

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 4 - A-03

Subject: Gifts from Patients to Physicians

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Referred to: Reference Committee on Amendments to Constitution
and Bylaws
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1 Gifts from patients may be an important means for some patients or their family caregivers to
2 express gratitude for the care a physician has provided. However, physicians should be aware
3 that gifts may be offered for many different reasons, and that acceptance of certain gifts may
4 compromise the patient-physician relationship. This report addresses some of the issues that can
5 arise from patient gifts to physicians, and points to specific gift-giving issues that physicians
6 should consider when they are offered gifts. The related issue of gift solicitation by physicians
7 which raises ethical concerns, will be addressed in a future report.

8 9 GIFT-GIVING AND THE PATIENT-PHYSICIAN RELATIONSHIP

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11 The literal definition of “giving” is a “voluntary transfer of owned property from one to another
12 without consideration of compensation.”¹ In the context of this report, the patient is the giver and
13 the physician is the recipient. The giver generally exerts primary control over the act of giving by
14 initiating the act and selecting the recipient. Yet the recipient also has control over the act
15 through the decision whether or not to accept the gift. Overall, gift-giving is a complex
16 interaction entrenched in an “unspoken framework of relational rules.”¹

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18 The manner in which the gift is regarded by the giving patient and the receiving physician may
19 affect the relationship between a patient and physician. Avoiding an adverse effect on the giver
20 or receiver requires mutual understanding of the intent of the gift. A clear statement from the
21 giver as to the gift’s meaning may clarify the intent, although hidden or unconscious meanings
22 may remain.

23
24 Acceptance or rejection of a gift could strengthen or weaken a patient-physician relationship. If
25 the gift is a measure of the giver’s gratitude, a refusal could be offensive. If a gift is an attempt to
26 secure preferential treatment, then a refusal may be required to maintain the mutual respect and
27 independent judgement that are essential to the patient-physician relationship. Thus, physicians
28 need to think carefully and exercise judgement when deciding whether to accept or refuse a gift.

29 30 MOTIVES FOR GIFT-GIVING

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32 Generally, gifts tend to highlight social relationships and expectations.² In the context of the
33 patient-physician relationship, it is important for physicians to recognize that patients may be
34 motivated by various considerations when they offer gifts. Often, the motivation is generosity, as

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1 some patients derive pleasure from giving a gift.³ Gift-giving may also be a demonstration of
2 appreciation, a behavior related to benevolence and which is usually not consciously intended as
3 an attempt to alter the patient-physician relationship. Within many patient-physician
4 relationships, therefore, gifts are a manifestation of goodwill.⁴

5
6 Gifts can also be a means for patients to reward extraordinary effort by the physician in dealing
7 with complex or demanding behavioral or medical concerns or with a patient's difficult
8 personality.⁴ There are instances when a patient may offer a gift out of guilt for noncompliance or
9 for being a burden to the physician. In these situations, physicians should remain sensitive to the
10 patient's emotional state. Accepting this gift may endorse the patient's guilt or perception of
11 being a burden.

12
13 A patient's family or caregivers may offer a gift to a physician for similar reasons. Not
14 uncommonly, gifts from families and caregivers are offered in memory of a deceased patient. For
15 these families, the gift may be part of their grieving or a way to ensure that the deceased patient
16 remains alive in the memory of the physician. This may present the physician with an
17 opportunity to offer condolences to the family, and to assess whether family members need
18 additional support for their grieving.

19
20 Gift-giving can be a manifestation of other psychological needs. For example, a patient may
21 offer gifts to alleviate certain feelings, such as a sense of worthlessness,² or to create a personal
22 connection in a seemingly impersonal environment, such as a hospital. Also, some patients may
23 feel intimidated by physicians or threatened by the social stature or knowledge of a physician, and
24 offer gifts that demonstrate their own accomplishments or successes in an attempt to balance the
25 patient-physician relationship.⁴ When physicians perceive that a gift is being offered as an
26 expression of a more deeply rooted psychological need, it may be more appropriate for physicians
27 to address that need in a direct fashion, rather than simply accepting the gift.

28
29 Another psychological need of some patients is the desire to be remembered by the physician.⁴
30 This type of motivation can result in a bequest to a physician in a patient's will. If a patient
31 announces his or her plan to make a financial bequest to a physician, the patient should be
32 encouraged to donate to a foundation or charity independent of the physician. This would
33 mitigate inappropriate influence upon the patient-physician relationship and avoid the appearance
34 of impropriety. If the patient's gift is brought to the attention of the physician after the patient's
35 death, of course, it does not influence the therapeutic relationship. Then the physician may choose
36 to solicit the involvement of the family or others who may help assess the sentimental and
37 monetary value of the gift. There may be instances when it is advisable that the physician decline
38 the gift, particularly if it appears extravagant relative to the family's means or appears to cause
39 great conflict within the family.

40
41 Gift-giving for some patients may also represent a means to be thought of as more special than
42 the physician's other patients. These gifts are often expensive or very noticeable and designed to
43 be displayed in the physician's office.

44
45 For some groups of patients, gift-giving stems primarily from cultural traditions.² A cultural
46 tradition common to the United States is the giving of small gifts during the holidays. Rejecting
47 these gifts would more likely disappoint or even upset patients; therefore, many physicians may
48 generally respond with an appropriate expression of gratitude.

49
50 In some cultures, gift-giving is an important aspect of the healing process or may be an expected
51 sign of respect toward physicians. However, physicians should recognize that some cultural
52 practices conflict with the ethical practice of medicine in the United States. For example, patients

1 who offer gifts to secure appointments, reduce their wait before receiving a treatment, or expedite
2 referrals or paperwork may be acting according to cultural customs that are contrary to accepted
3 practices in the United States. Physicians should make clear that gifts given to secure
4 preferential treatment compromise their obligation to provide services in a fair manner.

5
6 Although it is important to acknowledge the cultural backgrounds of patients, this should not lead
7 physicians to stereotyping. Indeed, physicians should not assume that patients of similar cultural
8 backgrounds hold parallel beliefs or observe the same traditions with respect to gift-giving.

9
10 Especially problematic are gifts that patients offer to physicians in an effort to influence the care
11 they receive.² When an expectation of favorable treatment is the motivating factor behind a gift,
12 a patient may become resentful if the expected treatment does not materialize. Similarly, these
13 gifts may engender in the physician a sense of obligation for special treatment, especially if the
14 gift was expensive or extravagant. It may also limit the physician's tendency to make treatment-
15 appropriate recommendations, for example to confront the patient's noncompliance. Again,
16 physicians should be able to explain that preferential treatment is contrary to the professional
17 obligation of United States physicians to provide care based on need and in a fair manner. The
18 following section examines more carefully the factors that should be weighed in determining the
19 appropriateness of accepting certain gifts.

20 21 ACCEPTING OR DECLINING A GIFT

22
23 It may not be inappropriate for physicians to accept some gifts.⁵ First, physicians often are
24 viewed as holding a fiduciary duty that requires them to be dedicated to the well-being of their
25 patients, irrespective of any advantage or gain to themselves. Under a strict interpretation of this
26 view, accepting a gift may be an inappropriate gain that undermines the physician's fiduciary
27 duty. Also, some physicians and patients may consider that gift-giving obscures the true value of
28 the medical care, since the provision of life-sustaining treatment is too precious to simply be
29 acknowledged by a gift. Finally, it can be very difficult for physicians to interpret the reason or
30 motive behind gifts and, therefore, some physicians maintain that all gifts should be refused.⁵

31
32 Recognizing the possible motives that contribute to gift-giving can aid physicians in determining
33 whether it is appropriate or inappropriate to accept a gift. When the motives for a gift fall within
34 the realm of goodwill or cultural traditions, as discussed above, there may be little concern in
35 accepting a gift. However, if a gift is motivated by expectations of preferential treatment or is
36 intended to influence the physician inappropriately, physicians should use greater caution.

37
38 Apart from the motive behind a gift, its monetary value may be another important consideration.
39 For example, nominal gifts that are hand-made by the patient, such as baked goods or crafts, are
40 common and probably do not present any concern. In contrast, more extravagant gifts are more
41 likely to represent other motives, such as those discussed above. Of course, the monetary value
42 of a gift is relative. What appears to be a modest gift may represent a considerable expense for a
43 patient with limited financial means, or vice versa. The value also may be misjudged by the
44 physician, who may consider a gift to be more valuable than was intended by the patient and,
45 therefore, more influential. Also, a single gift may be of relatively small value, but several in
46 aggregate may constitute an unacceptably large gift. Overall, regardless of a gift's monetary
47 value, physicians should respond to the gift with due caution.

48
49 Physicians also should consider issues related to the timing of gifts.^{4,2} For example, if a gift is
50 offered before or after the patient has made a special request, it is possible that there is
51 expectation that the gift will influence the physician's decision or conduct. Physicians should

1 avoid accepting a gift under such circumstances. However, a small gift during the holidays is
2 unlikely to be problematic.

3
4 Finally, gifts can be so personal as to transgress the boundaries of the professional relationship
5 that exists between patient and physician.² Ultimately, respect for these boundaries should be the
6 determining factor when considering gifts. The physician's decision whether to accept a gift
7 should be guided by avoiding a disruption or alteration of the patient-physician relationship.
8 Indeed, if it appears that the integrity of the professional relationship might be undermined by the
9 acceptance of a gift, the physician should decline it. In rare instances, this may result in
10 irreparable harm to the patient-physician relationship and may require that the care of the patient
11 be transferred to another physician.²

12 CONCLUSION

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14 Most gifts are expressions of gratitude, although some may be inappropriate because of either the
15 patient's motivation or the gift's monetary value. To avoid any transgression of the patient-
16 physician relationship, physicians should be mindful of their obligation to provide treatment
17 fairly and independent of personal advantage or gain.
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19 RECOMMENDATION

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21 The Council recommends that the following be adopted and the remainder of the report be filed:
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24 Gifts that patients offer to physicians are often an expression of appreciation and
25 gratitude or a reflection of cultural tradition, and can enhance the patient-physician
26 relationship.

27
28 Some gifts signal psychological needs that require the physician's attention. Some
29 patients may attempt to influence care or to secure preferential treatment through the
30 offering of gifts or cash. Acceptance of such gifts is likely to damage the integrity of the
31 patient-physician relationship. Physicians should make clear that gifts given to secure
32 preferential treatment compromise their obligation to provide services in a fair manner.
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35 There are no definitive rules to determine when a physician should or should not accept a
36 gift. No fixed value determines the appropriateness or inappropriateness of a gift from a
37 patient, however the gift's value relative to the patient's or the physician's means should
38 not be disproportionately or inappropriately large. One criterion is whether the physician
39 would be comfortable if acceptance of the gift were known to colleagues or the public.

40
41 Physicians should be cautious if patients discuss gifts in the context of a will. Such
42 discussions must not influence the patient's medical care. If, after a patient's death, a
43 physician should learn that he or she has been bequeathed a gift, the physician should
44 consider declining the gift if the physician believes that its acceptance would present a
45 significant hardship – financial or emotional – to the family.

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47 The interaction of these various factors is complex and requires the physician to consider
them sensitively.

References are available from the Ethics Standards Group.

REFERENCES

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¹ Martin, Douglas K. and Eric Meslin. "The Give and Take of Organ Procurement." *The Journal of Medicine and Philosophy*. vol. 19 (1994): 61-78.

² Lo, Bernard. Resolving Ethical Dilemmas. Baltimore; Williams & Wilkins. 230-235: 1995.

³ Andereck, William. "Should Physicians Accept Gifts from Patients?: Yes: If they are given out of beneficence or appreciation." *Western Journal of Medicine*. vol. 175. (August 2001): 76.

⁴ Lyckholm, Laurie J. "Should Physicians Accept Gifts From Patients?" *JAMA*. vol.280, no.22. (December 9, 1998).

⁵ Weijer, Charles. "Should Physicians Accept Gifts from Patients?: No: Gifts debase the true value of care." *Western Journal of Medicine*. vol. 175. (August 2001): 77.