

# Dental Ethics

*This column presents thought-provoking cases to challenge dentists' decision-making faculties and suggests solutions to ethical dilemmas.*

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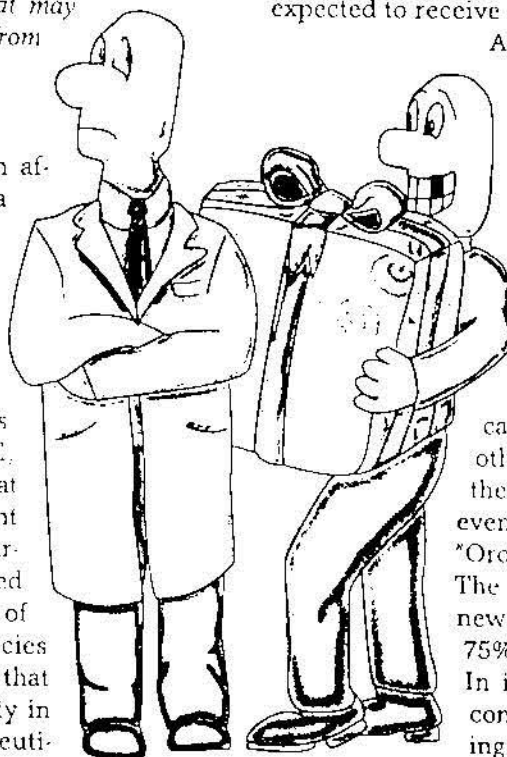
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## Ethical issues in the acceptance of gifts: Part 2

*Part 1 of this discussion (May/June 1999, pp. 248-254) was devoted to an exploration of the ethical issues that may arise when dentists accept gifts from their patients. This second and final part examines the relationship of dentists with the health care industry and discusses the ethical dilemmas that may occur when dentists accept gifts from industry.*

### Case No. 1

An oral surgeon practicing in an affluent suburban area enjoys a thriving practice supported by referrals from many dentists. Today, the surgeon is performing an examination on a young pharmacist who was referred by her general dentist for extraction of four third molars. This pharmacist practices in a local, privately-owned variety store that includes a pharmacy. The patient mentions to the surgeon that pharmacy competition has increased dramatically with the number of large, chain-store-type pharmacies entering the field. She states that smaller stores have great difficulty in competitively pricing pharmaceuticals and need to explore other means to remain fiscally sound. The patient tells the surgeon that her store has been offering incentives to dentists and physicians in the community who advise their patients to fill prescriptions at this pharmacy. These incentives include a discounted rate for the doctor's family's personal prescriptions. In addition, the pharmacy is willing to supply the doctor's prescription pads at no cost. The face of each prescription form would include the doctor's office information and the reverse side would list the pharmacy's name, address, and telephone number. The patient also leaves several notepads, pens, pencils, and magnets, all imprinted with the pharmacy's logo and contact information.



### Case No. 2

A major pharmaceutical company has developed a new non-steroidal anti-inflammatory drug (NSAID) that is specifically directed toward dentistry. This new drug is in the final phases of testing and is expected to receive approval from the Food and Drug Administration within the next

three to six months. The medication is claimed to have superior analgesic properties as well as excellent efficacy for temporomandibular joint and myofascial pain dysfunction symptoms. The manufacturer emphasizes that its product is the first NSAID that has been developed specifically for orofacial problems and that, because of this focus, it is superior to other NSAIDs commonly used for these indications. The company even intends to name the new drug "Oronsaid."

The company that is marketing this new drug hopes to capture at least 75% of the dental analgesic market. In its initial marketing strategy, the company is offering a free continuing education package for dentists in targeted areas of the country. Twenty influential dentists each from six different demographic areas of the country are being invited to participate in a one-week continuing education seminar dealing with pharmacology and pain control. This seminar will be held in Hawaii and all expenses will be paid by the drug company for the invited dentists and their spouses.

### Discussion

There is good evidence that the "courting" of physicians by pharmaceutical companies is both substantial and effective. The pharmaceutical industry spends more than \$11 billion per year on promotion and marketing.<sup>1</sup> This figure does not include the

additional billions spent on advertising and sales representatives, an amount that is also on the rise.<sup>2</sup> On average, approximately \$8,000 per year per physician is spent on various marketing activities by the pharmaceutical industry. When one includes the contributions of other health-care-related industries to this pattern of enticing doctors with gifts and advertisements, the annual amounts spent are impressive indeed. Several studies indicate that this substantial investment by the pharmaceutical industry is well-spent. Many physicians change their prescribing practices based upon interactions with pharmaceutical representatives and companies.<sup>3,5</sup>

Dentists have not been courted by industry with the same intensity as physicians. Thus, the practice of health care providers accepting gifts from industry has not impacted dentistry as intensely as it has our colleagues in medicine. Certainly, when pharmaceutical company marketing divisions look at who is prescribing the majority of their products, the contribution of dentists, for most drugs, is small relative to that of physicians. Obvious reasons for this include the number of conditions for which dentists prescribe pharmaceuticals versus the number of systemic conditions for which physicians prescribe; the short duration for which dentists normally prescribe medications compared to lengthy, sometimes lifelong, prescriptions written by physicians; the higher costs of many physician-prescribed medications; and the physician-ordered administration of medications in the in-patient setting. Thus, from a marketing standpoint, it makes sense that this industry has established a long history of pursuing physicians' loyalty through the use of vigorous marketing practices.

However, as the intensity of competition for business among pharmaceutical companies, equipment manufacturers, materials companies, and other suppliers of medical/dental items increases, advertisements and gifts aimed specifically at dentists have become more common. This competition employs marketing techniques which have been confirmed to be effective in changing provider practice patterns.<sup>3,5</sup> Such techniques include the provision of incidentals such as pens, notepads, coffee mugs, calendars, or similar items with the company's trademark and logo.<sup>6</sup> These items and the personal contact required to deliver them serve as subtle reminders to doctors (the company hopes) to prescribe the indicated brand. As dentists begin prescribing for a wider range of oro-facial conditions and utilizing ever-

advancing technology, the health care industry is increasing its overtures toward the dental community.

What ethical conflicts exist when dentists accept gifts from health care-related industries? How does the practice of corporations offering inducements to dentists appear to the public and how does the acceptance of these gifts reflect on individual dentists and their profession? Finally, are there more global concerns of social justice that arise when industry spends significant sums of money on promotion and marketing?

### Professional appearance

Dentists who accept gifts of substantial value from corporations or industry may appear to have a financially-driven conflict of interest even when none exists. Case No. 1 illustrates such a possibility. The discounted personal prescriptions and office materials offered to the dentist could be of substantial value. If the dentist agrees to this arrangement and refers patients

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to the indicated pharmacy, it is the patients who ultimately pay for the dentist's free "incentive plan." The dentist certainly appears to have a conflict of interest by engaging in a financial relationship which benefits him at the expense of advocating for the best (most economical) alternative for his patients. Were it not for the dentist's recommendation, these patients might be inclined to investigate the price for prescriptions at several pharmacies and select the most economic alternative. However, if a trusted provider tells a patient to go to a specific dispensary, the patient will be more likely to have the prescription filled at that pharmacy, possibly paying more.

Thus, this arrangement between dentist and pharmacy may directly impact patients in a financially adverse way or may simply appear to do so. Even if the dentist's intent is altruistic or if he never has an opportunity to benefit from the offered discount on personal prescriptions, it is likely that patients who learn of this arrangement will believe that it is suspect.<sup>1,7</sup> If the arrangement involves several dentists in the community and becomes publicly known, it may appear that organized dentistry and the pharmacy are engaged in a type of antitrust activity. The recommendation to purchase a prescription at the indicated pharmacy is being made only because of the arrangement between the dentist and the pharmacy and contains all the elements of a conflict of interest. This appearance of impropriety reflects negatively on both individual providers and the profession.

### Patient autonomy issues

Patient autonomy may unknowingly be violated when dentists accept gifts of value from industry. Certainly, the oral surgeon in case No. 1, if he agrees to the pharmacy's offer, may restrict his patients' autonomy by attempting to reduce their options for obtaining prescription medications. It is not unusual for patients to ask their doctors where a prescription should be filled. A fair response is that any pharmacy should have the medication in stock but that it is always wise to telephone several pharmacies first to compare prices. Telling a patient to go to a specific pharmacy is likely to be equated with professional advice that should be followed.

Similarly, patients who encounter the dentist in case No. 2 may be provided with less than a full measure of autonomy. If the pharmaceutical company achieves its purpose in the provision of the free trips, the dentists who attend will return to their practices primed to prescribe the new drug more often and for more indications. Gifts are used frequently as a means of creating a sense of obligation. The pharmaceutical industry and other health-care-related industries have used this fact of human psychology to their marketing advantage with physicians.<sup>7</sup> However, whether this sense of obligation is conscious or subconscious, it represents an undue influence on the provider's prescribing behaviors and has been documented to change prescribing practices.<sup>3,4</sup> Thus, patients unknowingly will be subjected to altered clinical decision-making as the result of an industry's skillful marketing efforts.

### Justice

Issues of justice arise when dentists accept gifts from industry or businesses. Distributive justice requires that benefits and burdens in society are distributed in a fair and equitable fashion. In case No. 1, the oral surgeon and his family are being offered a favor or advantage in exchange for steering patients to a specific pharmacy. The pharmacy benefits by increasing its business and revenue. The doctor benefits by reducing practice overhead and household expenses. However, this consideration is not available to others who might direct friends or neighbors to shop at a specific store and is not available to those who most need a discount on pharmaceuticals. In fact, it could be argued that providing a successful oral surgeon with a discount on prescription drugs is offering a financial benefit to someone who needs it least. If the pharmacy is able to selectively discount

prescription prices, the principle of justice would maintain that this consideration either be given to the poor or that the price be slightly reduced for all.

The same is true when drug or supply companies offer expensive vacations and other incentives to doctors who utilize their products and services, as illustrated in case No. 2. There can be no doubt that such lavish enticements are costly to the industries that offer them and that someone ultimately must pay for them. These costs normally are considered to be part of the expense of doing business and recouped through increased sales volume and higher product prices. This creates a distributive injustice.<sup>7</sup> Extravagant marketing costs that are passed on to pa-

tients, insurers, and the government contribute to the spiral of health care inflation. By declining these "perks," providers encourage industry to reduce the costs of products for all who need them.

An additional violation of distributive justice occurs when

health-related companies invest millions of dollars in rewards offered to providers in the hopes of increased market share rather than directing these dollars to research and development or reduced product price. While these companies can be expected to invest in competitive marketing of their products, these attempts to buy doctors' allegiance to a specific brand squander funds that could be utilized for better purposes. Drug companies, for example, often cite research and development costs as a major factor in increasing pharmaceutical prices. However, the amount spent on marketing (22% of a pharmaceutical company's budget) is not insignificant and exceeds that spent on research and development (16%).<sup>2,6</sup> Surely, a significant amount of money could still be used for routine marketing while redirecting the large amounts that are utilized to lavishly court providers.

### Guidelines

So far, the general tone of this article has been somewhat critical of industry's marketing of products to health care providers. To temper this discussion, one must be mindful of the missions and obligations of these industries. Health care-related industry has two primary missions: (1) develop new drugs, technologies, and devices to alleviate illness and suffering; and (2) make a profit. If industry is not successful and competitive in achieving the second goal, it will fail to attract shareholders, investors, and owners and will be unable to work toward the first goal. Thus, while we may be critical of the amounts spent and methods

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used to influence health care providers to prescribe a specific drug, it is neither surprising nor unique that such marketing techniques are used. The actual ethical breach occurs when a health care provider accepts a substantial gift from industry in exchange for altering his or her patient recommendations.

Medicine has established a few well-considered guidelines for physicians who are tempted to accept gifts from industry. Both the American Medical Association and the American College of Physicians have published position papers on this issue and both organizations have reached a reasonable consensus on the appropriate relationship between individual providers and industry.<sup>9,10</sup> It is generally agreed that gifts to providers from industry should be accepted only if they can be construed to be of some benefit to patients (such as professional textbooks, local continuing education classes) and individual gifts should be of minimal value (pens, notepads). No gift should be accepted if there are concomitant expectations from the giver. Offers of vacations, free lodging, sponsoring a spouse's travel expenses, or reimbursement of personal expenses in connection with merely attending industry-organized continuing education activities should always be rejected.

Finally, the general guideline that is repeated often in the medical literature devoted to this subject is for providers to ask the question: "Would you be willing to have these arrangements generally known?" Certainly, the medical profession suffered a recent blow to its image when the arrangements between the AMA and a specific corporation became public knowledge.<sup>11</sup> This marketing arrangement involved millions of dollars in royalties being paid to the AMA in exchange for its exclusive endorsement of the company's health-related products. The endorsement was made in the absence of any scientific evidence indicating product superiority and without expert assessment of the products. This unfortunate decision caused both the general public and physician-members of the AMA to question the ethics of the country's largest medical organization.

Dentistry and dentists can avoid this pitfall by learning from the AMA's mistake and carefully examining prospective commercial liaisons for conflicts of interest. The editors of the *New England Journal of Medicine* summed up this moral issue nicely by advising physicians to stay on the "moral high ground" and "act as healers, not as hawkers of consumer products."<sup>12</sup>

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## You be the judge

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