

Selling Products Out of the Office

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The sale of products from the physician's office raises several ethical issues and may affect the trust necessary to sustain the patient-physician relationship. When deciding whether to sell products out of the office and, if so, which ones, physicians should carefully consider such criteria as the urgency of the patient's need, the clinical relevance to the patient's condition, the adequacy of evidence to support use of the product, and geographic and time constraints for the patient in otherwise obtaining the product. Physicians should make full disclosure about their financial interests in selling the product and inform patients about alternatives for purchasing the product. Charges for products sold through the office should be limited to the reasonable costs incurred in making them available.

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In recent years, changes in physician reimbursement have exerted increasing downward pressure on physicians' incomes (1). In this environment, some believe that conflicts of interest in medicine have become so pervasive that the essence of medicine—caring for patients—has been seriously undermined (2). The tensions between economic self-interest and fidelity to patients may become manifest when physicians sell products to their patients in the office. Physicians nevertheless have a fiduciary responsibility to the patient in all aspects of their practice.

Physicians occupy a powerful position with respect to patients. Special knowledge, social authority, and the power to make available or withhold access to other medical care all give the physician a disproportionate advantage over patients (3). Products sold out of the office carry the imprimatur of this authority; patients may believe that physicians specifically endorse these products.

Physicians have a particular duty not to exploit the patient's trust in them in order to enhance

income. When deciding whether or what products to sell out of the office, physicians should carefully consider such criteria as the urgency of the patient's need, clinical relevance to the patient's condition, adequacy of evidence to support use of the product, and the patient's geographic and time constraints in obtaining the product. The physician should disclose to the patient financial interests in selling the product and should explore alternatives, if available, to purchasing the product from the physician.

It can be argued that physicians selling products through their offices are engaging in a form of self-referral. The American College of Physicians Ethics Manual states that physicians may own health care facilities only when services would not be otherwise available and further requires that physicians disclose their own financial interest (4). Likewise, if geographic or time constraints make it difficult or impracticable for patients to obtain a medically relevant and urgently needed product otherwise, selling a product in the office would be ethically acceptable. The splinting of an acutely injured extremity or provision of crutches are examples. On the other hand, vitamin supplements and cosmetic items are neither emergent treatments nor unlikely to be available elsewhere, even in rural communities; the sale of such products is therefore ethically suspect.

The purpose of this position statement is to explore issues raised by the sale of products by physicians from their offices; however, ethical difficulties may also arise when physician offices are located within hospitals or other facilities that sell products to patients. In addition, this paper addresses only the ethical issues involved in selling products out of a physician's office. It does not address the various provisions of state or federal law that might be applicable to the purchase, inventorying, distribution, or sale of such products.

The decision to make products available through office sales is complex. Physicians' fiduciary responsibility requires that such decisions adhere to two fundamental ethical principles: nonmaleficence (avoidance of harm) and beneficence (promotion of the patient's welfare). Clearly, the principle of nonmaleficence prohibits the physician from selling products that pose a threat to patient safety, are not

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essential to the patient's care, or may interact negatively with other therapy.

Physicians should also seek to avoid harm by considering the patient's financial vulnerability as well as his or her physical safety. Assuming that there is some time flexibility and that there are other convenient sources of the product, the physician should seriously consider whether the patient could obtain the same or similar products that might be sold through the office less expensively at, for instance, a local pharmacy. Such items include peak flow meters and orthopedic devices. Physicians therefore have an obligation to disclose to patients the cost of an item sold through the practice at the time it is recommended. Charges for products sold through the office should be limited to the reasonable costs incurred in making them available. For some items (such as medications that require special storage and handling), this cost may be significantly higher than the direct purchase cost of the item to the physician. If the need is not urgent and there are multiple likely sources of an item, patients should be encouraged to look into the most cost-effective options for themselves.

While physicians must first consider their duty to nonmaleficence, they also have a positive duty to beneficence. Accordingly, products made available to patients through the office should offer an enhancement of the medical care the physician offers, should be reasonably related to the physician's expertise and clinical practice, and should have immediate relevance to the patient's need for care. In addition, their use should be evidence-based. Necessary medications or immunizations administered to patients at the time of care (but which may not be covered by insurance) are obvious examples. Likewise, a physician caring for patients with asthma might offer peak flow meters for sale in the office to facilitate patients' self-care, to emphasize their importance to asthma management, and to appropriately respond to patients' heightened awareness of the need for such an item at the time of an

office visit. Under such circumstances, however, the physician is still obligated to advise the patient of alternatives that he or she knows to be available, especially if such alternatives would be less costly.

Physicians are an important source of information and trusted advisors for their patients. They should appropriately guide patient decisions regarding the purchase of health-related items, ranging from over-the-counter supplements to expensive medications. When physicians sell such products through their office and encourage patients to purchase them there, the appearance (or reality) of financial self-interest may undermine physicians' duty to patient advocacy. By adhering to the duties of nonmaleficence and beneficence; by applying the criteria of urgent need, clinical relevance to patients' conditions, adequate evidence-based data to support clinical use of the item, and constraints on patients' time or geographic access to a product; and by disclosing financial interests and encouraging patients to explore alternatives where appropriate, physicians may maintain high ethical standards while affording patients access to products essential to their care.

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