2.3.5 Soliciting Charitable Contributions from Patients

Charitable contributions play an important role in supporting and improving a community’s health, and physicians are encouraged to participate in fundraising and other solicitation activities. To sustain the trust that is the foundation of the patient-physician relationship and to reassure patients that their welfare is the physician’s primary priority, physicians who participate in fundraising should:

(a) Assure patients that they need not contribute in order to continue receiving quality care.

(b) Refrain from directly soliciting contributions from their own patients, especially during clinical encounters.

(c) Solicit contributions by making information available, for example, in their office reception areas or by speaking at fundraising events.

(d) Protect patient privacy and confidentiality by not acknowledging that a patient is under the physician’s care when approached by fundraising personnel without the prior consent of the patient.

(e) Obtain permission from the patient before releasing information for purposes of fundraising when the nature of the physician’s practice could make it possible to identify the medical services provided or the patient's diagnosis.

(f) Refer patients or families who wish to make charitable contributions to appropriate information or fundraising personnel.

(g) Be sensitive to the likelihood that they may be perceived to be acting in their professional role when participating in fundraising activities as a member of the general community.

*AMA Principles of Medical Ethics: IV,VII, VIII*

Background report(s):

CEJA Report 7-A-04 Physician participation in soliciting contributions from patients
Subject: Physician Participation in Soliciting Contributions from Patients

Presented by: Michael S. Goldrich, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Mary W. Geda, MD, Chair)

Solicitation efforts, whereby physicians approach patients for various types of contributions, should be for the purpose of community improvement. In addition, they may provide an opportunity for grateful patients to express their appreciation for well provided care. If they do not shift the focus of the patient-physician relationship away from the patient’s welfare and are conducted in a manner that respects patient dignity and rights, and benefits the community, solicitation activities can constitute an appropriate use of physicians' influential role in society.

PHYSICIANS SOLICITING CONTRIBUTIONS FROM PATIENTS: BACKGROUND

Fundraising for hospitals, medical schools, and other health care institutions with which physicians are affiliated probably presents the most common instance of physicians soliciting contributions from patients. Physicians may be asked to approach patients for financial donations to help support current activities or specific expansion plans. For example, development funds might be raised to build a new structure in a health care complex, recruit faculty and trainees, support research activities, or improve patient care.

Alternatively, solicitation may be for purposes that fall outside the health care arena. For example, a physician participating in a community service might ask patients to donate time or material goods for that purpose. In rare instances, physicians may be inclined to ask for a particular service or personal gift, for example from a patient who is an accountant, a manufacturer, or a merchant.

It has been argued that physician solicitation makes patients aware of tangible needs that physicians, the health care sector, or the community may have and that patients can help meet. Another reason used to support the solicitation of patients by physicians is that grateful patients can be generous funding sources for hospitals. In recent years, contributions from grateful patients — those with particular reason to be appreciative toward a physician or an institution — represented 90% of private donations to major medical centers, after being referred by their physicians or approached by development officers. Patients who are looking for an opportunity to donate may welcome a solicitation request as an opportunity to express appreciation for health care that was received or to demonstrate support for a particular initiative.
On the other hand, some patients may find solicitation on the part of a physician and object to the undue pressure that a physician’s request may create for the patient. Physician involvement in solicitation activities can raise other concerns, including possible violation of privacy and confidentiality of medical information.

Through this report, the Council on Ethical and Judicial Affairs aims to help physicians identify appropriate ways they can be involved in soliciting contributions from patients, without compromising their professional relationship and responsibility.

**PROFESSIONAL CONSIDERATIONS**

*Patient Welfare*

Physicians must take the utmost measures to ensure that solicitation does not interfere with the patient-physician relationship or interrupt the delivery of high quality professional care. While a physician’s involvement in solicitation activities may benefit the community, it does not immediately help further the patient’s welfare for which the physician primarily is responsible. Such a request, therefore, falls outside the traditional patient-physician relationship. That being understood, a physician is not precluded from participating in solicitation activities.

In particular, physicians should be sensitive to the fact that some patients may be made uneasy by their physician’s requests for contributions. Indeed, direct solicitation in the context of the patient-physician relationship at least may create the perception that the patient’s welfare is not the physician’s first priority, diminishing patient trust in the integrity of the relationship. The closer to the clinical encounter, the more likely that solicitation requests may result in these negative perceptions. This is one reason some physicians are reluctant to invite contributions from their patients at all – and especially during clinical encounters. The greater the separation between the request and the clinical encounter, the more acceptable the solicitation is likely to be.

*Mitigating Concerns of Undue Pressure*

Physicians also should be careful to avoid situations in which requests for contributions may create a sense of obligation for their patients to donate. Indeed, patients who already are in a vulnerable role may feel undue pressure to comply with solicitation requests in order to assure professional care of the highest quality. The magnitude of these concerns may vary with the nature of the patient-physician relationship. For example, a patient may be more compelled to meet the request of a psychiatrist whom the patient sees regularly then that of a radiologist who only performs a patient’s mammography annually. The assumption that contributions can result in preferential treatment seems reasonable given that some hospitals already provide special amenities for large donors. Regardless of whether these perceptions are accurate, physicians must be cautious not to exploit patient vulnerabilities for the purpose of obtaining donations.

Concerns regarding whether gifts are fully voluntary may persist when physicians, acting outside their professional role, solicit contributions from community members, some of whom may be their patients, for non-health related matters, such as for a charitable organization. To mitigate these concerns, physicians should seek to separate these activities from their medical role.

When a patient initiates the discussion regarding how to make a contribution, the willingness to give may be assumed, and it would be appropriate for the physician to familiarize the patient with
patients offer personal gifts to their physicians have been addressed in a separate CEJA Report.)

The voluntary nature of the donation also is preserved when information is simply made available,
for example in the reception area.

Simply making fundraising literature available in their offices for patients has another benefit. It
helps physicians avoid privacy and confidentiality concerns that their involvement in solicitation
can raise.

Privacy and Confidentiality

Patients are encouraged to share sensitive information to enable physicians to provide more
effective care. In exchange, physicians have a responsibility to hold this information in confidence
(Opinion E-5.05, “Confidentiality”) and to protect patient privacy in all its forms, including
informational privacy (E-5.059, “Privacy in the Context of Health Care”; H-315.983, “Patient
Privacy and Confidentiality,” AMA Policy Database). Such a commitment may be undermined
when physicians, without having received specific permission from patients, send personalized
solicitation letters to patients’ homes, where others may notice them, or when physicians
communicate patient information to third parties, such as the fundraising arm of a health care
institution.

New Privacy Protections

The implementation of the privacy rule under the Health Insurance Portability and Accountability
Act limits physicians’ (and hospitals’) ability to use and disclose protected health information for
fundraising activities. In particular, only two types of protected health information can be used
without specific permission from patients:

- Basic demographic information relating to an individual (which usually consists of
  name, address, age, gender, insurance status, but specifically excludes any information
  regarding medical condition, nature of services rendered, and department rendering the
  services), and

- Dates of health care provided to an individual.

Where medical service delivered or the diagnosis is identifiable by the nature of the physician’s
practice, permission from the patient should be obtained prior to divulging any information. Use in
fundraising of protected health information other than basic demographic information requires the
patient to provide specific authorization. As part of the process patients must be assured that
medical care is not contingent on their authorization. Moreover, all written fundraising
communications sent to the patient must include a description of how a patient may be removed
from receiving additional messages or materials. Covered entities must make reasonable efforts to
ensure that such opt out requests are promptly honored.

INVOLVEMENT CONSISTENT WITH PROFESSIONAL OBLIGATIONS

Most of the concerns described above can be averted if physicians refrain from any involvement in
the solicitation of their own patients. Physicians still could participate in solicitation activities – for
example, by speaking at community fundraising events or issuing a call for contributions in the newsletter of their health care institutions or through the use of other media.

However, some physicians, their institutions, and health care philanthropists are reluctant to eliminate solicitation from the patient-physician relationship altogether. Indeed, some of the same considerations that may be cause for concern – in particular the privileged relationship and influential status that some physicians enjoy with their patients – make physicians uniquely effective at successfully soliciting contributions.

Generally, physicians should avoid directly soliciting their patients. Indeed, solicitation in the context of the patient-physician relationship risks bringing into question the focus of the relationship, as well as the voluntary nature of contributions. At the very least, solicitation must not occur during the clinical encounter. Solicitation is likely to be less ethically problematic the further removed it is from the clinical encounter and from a regular patient-physician relationship.

As noted, some other more detached ways of reaching patients – by making materials regarding opportunities to give available for patients to take, for example – are likely to be more appropriate. Those that rely on assistance from third parties, such as fundraising personnel, should only be conducted in a way that protects the privacy and confidentiality of patient information.

It also has been suggested that concerns would be eliminated by restricting physician solicitation to former patients. However, determining when a patient becomes a former patient is nearly impossible. Indeed, patients sometimes re-enter a physician’s practice after several years, e.g. if a patient experiences a relapse. Moreover, other personal characteristics (whether the patient is healthy, sick, or dying; whether the patient is particularly wealthy) may be at least as relevant and yet as ambiguous.

CONCLUSION

Donations play an essential role in sustaining state-of-the-art facilities and research, and can represent a unique opportunity for some individuals to express their appreciation or support for the health care system. Arguably, these benefits have justified physician participation in certain fundraising activities. However, physicians should rely only on approaches that place their patients’ interests as paramount, help ensure that donations are fully voluntary and unrelated to the quality of care patients will receive, and preserve the privacy and confidentiality of patient medical information.

RECOMMENDATIONS

The Council on Ethical and Judicial Affairs recommends that the following be adopted and the remainder of this report be filed:

Donations play an important role in supporting and improving a community’s health care. Physicians are encouraged to participate in fundraising and other solicitation activities while protecting the integrity of the patient-physician relationship, including patient privacy and confidentiality, and ensuring that all donations are fully voluntary. In particular:

(1) Appropriate means of soliciting contributions include making information available in a reception area and speaking at fundraising events. Physicians should avoid directly
soliciting their own patients, especially at the time of a clinical encounter. They should  
reinforce the trust that is the foundation of the patient-physician relationship by being  
clear that patients welfare is the primary priority and that patients need not  
contribute in order to continue receiving the same quality of care.  

(2) The greater the separation between the request and the clinical encounter, the more  
acceptable the solicitation is likely to be.  

(3) When physicians participate in solicitation efforts as members of the general  
community, they should seek to minimize perceptions of overlap with their  
professional roles.  

(4) Physicians in institutions that rely on fundraising personnel for donation requests  
should work to protect privacy and confidentiality of patient information. In particular  
physicians should ensure that any patient information used for solicitation activities  
reveals only basic demographic data, not personal health information. When the  
medical service delivered or the diagnosis is identifiable by the nature of the  
physician’s practice or the physician’s specialty, permission from the patient should be  
obtained prior to divulging any information to third parties.  

(5) When patients initiate requests to contribute, physicians should refer them to  
appropriate sources of information or fundraising personnel.  

(New HOD/CEJA Policy)  

Fiscal Note: Less than $500.00
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