

## SURGICAL ETHICS CHALLENGES

# Surgeon-industry relationships: Ethically responsible management of conflicts of interest

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**A representative of Medflow Corporation brings breakfast to all of the morning surgical conferences and talks regularly with residents and faculty. She also provides educational travel funds to you as Chair for departmental use. Some of Medflow's medical products are used at your institution. What answer most accurately characterizes the ethical implications of this relationship?**

- A. Accepting gifts from commercial sources is always wrong within the medical profession.
- B. Since you would already be using Medflow products, there is no conflict.
- C. You do not have a serious conflict of interest if you have minimal purchasing authority and accept only minor gifts from vendors.
- D. Physicians with any influence on medical purchases are nearly always violating their fiduciary obligations to patients and their institutions by accepting gifts from product manufacturers.
- E. More of our educational funding must be provided by sources other than faculty clinical practice, and company support is welcome.

Answer D best characterizes the relationship. The least ethically defensible choices are B and E.

The surgeon's relationship with patients is understood in medical ethics to be fiduciary. This means that the surgeon makes reliable judgments about the patient's health, promotes and protects the patient's health as a primary goal, and sublimates his own self interest to his patient's. A conflict of interest can occur even when the surgeon's legitimate and necessary self interest, including concern for personal time and an adequate income, conflicts with his fiduciary obligation to give primacy to his patient's interests.<sup>1</sup>

The surgeon's professional integrity compels him to maintain standards of intellectual and moral excellence in his practice. Intellectual excellence means that one's clinical

judgment is based upon the best scientific and clinical information available. The commitment to intellectual excellence is central to the first of the three components of fiduciary responsibility, the reliability of the surgeon's medical decisions. A commitment to moral excellence provides the basis for the second and third components of fiduciary responsibility, dedication to the patient's health and to the primacy of his needs.

Accepting money or other gifts from medical equipment and pharmaceutical manufacturers creates the potential for conflicts of interest. In a classic discourse, Waud<sup>2</sup> called gifts from the medical industry "bribes to physicians" because physicians order the products; they do not pay for them. Choices B and E represent two common rationalizations for accepting these gifts and denying the element of bribery. Choice B is unacceptable because a potential conflict of interest resides in the possibility that the company gift could influence future decisions to continue purchase of its products, even if another manufacturer makes available a model with improved patient-care features. Subtly affected by the donation, the surgeon may even unconsciously respond to a sense of future obligation toward the company. Choice E fails to recognize that economic conflicts of interest can be created even in the process of meeting real and important institutional needs for revenue in support of medical education. The utilitarian argument of an important unmet need does not justify an inappropriate response. The unspoken obligations created by such seemingly altruistic educational support can gain a competitive advantage for the donor company unrelated to the patient-care qualities of its products. At the very least the gift buys product name recognition, a commodity highly valued by manufacturers and campaigning politicians in influencing future choices.

Choice D best addresses this multifaceted problem, because it alerts the surgeon to the core issue of economic conflicts of interest. Choice C fails to consider that even though the financial value of the contribution is insubstantial, the company's intent is always to create some sense of good will, indebtedness, or obligation that will ultimately manifest itself in increased or continued product sales. Physician administrators and members of pharmacy and equipment committees are not the only ones who influence purchases. Every physician who writes a prescription or

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J Vasc Surg 2002;35:825-6.

0741-5214/2002/\$35.00 + 0 24/1/122807

doi:10.1067/mva.2002.122807

suggests a new device to his clinical service chief is affecting some company's profitability.

Choice A, which implies severance of all financial ties with industry, is one emphatic approach to protecting the fiduciary integrity of an academic program or private practice. Accepting grants for scientifically sound, independent research, and arms-length sponsorship of scientific meetings can remain acceptable activities, however. Manufacturers whose motivations are entirely altruistic should be encouraged to make their donations to our professional programs anonymously.

Travel funds, honoraria for nominal "consultancies," lunch for our students and residents, elegant dinners accompanied by product demonstrations, and guest lecturers

with favorable views of donors' products are all suspect, and all threaten our integrity as well as our ability to think first of our patients in our medical decisions. Graduate and professional schools in other intellectual disciplines less lavishly courted by marketers seem somehow to fulfill their functions, after all. No one should assume that economic conflicts of interest are benign; they are volatile and potentially predatory on fiduciary integrity.

#### REFERENCES

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2. Waud DR. Pharmaceutical promotions—a free lunch? *N Eng J Med* 1992;327:351-3.

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