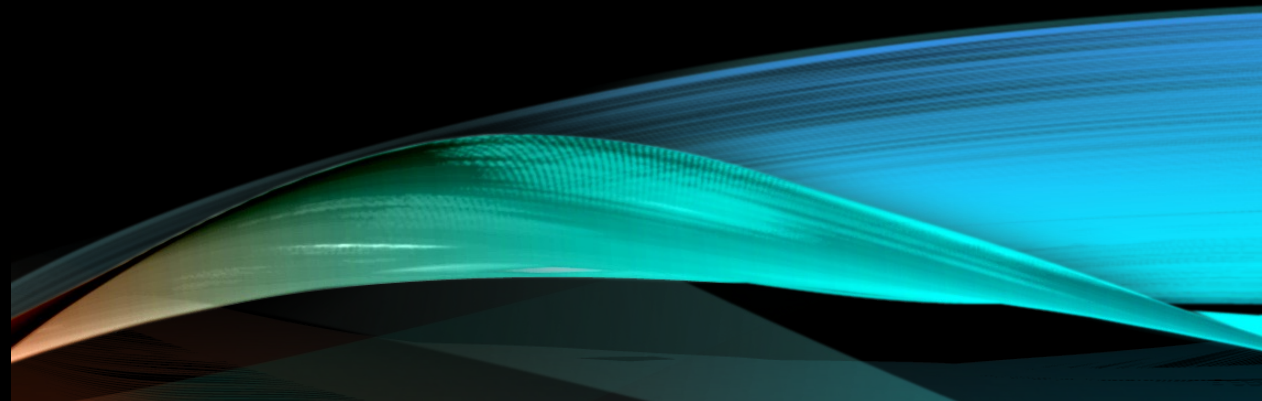




MEDICAL ETHICS

Marc G. Kaprow, DO, MHA, FACOI





DISCLOSURES

- No conflicts of interest to disclose



OBJECTIVES

By the conclusion of this lecture, the participants will be able to:

- Describe the four basic precepts of medical ethics
- Apply basic medical ethical principles in everyday practice
- Apply basic professional ethics standards to everyday practice



SOME THOUGHTS AS WE BEGIN

“Have the courage to say no. Have the courage to face the truth. Do the right thing because it is right. These are the magic keys to living your life with integrity.”

W. Clement Stone

“The power to make a choice goes with the duty of accepting the responsibility of the outcome of the choice.”

Michael Eneyo

“It is the greatest good to the greatest number of people which is the measure of right and wrong.”

Jeremy Bentham



DEFINITIONS

- Ethics
 - Moral principles that govern a person's behavior or the conducting of an activity
- Morals
 - A person's standard of behavior or beliefs concerning what is and what is not acceptable for them to do
- Mores
 - The essential of characteristic customs and conventions of a community



MORE DEFINITIONS

- Professional
 - Relating to or belonging to a profession
- Profession
 - A paid occupation, especially one that involves prolonged training and a formal qualification



CHARACTERISTICS OF A PROFESSION

- Arises when a trade or occupation transforms itself through the development of:
 - Formal educational qualifications
 - Apprenticeship
 - Examinations
 - Regulatory bodies
- Bound by an ethical code



PRINCIPLE

- Medical ethics are a core component of the allopathic / osteopathic professions
- We are obligated to self regulate guided by the mores of our community and our ethical code to ensure moral behavior
- The ethical application of our moral code may be variable depending on the individual circumstances and the relevant societal mores.



PRINCIPLE IN ACTION

- Is it ALWAYS ethical to intervene surgically?
- Is it ALWAYS ethical to perform CPR?
- Is it ALWAYS ethical to provide blood products?
- Is it NEVER ethical to recommend an unproven treatment?



ETHICAL PRINCIPLES

- Autonomy
- Benevolence
- Non-Maleficance
- Justice



AUTONOMY

- The ability of an individual to consent or refuse to undergo a treatment recommended.
- Physicians are required to seek consent from a patient unless a patient is unable to consent due to internal or external reasons.

CAPACITY VS. COMPETENCY

CAPACITY

- Contextual
- Full, limited or absent
- Determined by a practitioner
- Can vary or be stable

COMPETENCY

- Legal ability to participate in a contract
- Present or absent
- Usually determined by a court

DETERMINING CAPACITY

- Communicate a choice
 - Demonstrate understanding of relevant information
 - Demonstrate an appreciation of the situation and its consequences
 - Demonstrate reasoning
-
- CAPACITY IS UNRELATED TO ORIENTATION
 - Capacity cannot be determined adequately based solely on yes / no responses



“PARTIAL” CAPACITY

- Patients can participate in decisions that they have capacity for
- May not be able to make a decision about a high risk surgical procedure
- May be able to make a decision about other care preferences
- In some circumstances risk managers may allow for incapacitated patients to refuse certain care



EXAMPLES OF PARTIAL CAPACITY

- Teenagers
- Patients with mild to moderate dementia
- Adults with limited cognitive delays or regression



CAUTION

- Some of the following things may lead to poor interpretation of capacity:
 - Language or cultural barriers
 - Sensory impairment (the patient's not yours!)

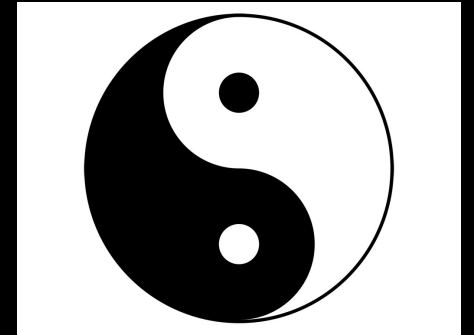
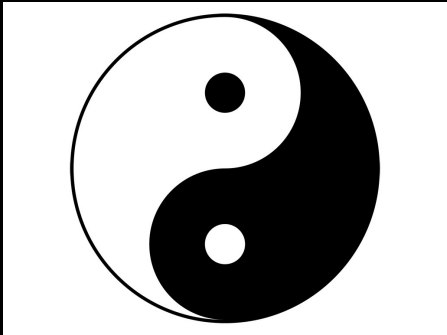


“MINOR” EXCEPTIONS

- Reproductive care
- Care of the child of a minor
- HIV and STI testing
- State laws may vary – know when this is appropriate for your patients

Non-Maleasance

BENEVOLENCE





WHAT IS BENEFIT?

- Feel better
- Get Better
- Improved quality of life
- Prolong functional survival

BALANCING RISK OF HARM AND BENEFIT





JUSTICE

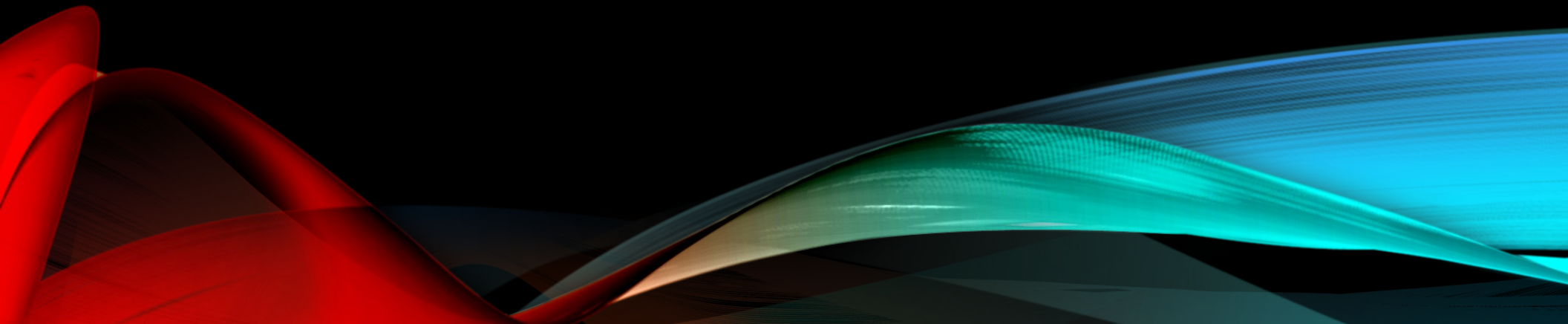
JUSTICE



COMMON EXAMPLES OF JUSTICE

- ED Triage
- UNOS
- Level of Care (ICU vs. IMCU vs. Telemetry)

ETHICS IN PRACTICE



PROFESSIONAL ETHICS

SET EDITION: U.S. | INTERNATIONAL | VIDEO | AUDIO | CNN Health | Sign up | Log in | Donate

TV: CNN | CNN | CNN en Español | USA | powered by Google

Home | TV & Video | CNN Trends | U.S. | World | Politics | Justice | Entertainment | Tech | Health | Living | Travel | Opinion | Report | Money | Sports

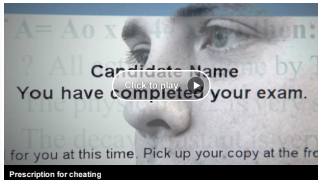
Exclusive: Doctors cheated on exams

By Matt Stewart, Drew Griffin and Arash Asgari | CNN
Updated 12:05 PM EST, Fri January 13, 2012

SHARE THIS

Facebook | Twitter | LinkedIn | YouTube | Email | Print | More sharing

Recommended (2)



for you at this time. Pick up your copy at the fre

Prescription for cheating

STORY HIGHLIGHTS

- National board of radiology: Doctors "cheating" on tests
- Test takers share questions from previous exams to help on tests
- Some doctors say it's not cheating

Watch report: Radiology residents say they can't pass without cheating

CNN -- For years, doctors around the country taking an exam to become board certified in radiology have cheated by memorizing test questions, creating sophisticated banks of what are known as "recalls," a CNN investigation has found.

The recall exams are meticulously compiled by radiology residents, who write down the questions after taking the test, in radiology programs around the country, including some of the most prestigious programs in the U.S.

"It's been going on a long time, I know, but I can't give you a date," said Dr. Gary Becker, executive director of the American Board of Radiology (ABR), which oversees the exam that certifies radiologists.

Asked if this were considered cheating, Becker told CNN, "We would call it cheating, and our exam security policy would call it cheating, yes."

Radiology residents must sign a document agreeing not to share test material, but a CNN investigation shows the document is widely ignored. Dozens of radiology residents interviewed by CNN said that they promised before taking the written test to memorize certain questions and write them down immediately after the test along with fellow residents.

"Our real mission is to the public," said Dr. James Borgstrome, the ABR's president-elect. "Our real mission is to say that your certified radiologist has demonstrated, acquired and maintained the requisite skills and knowledge to practice with skill and safety on the public."

© 2012 CNN


CNN TRENDS

powered by ERM

- 1 Kevin Durant
- 2 Official Lois Lerner
- 3 Lashes
- 4 Pearlle Golden

Go to CNN Trends

More from CNN Video:





EVERYTHING YOU DO...

- Reflects on you
- Reflects on me
- Reflects on US



ETHICAL PITFALLS

- Business practices
 - Pill mills, WFA, Stark
- Criminal actions
 - Drugs, DUI/BUI, Non-violent or violent crime
- Inappropriate relationships
 - Patients, Staff, Minors...

MAURICE J. WOLIN, M.D.





DR. WOLIN WAS...

- A graduate of SUNY/Buffalo
- A prestigious oncologist for 30 years
- A researcher
- A UCLA professor
- A consultant

THIS IS WHEN HE MET CHRIS
HANSEN





CAUGHT

- Chatting online with and driving to meet a “13-year-old”



CONSEQUENCES

- Immediate suspension of his license
- Plea of No Contest resulted in 2 months of home confinement and probation
- License subsequently revoked due to felony conviction



OTHER RELATIONSHIPS

- With patients be careful with...
 - Outside business relationships
 - Unaccompanied exams
 - Social relationships
 - SEXUAL RELATIONSHIPS ARE NEVER ACCEPTABLE

SOCIAL MEDIA



PICTURES





Amy [redacted]

January 28 at 7:19pm via mobile · 🌐

So I have a patient who has chosen to either no-show or be late (sometimes hours) for all of her prenatal visits, ultrasounds, and NSTs. She is now 3 hours late for her induction. May I show up late to her delivery?

Share

👍 7 people like this.



I'm surprise u see a patient that late. I came 30 min to my Gyne once and they made me reschedule, even though I once waited 2 hrs to be seen by this dr.

January 28 at 7:23pm via mobile



If it's elective, it'd be canceled!

January 28 at 7:33pm · 🌐 1



I agree with Dr [redacted] Cancel the induction.

January 28 at 7:40pm



A [redacted] here is the explanation why I have put up with it/ not cancelled induction: prior stillbirth.

January 28 at 7:41pm via mobile



I thought of that after I hit send. I do not understand some people. I try to be at least minutes and bring a book , magazine and Kindle so the time waiting does not seem so long.

January 28 at 7:44pm



That should have been minutes early.

January 28 at 7:46pm



Maybe she's hitting up the bar for her last drink?!

January 28 at 9:11pm via mobile · 🌐 1



I love being early to my o.b. appointments! It's more time for me to read, or sleep, or relax!!! 😊

January 28 at 9:27pm · 🌐 1

© Facebook

POSTS



Amy [redacted]

January 28 at 7:19pm via mobile · 🌐

So I have a patient who has chosen to either no-show or be late (sometimes hours) for all of her prenatal visits, ultrasounds, and NSTs. She is now 3 hours late for her induction. May I show up late to her delivery?

Share

👍 7 people like this.



I'm surprise u see a patient that late. I came 30 min to my Gyne once and they made me reschedule, even though I once waited 2 hrs to be seen by this dr.

January 28 at 7:23pm via mobile



If it's elective, it'd be canceled!

January 28 at 7:33pm · 🌐 1



I agree with Dr [redacted] Cancel the induction.

January 28 at 7:40pm



A [redacted] here is the explanation why I have put up with it/ not cancelled induction: prior stillbirth.

January 28 at 7:41pm via mobile



I thought of that after I hit send. I do not understand some people. I try to be at least minutes and bring a book , magazine and Kindle so the time waiting does not seem so long.

January 28 at 7:44pm



That should have been minutes early.

January 28 at 7:46pm



Maybe she's hitting up the bar for her last drink?!

January 28 at 9:11pm via mobile · 🌐 1



I love being early to my o.b. appointments! It's more time for me to read, or sleep, or relax!!! 😊

January 28 at 9:27pm · 🌐 1

© Facebook

POSTS

POSTS



Amy [redacted]

January 28 at 7:19pm via mobile · 📱

So I have a patient who has chosen to either no-show or be late (sometimes hours) for all of her prenatal visits, ultrasounds, and NSTs. She is now 3 hours late for her induction. May I show up late to her delivery?

Share

👍 7 people like this.



I'm surprise u see a patient that late. I came 30 min to my Gyne once and they made me reschedule, even though I once waited 2 hrs to be seen by this dr.

January 28 at 7:23pm via mobile



If it's elective, it'd be canceled!

January 28 at 7:33pm · 🔄 1



I agree with Dr [redacted] Cancel the induction.

January 28 at 7:40pm



A [redacted] here is the explanation why I have put up with it/ not cancelled induction: prior stillbirth.

January 28 at 7:41pm via mobile



I thought of that after I hit send. I do not understand some people. I try to be at least minutes and bring a book , magazine and Kindle so the time waiting does not seem so long.

January 28 at 7:44pm



That should have been minutes early.

January 28 at 7:46pm



Maybe she's hitting up the bar for her last drink?!

January 28 at 9:11pm via mobile · 🔄 1

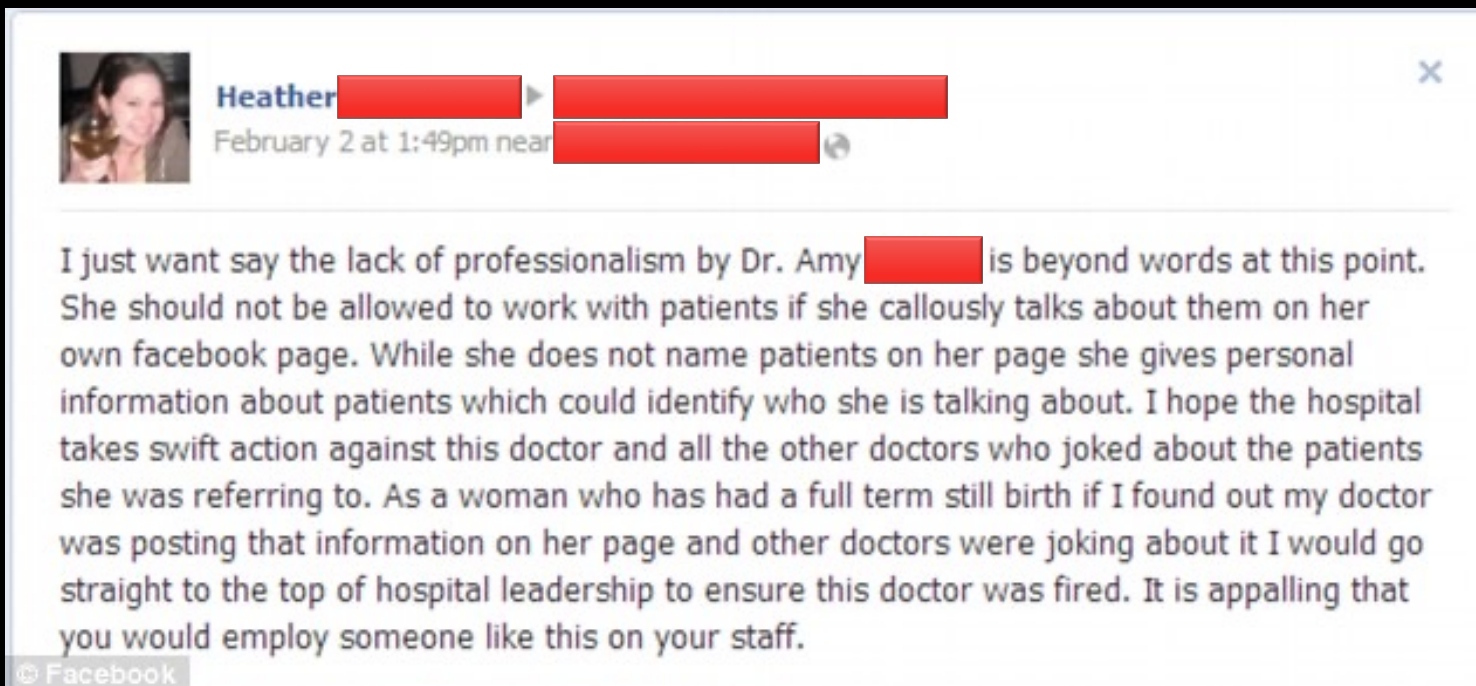


I love being early to my o.b. appointments! It's more time for me to read, or sleep, or relax!!! 😊


January 28 at 9:27pm · 🔄 1

© Facebook

REPLIES



A screenshot of a Facebook post. At the top left is a profile picture of a woman. To its right is the name "Heather" followed by a redacted name and a right-pointing arrow. Below the name is the text "February 2 at 1:49pm near" followed by a redacted location and a globe icon. In the top right corner of the post area is a close button (an 'x' in a square). The main body of the post contains a paragraph of text. At the bottom left of the post area is a small grey box with the text "© Facebook".

 **Heather** [redacted] [redacted]
February 2 at 1:49pm near [redacted]

I just want say the lack of professionalism by Dr. Amy [redacted] is beyond words at this point. She should not be allowed to work with patients if she callously talks about them on her own facebook page. While she does not name patients on her page she gives personal information about patients which could identify who she is talking about. I hope the hospital takes swift action against this doctor and all the other doctors who joked about the patients she was referring to. As a woman who has had a full term still birth if I found out my doctor was posting that information on her page and other doctors were joking about it I would go straight to the top of hospital leadership to ensure this doctor was fired. It is appalling that you would employ someone like this on your staff.

© Facebook



SOME GOOD GUIDANCE...

- Patient's don't make good online friends
- Don't EVER discuss work
- Be careful what you post and what you allow others to post for you / about you
- Consider separating personal and professional accounts



YOUR RECORDS

- COMPLETE and ACCURATE.
- “Shadow charting” is a recipe for disaster.
- In EMR, everything you do is recorded in perpetuity.
- Patients have a right to review or receive a COPY of everything in the records. Maintaining the records accurately is YOUR responsibility – even if you do not own them.



TREATING YOUR FAMILY

- Keep a medical record. (Chart in the office, separate record at home, free EMR)
- Do you really want to have a discussion about DNR with your dad about your mom? --- Be aware of the difficulties with emotional attachment.



BILLING ISSUES

- It's unethical (and usually a violation of your provider contract) to waive copayments or deductibles.
- As a physician you must be careful that any business practice you enter into with a patient avoids the possibility or appearance of conflict of interest on either side.
- Good friendships can turn ugly when money is involved.
- By virtue of the relationship the physician is expected to comport themselves to the best interests of the patient.



BILLING ISSUES

- Your documentation is meant to reflect the services performed.
- You are expected to perform medically needed and appropriate services.
- Some circumstances require comprehensiveness – such as initial hospital evaluations and evaluations of new patients.
- Other circumstances may require only a lower level of care – such as routine follow-up care, blood pressure checks, etc.
- Altering your notes to reflect a level of care at a desired billing level, rather than to characterize the necessary care provided is fraudulent.

FCA EXPANDING

Supreme Court's False Claims Act Opinion Raises Stakes for Physician Billing

Steph Weber
June 13, 2023

[+ Add to Email Alerts](#)



1



In a ruling that legal experts say could heighten scrutiny of physicians and hospitals that bill government-funded insurance programs, the US Supreme Court voted unanimously last week to reopen two False Claims Act (FCA) cases, reversing a lower court's ruling and issuing an opinion that could expand the scope of the antifraud statute.



The [ruling](#) is viewed as a loss for the American Medical Association (AMA) and the American Hospital Association (AHA), which filed [amicus briefs](#) urging the Supreme Court not to expand the FCA's scope. It is viewed as a win for whistleblowers.

Doctors, hospitals, and pharmacies are often charged with FCA violations in [improper billing cases](#), but they say the rules are

unclear and that as a result, they are being sanctioned when there was no intent to defraud. Whistleblowers say organizations try to justify fraud by using post facto "explanations" for the way they bill.

MID LEVEL SUPERVISION

PRESS RELEASE

Family Physician Pays \$285,000 To Settle False Claims Act Allegations Of Billing Services At Inflated Rate

Friday, January 24, 2020

Share >

For Immediate Release

U.S. Attorney's Office, Eastern District of Tennessee

Knoxville, Tenn. – Family physician Dr. Chang-Wen Chen and his practice Chang-Wen Chen, M.D., P.C. paid \$285,000 to resolve allegations that they violated the False Claims Act by improperly charging government health care programs the physician's rate for services that were provided by nurse practitioners. The allegations challenged billings submitted to Medicare, Medicaid ("TennCare") and TRICARE from 2013 through 2019.

Medicare and TennCare reimburse at the higher physician rate for services provided by nurse practitioners or other non-physician providers when the services are rendered "incident-to" a physician's services, but only if the physician provides direct supervision. TRICARE always pays the reduced rate for services rendered by non-physician providers regardless of whether a physician supervises. The government alleged that Dr. Chen's practice unlawfully billed government payors at the physician rate even when services were rendered by unsupervised nurse practitioners.

TOP

MID LEVELS SUPERVISION

- DOs

- Be selective
- Teach them what you want them to know
- Be available for patient requests

- DON'Ts

- 4-S Healthcare
- Be afraid to question or intervene
- Discount their relationship with the patient



ETHICAL QUANDARIES

- Selling in your office
- Staff care
- Cruise control
- Hammer and Nail Medicine
- Do Everything
- Impairment
- Throwing under the bus
- Cannabis
- Reporting dilemmas
- Check please


SELLING IN YOUR OFFICE



STAFF CARE



HAMMER & NAIL MEDICINE



If all you have is a
hammer,
everything looks
like a nail.

Bernard Baruch

DO EVERYTHING



IMPAIRMENT



CANNABIS



REPORTING DILEMMAS

- 456.072(i), Florida Statutes – Grounds for Discipline

Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board. However, a person who the licensee knows is unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.



AOA CODE OF ETHICS

- <https://osteopathic.org/about/leadership/aoa-governance-documents/code-of-ethics/>
- Review the code of ethics – it will help to guide your behavior.



SUMMARY

- We represent each other.
- Physicians are in a position of public trust; this is a privilege that should be vigorously protected.
- Be the best example.

QUESTIONS?

Thank you for your attention

