

9.6.5 Sale of Non-Health-Related Goods

Unlike the sale of health-related products, sale of non-health-related products by physicians through their offices or websites, even at cost, does not offer health benefits to patients. The sale of non-health-related goods by physicians presents a conflict of interest and threatens to erode the primary obligation of physicians to serve the interests of their patients before their own. Furthermore, this activity risks placing undue pressure on the patient and demeaning the practice of medicine.

However, such sales can be acceptable under the following limited conditions:

- (a) The goods in question are low-cost.
- (b) The physician takes no share in profit from their sale.
- (c) The sale is:
 - (i) for the benefit of community organizations;
 - (ii) conducted in a dignified manner;
 - (iii) conducted in such a way as to assure that patients are not pressured into making purchases;
 - (iv) not a regular part of the physician's business.

AMA Principles of Medical Ethics: I, II

Background report(s):

CEJA Report 3-A-16 Modernized *Code of Medical Ethics*

CEJA Report 5-I-97 Sale of non-health-related goods

9.6.5 Sale of Non-Health-Related Goods

Unlike the sale of health-related products, sale of non-health-related products by physicians through their offices or websites, even at cost, does not offer health benefits to patients. The sale of non-health-related goods by physicians presents a conflict of interest and threatens to erode the primary obligation of physicians to serve the interests of their patients before their own. Furthermore, this activity risks placing undue pressure on the patient and demeaning the practice of medicine. [*new content sets out key ethical values and concerns explicitly*]

However, such sales can be acceptable under the following limited conditions:

- (a) The goods in question are low-cost.
- (b) The physician takes no share in profit from their sale.
- (c) The sale is:
 - (i) for the benefit of community organizations;
 - (ii) conducted in a dignified manner;
 - (iii) conducted in such a way as to assure that patients are not pressured into making purchases;
 - (iv) not a regular part of the physician's business.

AMA Principles of Medical Ethics: I, II

authority or take advantage of patients' vulnerability. Communications about political matters must be conducted with the utmost sensitivity to patients' vulnerability and desire for privacy.

5. Physicians should never allow their disagreements with patients or their families about political matters to interfere with their delivery of quality professional care.

5. SALE OF NON-HEALTH-RELATED GOODS FROM PHYSICIANS' OFFICES

HOUSE ACTION: RECOMMENDATIONS ADOPTED AS FOLLOWS AND REMAINDER OF REPORT FILED

A number of physicians are engaged in the sale, from their offices, of such non-health-related goods as household products and magazine subscriptions. This report addresses certain important ethical problems with such sales, and sets guidelines for the sale of such goods in those few circumstances when such sale is appropriate.

ETHICAL PROBLEMS WITH FOR-PROFIT SALES OF GOODS

A. Conflict of Interest

The for-profit sale of goods to patients by physicians inherently creates a conflict of interest. Physicians engaging in this activity have a direct financial interest in selling the goods to patients; but the sale may or may not be in the best interests of the patients. Physicians may be tempted to sell items for profit even though their patients do not need the products. Even if most physicians are capable of resisting such temptation, the more ethical course is for professionals to avoid placing themselves in temptation's way. This conflict of interest is particularly troubling in the office setting, where most patients appear because they are in need of medical attention. In the ordinary market setting, consumers can be trusted not to purchase items which they do not want; thus a voluntary sales transaction is taken to be in the best interests of both parties. But the voluntariness of any sale to a patient in a medical office setting is open to serious question.

B. Inherent Sales Pressure

The offer of goods in the treatment setting puts subtle pressure on sick and vulnerable patients to purchase them. Patients may purchase goods out of a misplaced desire to please or to "get in good" with their physicians. They may feel that they have to purchase those goods in order to secure the physician's favor. These feelings, whether justified or not, may interfere with the open exchange and the level of trust between physician and patient.

C. Demeaning Medical Practice

Sale of goods in treatment settings also risks demeaning the practice of medicine. The basis of a good patient-physician relationship is trust. Such trust is undermined whenever physicians, through their behavior, equate the office setting with the supermarket or the bazaar.

SALE OF GOODS AT COST; FREE GOODS

Except in the case of the narrow exception noted below, even at-cost sale of non-health-related goods from the office is inappropriate. Such sale has no health benefits to patients. While it does not involve physicians

in financial conflicts of interest, efforts at such sales can affect the quality of the patient-physician relationship and can demean the practice of medicine.

Free distribution of non-health-related goods in the office is permissible, provided that it is conducted in a dignified manner.

EXCEPTION FOR SALES FOR COMMUNITY BENEFIT

Certain kinds of sales are bound up with service to the community (e.g., sale of Girl Scout cookies, children's "band candy," tickets for a hospital benefit function). Even sales of such goods can threaten the patient-physician relationship—as, for example, when a physician offers church raffle tickets to a patient of another faith—and can, if conducted improperly, demean the practice of medicine. However, undertaken in the proper manner, such sales are permissible. Such sales are acceptable provided that a) the goods in question are low-cost, b) the physician takes no share in profit from their sale, c) such sales are not a regular part of the physician's business, d) sales are conducted in a dignified manner, and e) sales are conducted in such a way as to assure that patients are not pressured into making purchases. One good technique for conducting such sales without exerting unwarranted pressure upon patients is simply to post a sign noting the availability of the product. This allows patients to express interest, or not, without the physician's initiating direct personal communication.

CONCLUSION

"Physicians are not simply businesspeople with high standards. Physicians are engaged in the special calling of healing, and, in that calling, they are the fiduciaries of their patients. They have different and higher duties than even the most ethical businessperson. This is the teaching of the Hippocratic oath and of the great modern teachers of ethical behavior. There are some activities involving their patients which physicians should avoid whether there is evidence of abuse or not." With one very narrowly delineated exception, the sale of non-health-related goods from physicians' offices is among those activities to be avoided.

RECOMMENDATIONS

1. Physicians should not sell non-health-related goods from their offices or other treatment settings, with the exception noted below.
2. Physicians may sell low-cost non-health related goods from their offices for the profit of community organizations, provided that a) the goods in question are low-cost, b) the physician takes no share in profit from their sale, c) such sales are not a regular part of the physician's business, d) sales are conducted in a dignified manner, and e) sales are conducted in such a way as to assure that patients are not pressured into making purchases.

(References pertaining to Report 5 of the Council on Ethical and Judicial Affairs are available from the Ethical Standards Division Office.)

6. SUBJECT SELECTION FOR CLINICAL TRIALS

HOUSE ACTION: RECOMMENDATIONS ADOPTED AND REMAINDER OF REPORT FILED

INTRODUCTION

This report addresses the interest of potential subjects in participating in clinical research protocols. Just as a patient cannot demand certain treatments, there is no absolute right to research participation itself. At issue is whether patients should be assured of fair consideration for participation in clinical trial protocols. Initially, it