article 61 of the draft proposal of Regulation on Medical Devices). Likewise, they are encouraged to report adverse drug reaction (Regulation 1027/2012 & Directive 2012/26 on pharmacovigilance).*

14 • PARTICIPATE IN THE PERMANENT CARE AND ON-CALL DUTY THAT ARE ORGANIZED IN YOUR COUNTRY OF PRACTICE

FEDCAR'S CODE OF CONDUCT

ABOUT THE MEMBERSHIP TO THE PROFESSION



15 • BE TRUTHFUL AND OBEY ALL APPLICABLE LAWS OF THE COUNTRY WHERE HIS PRACTICE TAKES PLACE, AS A TRAINEE OR A FULLY QUALIFIED PROFESSIONAL, WHETHER ON A AD HOC OR ON A PERMANENT BASIS

> Recall of minimum EU law : « (...) the person providing a service may (...) temporarily pursue his activity in the Member State where the service is provided, under the same conditions as are imposed by that State on its own nationals.» (Article 57 TFEU in fine).

> Recall of minimum EU law : «Where a service provider moves, he shall be subject to professional rules of a professional, statutory or administrative nature which are directly linked to professional qualifications, such as the definition of the profession, the use of titles and serious professional malpractice which is directly and specifically linked to consumer protection and safety, as well as disciplinary provisions which are applicable in the host Member State to professionals who pursue the same profession in that Member State.» (Article 5 of RPQ Directive).

> «The service provider should be subject to the application of disciplinary rules of the host Member State having a direct and specific link with the professional qualifications, such as the definition of the profession, the scope of activities covered by a profession or reserved to it, the use of titles and serious professional malpractice which is directly and specifically linked to consumer protection and safety.» (Recital 8 of RQP Directive).

> Recall of minimum EU law : Where a dentist moves, he shall be subject to the professional rule for calculating fees or the rule prohibiting unprofessional advertising provided they are compatible with the Single Market's requirements (case-law C-475/11, para.35-46).

> Recall of minimum EU law : «Nationals of a Member State who practise their profession in another Member State are bound to observe the rules that govern the practice in that Member State of the profession in question. Where the professions of doctor, dentist and veterinary surgeon are concerned, those rules are in particular those inspired by concern to protect the health of humans and animals as efficiently and fully as possible.» (case-law C-351/90).

> Recall of minimum EU law : When completing a professional traineeship in a host Member State or in a third country, the dental trainee is subject to guidelines on the recognition and on the organisation of the professional traineeship, in particular on the role of his supervisor (Article 55a RPQ Directive).

16 • MAINTAIN, DEVELOP AND WORK WITHIN HIS PROFESSIONAL KNOWLEDGE AND SKILLS

16.1 Continuing professional development (CPD) activity is not mandatory in all EU countries.

16.2 You must however make sure that you know how much continuing professional

development (CPD) activity is required for you to maintain your registration in your country of establishment and that you carry it out within the required time.

17 • MAKE SURE HIS PERSONAL BEHAVIOUR MAINTAINS PATIENTS' CONFIDENCE IN HIS PERSON AND THE DENTAL PROFESSION

17.1 Maintain appropriate and dignified boundaries in relationships with patients.

17.2 Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.

17.3 Protect patients and colleagues from risks posed by your health, conduct or performance.

18 • IN CASE OF PROFESSIONAL MOBILITY, INFORM THE HOME COMPETENT AUTHORITY AND LIAISE WITH THE HOST COMPETENT AUTHORITY

18.1 Co-operate with any relevant formal or informal (*e.g. European Certificate of Current Professional Status*) inquiry and give full and truthful information.

18.2 Inform the Dental Authority to which you are registered or to which you intend to register if you are subject to criminal proceedings or a regulatory finding is made against you anywhere within the EU.

> Recall of minimum EU law : *«Moreover, for the first provision of services or if there is a material change in the situation substantiated by the documents, Member States may require that the declaration be accompanied by the following documents: (...) for professions in the security sector, in the health sector and professions related to the education of minors, including in childcare and early childhood education, where the Member State so requires for its own nationals, an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions; » (Article 7(2)(e) of RPQ Directive).*

> *«The competent authorities of the home and the host Member States shall exchange information regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under this Directive.» (Article 56(2) of RPQ Directive).*

> Recall of minimum EU law : *«The competent authorities of a Member State shall inform the competent authorities of all other Member States about a dentist, a specialist dentist or any other professionals exercising activities that have patient safety implications where the professional is pursuing a profession regulated in that Member State» (RPQ Directive, Article 56a).*

FEDCAR'S CODE OF CONDUCT



ANNEX

I • COPY OF FORMER FEDCAR'S ETHICAL PRINCIPLES ADOPTED IN NOVEMBER 2008 (UNDER THE FORMER NAME OF CODE) :

•••CODE Ethical Principles

C. O. D. E. is the Conference of Orders and Assimilated Bodies of Dental Practitioners in Europe bringing together European competent authorities responsible for the regulation, the registration and the supervision of dental practitioners. In November 2008, CODE members agreed to set core ethical principles.

•••Why?

- *In the context of increased mobility of practitioners, some general principles are necessary both for professionals and patients crossing borders*

- *The European Commission is promoting the development of codes of conduct at European level.*

- *CODE Members represent European authorities that are responsible for implementing national codes of ethics. They consider they have a role to play in the process of establishing common principles of good conduct for dental practitioners at European level.*

•••What?

The objective of this CODE initiative is not to harmonise national rules. It does not intend to replace national Ethics codes that must be respected by all dental practitioners working in a specific country.

CODE Members commit to respect these core ethical principles and ensure that their national Codes of Ethics do not conflict with these common principles.

•••The core principles

These are the core ethical principles for those that practice dentistry in the EU, according to the definition provided by the directive 2005/36/EC : "dental practitioners are generally able to gain access to and pursue the activities of prevention, diagnosis and treatment of anomalies and diseases affecting the teeth, mouth, jaws and adjoining tissue (...)" (article 36.3).

••• *As a dental practitioner, you must:* _____

- 1 • Put patients' interests first and act to protect them
- 2 • Respect patients' dignity
- 3 • Give appropriate information to patients and respect their choices
- 4 • Protect the confidentiality of patients' information
- 5 • Cooperate with the appropriate national authorities and other healthcare colleagues in the interest of patients
- 6 • Maintain your professional knowledge and competence
- 7 • Be trustworthy
- 8 • If you intend to treat patients in any member state you must inform the competent authority in that country.

CODE General Secretariat

II - EXTRACTS FROM DIRECTIVE 2000/31 ON CERTAIN LEGAL ASPECTS OF INFORMATION SOCIETY SERVICES, IN PARTICULAR ELECTRONIC COMMERCE, IN THE INTERNAL MARKET (DIRECTIVE ON ELECTRONIC COMMERCE)

Note that this Directive applies to health professions.

(Recital 32) In order to remove barriers to the development of cross-border services within the Community which members of the regulated professions might offer on the Internet, it is necessary that compliance be guaranteed at Community level with professional rules aiming, in particular, to protect consumers or public health; codes of conduct at Community level would be the best means of determining the rules on professional ethics applicable to commercial communication; the drawing-up or, where appropriate, the adaptation of such rules should be encouraged without prejudice to the autonomy of professional bodies and associations.

(49) Member States and the Commission are to encourage the drawing-up of codes of conduct; this is not to impair the voluntary nature of such codes and the possibility for interested parties of deciding freely whether to adhere to such codes.

Article 8

Regulated professions

1. Member States shall ensure that the use of commercial communications which are part of, or constitute, an information society service provided by a member of a regulated profession is permitted subject to compliance with the professional rules regarding, in particular, the independence, dignity and honour of the profession, professional secrecy and fairness towards clients and other members of the profession.

2. Without prejudice to the autonomy of professional bodies and associations, Member States and the Commission shall encourage professional associations and bodies to establish codes of conduct at Community level in order to determine the types of information that can be given for the purposes of commercial communication in conformity with the rules referred to in paragraph 1

3. When drawing up proposals for Community initiatives which may become necessary to ensure the proper functioning of the Internal Market with regard to the information referred to in paragraph 2, the Commission shall take due account of codes of conduct applicable at Community level and shall act in close cooperation with the relevant professional associations and bodies.

4. This Directive shall apply in addition to Community Directives concerning access to, and the exercise of, activities of the regulated professions.
