

2. In the event that the oral deposition of the doctor becomes necessary, mutual agreements shall be made between the attorney and the doctor as to time and place thereof, fees to be charged, and any policies regarding cancellation.
3. Unless otherwise agreed to in advance: if an attorney cancels a scheduled deposition within 24 hours in advance of the scheduled date for a *bona fide* emergency, then the doctor may not charge the attorney for the doctor's lost time; if a doctor cancels the deposition within 24 hours in advance of the scheduled date for a *bona fide* emergency then the attorney shall pay the doctor the agreed upon fee at the time the deposition is rescheduled. Unless otherwise agreed to in advance: if the attorney cancels within 24 hours for reason other than a *bona fide* emergency, then the attorney shall pay the doctor for his or her time lost due to the late cancellation; if the doctor cancels within 24 hours for reason other than a *bona fide* emergency, then the doctor shall not charge the attorney for the deposition when it is rescheduled.
4. The attorney shall compensate the doctor for the time spent in preparing for, attending, and reviewing the transcript of the deposition. The doctor's fee shall be agreed upon by the attorney and doctor in accordance with the guidelines outlined in Article IV(F).

**ARTICLE VI
DOCTOR'S BILL FOR MEDICAL
SERVICES RENDERED TO PATIENTS**

1. If medical insurance is available and has not been paid, or assigned, to the doctor, the attorney should use the attorney's best efforts to see that the proceeds of the insurance when received are applied to payment of medical and hospital bills.
2. Every attorney shall attempt to obtain in writing authority from the client-patient to pay all medical bills in full in the event of a recovery following trial or upon settlement. If such authority is obtained, and if the attorney and doctor reach a written agree-

ment to protect the client-patient from billing for medical services rendered during the pendency of the legal action, it will be the duty of the attorney to pay the medical bills from the net proceeds of the case after deducting attorney's fees and costs. If the client-patient refuses to provide written authorization to pay all medical bills from the recovery, the attorney shall use best efforts, consistent with Maine Bar Rules, to notify the primary or treating doctor of that refusal.

3. Consistent with Maine Bar Rules, it shall be the duty of the attorney to notify the doctor when the trial concludes or when the case is settled and the amount of any recovery or settlement.
4. Nothing in this section prohibits a doctor from billing the patient for the balance of any medical bill not paid in full.

**ARTICLE VII
MEDIATION**

1. A Medical-Legal Cooperation Committee (the "Committee") shall be formed and composed of a member of the MSBA, MMA, and MOA.
2. The purpose of the Committee shall be to mediate grievances between members of the medical profession and the legal profession.
3. If a dispute cannot be mediated in a manner satisfactory to all parties, the Committee may issue an opinion passing upon the conduct to the appropriate regulatory body of the professional.

**ARTICLE VIII
SOCIAL RELATIONS**

1. The parties agree that they will explore further areas of co-operation between them, such as joint educational seminars and lectures, or joint social gatherings to foster and improve relations between the two professions.

Promulgated and published 2000
*Republished 1967, 1980, 1981, 1983,
1984, 1985, 1986, 1987, 1988, 1990*

A revision of the Medical-Legal Code of Cooperation, effective January 1, 2000, has been done with the cooperation and efforts of the following:

Sumner H. Lipman, Esquire
Chair, Medical-Legal Committee
Maine State Bar Association

Andrew B. MacLean, Esquire
General Counsel &
Director of Governmental Affairs
Maine Medical Association

Joan Friedman Cohen, Esquire
former General Counsel &
Director of Governmental Affairs
Maine Medical Association

Louis A. Hanson, D.O.
Maine Osteopathic Association

Joseph R.D. deKay, D.O.
Maine Board of Osteopathic Licensure

Gordon Smith, Esquire
Executive Vice President
Maine Medical Association

Linda Smith Dyer, Esquire
Smith, Dyer & Goodall

Ann M. Courtney, Esquire
Immediate Past President
Maine State Bar Association

Kevin M. Cuddy, Esquire
Cuddy & Lanham

Brett Baber, Esquire
Rudman & Winchell
Board of Governors
Maine State Bar Association

Lucy Stinson
Executive Director
Maine Trial Lawyers Association

Julie Rowe
Executive Director
Maine State Bar Association

Kellie P. Miller, M.S.
Executive Director
Maine Osteopathic Association

CODE OF COOPERATION

**Maine State Bar
Association**

**Maine Medical
Association**

**Maine Osteopathic
Association**




Maine State Bar
ASSOCIATION
Chartered in 1891

January 2000

WITNESSETH:

WHEREAS, members of the Maine State Bar Association (MSBA), the Maine Medical Association (MMA), and the Maine Osteopathic Association (MOA) recognize problems of cooperation between the medical and legal professions and the duties of both professions to the public and to the administration of justice, and further recognize that medical-legal cooperation is necessary in order to maintain the proper attitudes of mutual respect. of each of these learned professions for the other;

WHEREAS, the MSBA, MMA, and MOA have appointed their respective members to study these problems;

WHEREAS, as a result of hearings and discussions among the associations, it is agreed that it is in the best interest of the parties and persons involved that the professions work together cooperatively;

WHEREAS, the MSBA, MMA, and MOA recognize that the basis of all cooperation is in the best interest of the client/patient and the protection of his or her privacy and the confidentiality of the patient's privacy in the form of his or her medical records; and

WHEREAS, the parties acknowledge that the actions of the respective members hereunder shall be governed. by their respective codes of professional ethics and state law, this agreement notwithstanding.

NOW THEREFORE, IT IS HEREBY AGREED AMONG THE PARTIES AS FOLLOWS:

**ARTICLE I
SCOPE OF CODE OF COOPERATION**

1. The code applies only in civil proceedings.

**ARTICLE II
MEDICAL REPORTS AND RECORDS**

1. Doctor's Duties.
 - A. To limit the information provided to any party to only that which is released by the patient pursuant to Maine law or specifically required by law.
 - B. To provide adequate information to the attorney requesting the same concerning the patient, including results of examination, diagnosis, tests, prognosis, and up-

to-date bill for services rendered pursuant to the patient's authorization or as specifically required by law.

- C. To supply such a report or record within a reasonable time after the same is requested.
 - D. When requested by the attorney, to provide supplemental reports or records when any significant change occurs in the patient's condition after a reasonable length of time has expired following a prior report or as specifically required by law.
 - E. To treat the attorney with courtesy, civility, and respect.
2. Attorney's Duties.
 - A. To compensate promptly the doctor for the report or copies of the record if said compensation is requested and to provide such compensation in advance if the doctor so requests. Payment should not be dependent upon the success of the law suit. For the purposes of the Code, prompt compensation or prompt payment shall be construed to mean payment within 30 days of receipt of a bill, unless otherwise agreed to in advance.
 - B. To provide the doctor with an authorization as may be required by Maine law permitting the doctor to divulge the information to the attorney.
 - C. To disclose to the doctor the fact of the lawyer's representation and the identity of the client.
 - D. To treat the doctor with courtesy, civility, and respect.

**ARTICLE III
CONFERENCES BETWEEN THE
ATTORNEY AND THE DOCTOR**

1. It is agreed that it is mutually advantageous for the doctor and attorney to confer in reference to the particular case prior to time of trial. It is understood that the attorney shall pay the doctor for the time involved in the conference, including the time involved preparing for the conference. The fee to be charged by the doctor or the basis of the fee (i.e., hourly rate, etc.) shall be agreed upon prior to the conference

and shall be commensurate with the value of the doctor's time and overhead in his or her medical practice. This bill shall be paid promptly by the attorney and shall not be contingent upon the success of the law suit.

2. To the extent practical, the conference shall take place at the doctor's office unless other arrangements are mutually acceptable. Arrangements for such conferences should be made a sufficient time in advance of the trial so that the conference can be fitted into the schedule of the attorney and the doctor.
3. Prior to any conference, the attorney must provide the doctor with an authorization as may be required by Maine law permitting the doctor to divulge information to the attorney.

**ARTICLE IV
COURT TESTIMONY**

1. Both parties recognize that there is a necessity for the dissemination of information to both professions concerning the time problems involved in court testimony. The MMA and MOA recognize that the legal profession faces calendar problems, which include the uncertainty of dates in a fluid trial calendar. The MSBA likewise recognizes that the doctor's appointments are made in advance and that doctors are, in addition, faced with pressing medical problems which cannot be deferred.
2. *Attorney's Duties.*
 - A. The attorney shall notify the doctor of the proposed trial date as soon as practical after being informed of the date by the court and ascertain whether the doctor will be available at that time.
 - B. The attorney shall keep the doctor's office advised of the status of the calendar and notify the doctor as soon as possible prior to trial of the probable trial date.
 - C. The attorney should give the doctor as much notice as possible of the time when the doctor's attendance in court is desired. Doctors should not be asked to appear until the attorney is reasonably certain that they will not have to remain at the courthouse more than a short

period of time before being allowed to testify. The attorney shall endeavor to obtain the doctor's testimony as soon as possible after his arrival in the courtroom subject to orderly and proper presentation of the case.

- D. In the event of settlement, the doctor should be immediately notified of the fact that the case is settled so that his schedule is not interfered with to an excessive extent.
 - E. The attorney should not use a subpoena to secure the attendance of a doctor in court unless the doctor refuses to abide by the terms of this Agreement.
 - F. The attorney and the doctor shall agree upon the fee to be charged for the doctor's participation in the trial as a witness. The fee shall be commensurate with the value of the doctor's time and overhead in his or her medical practice. If the doctor has a sub-specialty in forensic medicine, the fee may be consistent with customary fees for that sub-specialty. The doctor should be compensated promptly for his appearance as a witness.
3. *Doctor's Duties.*
 - A. The doctor has an obligation to give testimony regarding his patient in court. If the doctor undertakes the care of a patient and litigation ensues, the doctor is duty bound to testify as to medical condition of that patient.
 - B. When given reasonable notice of the time at which the doctor will be called upon to testify, the doctor should make a reasonable effort to be available at that time or shall notify the attorney promptly of any conflicts.

**ARTICLE V
DEPOSITIONS OF THE DOCTOR**

1. The principles set forth in Article IV regarding court testimony shall be applicable with respect to obtaining the testimony of a doctor by means of an oral deposition.

2. In the event that the oral deposition of the doctor becomes necessary, mutual agreements shall be made between the attorney and the doctor as to time and place thereof, fees to be charged, and any policies regarding cancellation.
3. Unless otherwise agreed to in advance: if an attorney cancels a scheduled deposition within 24 hours in advance of the scheduled date for a *bona fide* emergency, then the doctor may not charge the attorney for the doctor's lost time; if a doctor cancels the deposition within 24 hours in advance of the scheduled date for a *bona fide* emergency then the attorney shall pay the doctor the agreed upon fee at the time the deposition is rescheduled. Unless otherwise agreed to in advance: if the attorney cancels within 24 hours for reason other than a *bona fide* emergency, then the attorney shall pay the doctor for his or her time lost due to the late cancellation; if the doctor cancels within 24 hours for reason other than a *bona fide* emergency, then the doctor shall not charge the attorney for the deposition when it is rescheduled.
4. The attorney shall compensate the doctor for the time spent in preparing for, attending, and reviewing the transcript of the deposition. The doctor's fee shall be agreed upon by the attorney and doctor in accordance with the guidelines outlined in Article IV(F).

**ARTICLE VI
DOCTOR'S BILL FOR MEDICAL
SERVICES RENDERED TO PATIENTS**

1. If medical insurance is available and has not been paid, or assigned, to the doctor, the attorney should use the attorney's best efforts to see that the proceeds of the insurance when received are applied to payment of medical and hospital bills.
2. Every attorney shall attempt to obtain in writing authority from the client-patient to pay all medical bills in full in the event of a recovery following trial or upon settlement. If such authority is obtained, and if the

attorney and doctor reach a written agreement to protect the client-patient from billing for medical services rendered during the pendency of the legal action, it will be the duty of the attorney to pay the medical bills from the net proceeds of the case after deducting attorney's fees and costs. If the client-patient refuses to provide written authorization to pay all medical bills from the recovery, the attorney shall use best efforts, consistent with Maine Bar Rules, to notify the primary or treating doctor of that refusal.

3. Consistent with Maine Bar Rules, it shall be the duty of the attorney to notify the doctor when the trial concludes or when the case is settled and the amount of any recovery or settlement.
4. Nothing in this section prohibits a doctor from billing the patient for the balance of any medical bill not paid in full.

**ARTICLE VII
MEDIATION**

1. A Medical-Legal Cooperation Committee (the "Committee") shall be formed and composed of a member of the MSBA and MCA.
2. The purpose of the Committee shall be to mediate grievances between members of the medical profession and the legal profession.
3. If a dispute cannot be mediated in a manner satisfactory to all parties, the Committee may issue an opinion passing upon the conduct to the appropriate regulatory body of the professional.

**ARTICLE VIII
SOCIAL RELATIONS**

1. The parties agree that they will explore further areas of cooperation between them, such as joint educational seminars and lectures, or joint social gatherings to foster and improve relations between the two professions.

Promulgated and published 2000.
*Republished 1967, 1980, 1981, 1983,
1984, 1985, 1986, 1987, 1988, 1990*

A revision of the Medical Legal Cooperation Code effective January 1, 2000, has been done with the cooperation and efforts of the following:

Sumner H. Lipman, Esquire
Chair, Medical-Legal Committee
Maine State Bar Association

John Royce
Maine Chiropractic Association

Dr. Ric Bruns
Maine Chiropractic Association

Linda Smith Dyer, Esquire
Smith, Dyer & Goodall)

Ann M. Courtney, Esquire
Immediate Past President
Maine State Bar Association

Kevin M. Cuddy, Esquire
Cuddy & Lanham

Brett Baber, Esquire
Rudman & Winchell
Board of Governors
Maine State Bar Association

Lucy Stinson
Executive Director
Maine Trial Lawyers Association

Julie Rowe
Executive Director
Maine State Bar Association

CODE OF COOPERATION

**Maine State Bar
Association**

**Maine Chiropractic
Association**




Maine State Bar
ASSOCIATION
Chartered in 1891

January 2000

WITNESSETH:

WHEREAS, members of the Maine State Bar Association (MSBA) and the Maine Chiropractic Association (MCA) recognize problems of cooperation between the medical and legal professions and the duties of both professions to the public and to the administration of justice, and further recognize that medical-legal cooperation is necessary in order to maintain the proper attitudes of mutual respect of each of these learned professions for the other;

WHEREAS, the MSBA and MCA have appointed their respective members to study these problems;

WHEREAS, as a result of hearings and discussions between the associations, it is agreed that it is in the best interest of the parties and persons involved that the professions work together cooperatively;

WHEREAS, the MSBA and MCA recognize that the basis of all cooperation is in the best interest of the client/patient and the protection of his or her privacy and the confidentiality of the patient's privacy in the form of his or her medical records; and

WHEREAS, the parties acknowledge that the actions of the respective members hereunder shall be governed by their respective codes of professional ethics and state law, this agreement notwithstanding.

NOW THEREFORE, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

ARTICLE I

SCOPE OF CODE OF COOPERATION

- 1. The code applies only in civil proceedings.

ARTICLE II

MEDICAL REPORTS AND RECORDS

- 1. Doctor's Duties.
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B. To provide adequate information to the attorney requesting the same concerning the patient, including results of examination, diagnosis, tests, prognosis, and up-

to-date bill for services rendered pursuant to the patient's authorization or as specifically required by law.

- C. To supply such a report or record within a reasonable time after the same is requested.
D. When requested by the attorney, to provide supplemental reports or records when any significant change occurs in the patient's condition after a reasonable length of time has expired following a prior report or as specifically required by law.
E. To treat the attorney with courtesy, civility, and respect.
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A. To compensate promptly the doctor for the report or copies of the record if said compensation is requested and to provide such compensation in advance if the doctor so requests. Payment should not be dependent upon the success of the law suit. For the purposes of the Code, prompt compensation or prompt payment shall be construed to mean payment within 30 days of receipt of a bill, unless otherwise agreed to in advance.
B. To provide the doctor with an authorization as may be required by Maine law permitting the doctor to divulge the information to the attorney.
C. To disclose to the doctor the fact of the lawyer's representation and the identity of the client.
D. To treat the doctor with courtesy, civility, and respect.

ARTICLE III

CONFERENCES BETWEEN THE ATTORNEY AND THE DOCTOR

- 1. It is agreed that it is mutually advantageous for the doctor and attorney to confer in reference to the particular case prior to the time of trial. It is understood that the attorney shall pay the doctor for the time involved in the conference, including the time involved preparing for the conference. The fee to be charged by the doctor or the basis of the fee (i.e., hourly rate, etc.) shall be

- agreed upon prior to the conference and shall be commensurate with the value of the doctor's time and overhead in his or her medical practice. This bill shall be paid promptly by the attorney and shall not be contingent upon the success of the law suit.
2. To the extent practical, the conference shall take place at the doctor's office unless other arrangements are mutually acceptable. Arrangements for such conferences should be made a sufficient time in advance of the trial so that the conference can be fitted into the schedule of the attorney and the doctor.
3. Prior to any conference, the attorney must provide the doctor with an authorization as may be required by Maine law permitting the doctor to divulge information to the attorney.

ARTICLE IV COURT TESTIMONY

- 1. Both parties recognize that there is a necessity for the dissemination of information to both professions concerning the time problems involved in court testimony. The MCA recognizes that the legal profession faces calendar problems, which include the uncertainty of dates in a fluid trial calendar. The MSBA likewise recognizes that the doctor's appointments are made in advance and that doctors are, in addition, faced with pressing medical problems which cannot be deferred.
2. Attorney's Duties.
A. The attorney shall notify the doctor of the proposed trial date as soon as practical after being informed of the date by the court and ascertain whether the doctor will be available at that time.
B. The attorney shall keep the doctor's office advised of the status of the calendar and notify the doctor as soon as possible prior to trial of the probable trial date.
C. The attorney should give the doctor as much notice as possible of the time when the doctor's attendance in court is desired. doctors should not be asked to appear until the attorney is reasonably certain that they will not have to remain

at the courthouse more than a short period of time before being allowed to testify. The attorney shall endeavor to obtain the doctor's testimony as soon as possible after his arrival in the courtroom subject to orderly and proper presentation of the case.

- D. In the event of settlement, the doctor should be immediately notified of the fact that the case is settled so that his schedule is not interfered with to an excessive extent.
E. The attorney should not use a subpoena to secure the attendance of a doctor in court unless the doctor refuses to abide by the terms of this Agreement.
F. The attorney and the doctor shall agree upon the fee to be charged for the doctor's participation in the trial as a witness. The fee shall be commensurate with the value of the doctor's time and overhead in his or her medical practice. If the doctor has a sub-specialty in forensic medicine, the fee may be consistent with customary fees for that sub-specialty. The doctor should be compensated promptly for his appearance as a witness.
3. Doctor's Duties.
A. The doctor has an obligation to give testimony regarding his patient in court. If the doctor undertakes the care of a patient and litigation ensues, the doctor is duty bound to testify as to medical condition of that patient.
B. When given reasonable notice of the time at which the doctor will be called upon to testify, the doctor should make a reasonable effort to be available at that time or shall notify the attorney promptly of any conflicts.

ARTICLE V

DEPOSITIONS OF THE DOCTOR

- 1. The principles set forth in Article IV regarding court testimony shall be applicable with respect to obtaining the testimony of a doctor by means of an oral deposition.