

**JOINT REPORT OF COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS AND
COUNCIL ON MEDICAL EDUCATION**

The following report was presented by Michael S. Goldrich, Chair, Council on Ethical and Judicial Affairs, and Emmanuel G. Cassimatis, MD, Chair, Council on Medical Education:

1. THE GIFTS TO PHYSICIANS FROM INDUSTRY CAMPAIGN

HOUSE ACTION: FILED

BACKGROUND

At the 1990 Interim Meeting, the AMA House of Delegates adopted the Council on Ethical and Judicial Affairs' Ethical Opinion on Gifts to Physicians from Industry (Policy E-8.061, AMA Policy Database, see Appendix). This addition to the AMA Code of Medical Ethics defined appropriate standards for gift giving to physicians by pharmaceutical, device and medical equipment companies. However, a decade later many practicing physicians and sales representatives were unaware of the guidelines. Professional and public attention was focusing on increases in the inappropriate offering and acceptance of gifts. This informational report outlines the initiative convened by the AMA, which sought to raise awareness of the guidelines and provide an ongoing means of educating physicians, physicians-in-training, and industry personnel.

THE GIFTS TO PHYSICIANS FROM INDUSTRY CAMPAIGN

Working Group

In 2000, the AMA formed a "Working Group for the Communication of Ethical Guidelines on Gifts to Physicians from Industry" (Working Group), which included representatives from major medical societies, accreditation councils, the public, pharmaceutical firms and medical device companies, and the Pharmaceutical Research and Manufacturers of America (PhRMA), among others. The Working Group met three times to frame the goals and objectives of the initiative. An executive committee guided the effort between Working Group meetings.

Core Message, Goals, Audiences, and Strategy

As a result of its first meeting, the Working Group approved the following as its core message:

Physicians have a unique professional relationship with patients and have an ethical responsibility to place the health and welfare of the patient ahead of economic self-interest. Physicians should be mindful that accepting gifts or other remuneration that does not comply with ethical guidelines may give the appearance of undue influence and jeopardize the physician-patient relationship.

Industry and physicians should recognize that gifts that do not comply with professional guidelines may compromise ethical principles. Industry should share the responsibility to promote the health and welfare of patients by complying with appropriate guidelines.

Guidance for physicians and industry can be found in the current Code of Medical Ethics published by the Council on Ethical and Judicial Affairs of the American Medical Association and the ethics statements of medical specialty societies. In addition, codes of conduct associated with government, industry, or other institutional employment may apply.

The primary goal of the Working Group was to create renewed awareness of and compliance with CEJA's ethical guidelines among targeted audiences, while advancing the Working Group's core message.

The primary audiences for the initiative were practicing physicians, industry personnel, medical students and undergraduate medical education faculty, residents and graduate medical education faculty, supporting organizations and industry, and the Federation of medicine.

The Working Group articulated the following strategy for its initiative:

- Physicians and industry must take an important leadership role by addressing this subject.
- The initiative benefits everyone concerned: industry, the medical profession, and patients.
- CEJA's guidelines are fundamentally sound and offer a strong framework for results.
- Education and awareness-building is the best approach.

The Awareness Phase (Phase 1)

The first phase of the initiative included an intensive effort to raise awareness of the CEJA guidelines through a dedicated web site, direct mailings, publications, "advertorials" in industry and medical profession newsletters and journals, massive distribution of Pocket Cards with a synopsis of the CEJA guidelines, and special presentations at medical and industry meetings. The initiative was launched in May 2001, when organizations received an information packet in the mail.

The Development of Educational Resources (Phase 2)

The second phase started with the appointment of an Educational Advisory Committee. This group determined the overall content of the educational resources, the authors of the individual modules, the modules' format, and the peer review process that would be used. Each educational activity was developed in two formats to be available at no charge: (1) curriculum materials for teachers and presenters; and (2) self-study activities for individuals, including certification for AMA PRA category 1 credit.

Four educational modules were developed with examples and relevant cases. Each was planned to take approximately one hour. The topics for the four modules are:

- Overview of Ethical, Professional, and Legal Issues for Physicians' Relationships with Industry
- Physicians' Expectations of Industry and Sales Personnel
- Professionalism and Gifts to Physicians from Industry
- The AMA/Council on Ethical and Judicial Affairs (CEJA) guidelines on gifts to physicians from industry

Communication plans for Phase 2 included seven strategies: an updated information packet; a staged launch announcing the first two modules when they were ready and later the remaining two modules; an expanded web site including the educational resources; outreach to educational leaders and graduate medical education program directors; special presentations to other key audiences; continued use of AMA internal publications, especially the electronic communication; continued large-scale distribution of Pocket Cards.

Evaluation

The unique effect of the Working Group's initiative cannot be differentiated from the overall effects of many concurrent activities that took place during the same period of time. Therefore, the evaluation of the initiative focuses on describing the extent to which planned activities were carried out and the use of project materials.

The Pocket Cards were a resounding success, with more than 465,000 having been distributed. An informal telephone survey of some users of the web site and the Pocket Cards was conducted to gather impressions of the effectiveness of the initiative. The comments were all positive with compliments to the AMA for undertaking the initiative. There were also some suggestions for the continuation of the awareness efforts.

Since its inception in September 2001, the Gifts web site has been accessed more than 200,000 times. During Phase 1, the site was accessed approximately 1,500 times per week. The specific web pages offering the downloadable materials and self-study modules have been accessed more than 16,000 times.

The AMA has processed more than 100 requests for AMA PRA category 1 credit for the self-study modules. Every request for self-study credit was returned with a short evaluation form. . More than a third of the self-study evaluations were returned with comments, and these overwhelmingly reflect a positive reaction to the educational modules.

The exhibit and/or presentations were provided to 18 groups representing practicing physicians, medical educators, CME educators and industry personnel. Materials regarding the availability of the educational resources were mailed to over 12,000 individuals. In addition, e-mail announcements were sent to approximately 81,000 individuals on two occasions.

CONCLUSION

The Working Group achieved the goals set for the project. Materials to raise awareness of the problem and to educate physicians, physicians-in-training, and industry personnel were created. The initiative successfully developed both self-study and classroom materials that are available online without cost to assure that the understanding of the ethical issues pertaining to gifts and industry-physician relations will continue to reach the classroom as well as practicing physicians and industry representatives.

With the publication of this report, the Working Group itself is disbanded. The AMA will maintain the Web site and CME activities, as well as be responsible for future review of materials for AMA PRA category 1 credit.

APPENDIX

CEJA Opinion E-8.061 Gifts to Physicians from Industry

Many gifts given to physicians by companies in the pharmaceutical, device, and medical equipment industries serve an important and socially beneficial function. For example, companies have long provided funds for educational seminars and conferences. However, there has been growing concern about certain gifts from industry to physicians. Some gifts that reflect customary practices of industry may not be consistent with the Principles of Medical Ethics. To avoid the acceptance of inappropriate gifts, physicians should observe the following guidelines:

- (1) Any gifts accepted by physicians individually should primarily entail a benefit to patients and should not be of substantial value. Accordingly, textbooks, modest meals, and other gifts are appropriate if they serve a genuine educational function. Cash payments should not be accepted. The use of drug samples for personal or family use is permissible as long as these practices do not interfere with patient access to drug samples. It would not be acceptable for non-retired physicians to request free pharmaceuticals for personal use or use by family members.
- (2) Individual gifts of minimal value are permissible as long as the gifts are related to the physician's work (e.g., pens and notepads).
- (3) The Council on Ethical and Judicial Affairs defines a legitimate "conference" or "meeting" as any activity, held at an appropriate location, where (a) the gathering is primarily dedicated, in both time and effort, to promoting objective scientific and educational activities and discourse (one or more educational presentation(s) should be the highlight of the gathering), and (b) the main incentive for bringing attendees together is to further their knowledge on the topic(s) being presented. An appropriate disclosure of financial support or conflict of interest should be made.
- (4) Subsidies to underwrite the costs of continuing medical education conferences or professional meetings can contribute to the improvement of patient care and therefore are permissible. Since the giving of a subsidy directly to a physician by a company's representative may create a relationship that could influence the use of the company's products, any subsidy should be accepted by the conference's sponsor who in turn can use the money to reduce the conference's registration fee. Payments to defray the costs of a conference should not be accepted directly from the company by the physicians attending the conference.
- (5) Subsidies from industry should not be accepted directly or indirectly to pay for the costs of travel, lodging, or other personal expenses of physicians attending conferences or meetings, nor should subsidies be accepted to compensate for the physicians' time. Subsidies for hospitality should not be accepted outside of modest meals or social events held as a part of a conference or meeting. It is appropriate for faculty at conferences or meetings to accept reasonable honoraria and to accept reimbursement for reasonable travel, lodging, and meal expenses. It is also appropriate for consultants who provide genuine services to receive reasonable compensation and to accept reimbursement for reasonable travel, lodging, and meal expenses. Token consulting or advisory arrangements cannot be used to justify the compensation of physicians for their time or their travel, lodging, and other out-of-pocket expenses.

(6) Scholarship or other special funds to permit medical students, residents, and fellows to attend carefully selected educational conferences may be permissible as long as the selection of students, residents, or fellows who will receive the funds is made by the academic or training institution. Carefully selected educational conferences are generally defined as the major educational, scientific or policy-making meetings of national, regional or specialty medical associations.

(7) No gifts should be accepted if there are strings attached. For example, physicians should not accept gifts if they are given in relation to the physician's prescribing practices. In addition, when companies underwrite medical conferences or lectures other than their own, responsibility for and control over the selection of content, faculty, educational methods, and materials should belong to the organizers of the conferences or lectures. (II)

Issued June 1992 based on the report "Gifts to Physicians from Industry," adopted December 1990 (*JAMA*. 1991; 265: 501 and *Food and Drug Law Journal*. 2001; 56: 27-40); Updated June 1996 and June 1998.

**REPORT OF COMMITTEE OF THE HOUSE OF DELEGATES ON
COMPENSATION OF THE GENERAL OFFICERS**

The following report was presented by Richard G. Roberts, MD, JD, Chair:

REPORT ON THE COMPENSATION OF AMA GENERAL OFFICERS

HOUSE ACTION: NOT ADOPTED

BACKGROUND

In its Report to the House of Delegates at the 2003 Interim Meeting, the Committee on the Compensation of the AMA General Officers recommended, along with several other recommendations, "That the resident and student compensation be changed from an annual stipend to an annual honorarium and per diem at the same level as other Trustees for the period July 1, 2004 - June 30, 2005. In order to address this specific recommendation, the Committee prepared a separate report. After debate in the House of Delegates, the recommendation was referred back to the Committee.

DISCUSSION

The Committee researched the actions of the House of Delegates in establishing the student and resident positions on the Board of Trustees, reviewed the responsibilities of Board members under current AMA Bylaws; sought input from the AMA Board of Trustees, and the governing councils of the Medical Student Section (MSS), the Resident and Fellow Section (RFS) and the Young Physicians Section (YPS); and considered the experiences of other boards.

At the 1981 Interim Meeting the House of Delegates passed a resolution to "encourage the Board of Trustees to include in its meetings, exclusive of executive sessions, a representative of the Resident Physicians Section and a representative of the Medical Student Section, whenever in the judgment of the Board of Trustees its agenda indicates a need for a contribution from these Sections." In recognition of the demonstrated value of this participation, the House of Delegates voted at the 1983 Annual Meeting to establish a non-voting student position and a resident position with full voting rights on the AMA Board of Trustees. The student position became a voting position with restrictions on the AMA Board at the 1991 Interim Meeting. These restrictions were removed by the House of Delegates at the 1996 Interim Meeting.

Neither the current AMA Bylaws nor the Standing Rules of the Board of Trustees make any differentiation between the responsibilities of the student and resident Trustees and other non-officer Trustees as AMA Board members, except for election, tenure and compensation. While the practice has been to assign the student and resident Trustee as liaisons to the MSS and RFS respectively, this is not mandatory but rather reflects the obvious value of the relationship and common experience.

The Committee met with representatives of the AMA Board of Trustees for input on this issue as well as other Board compensation concerns. The Board had varied opinions on whether these two Trustees should be compensated the same as other Trustees, reflecting the debate that occurred at the 2003 Interim Meeting. There was strong consensus that the current student and resident Trustees actively participated in all deliberations of the Board and provided valuable perspective and sound judgment.

The MSS had no recommendation but presented a range of "ideas" for consideration by the Committee. They appreciated having a student Trustee and equal compensation would "recognize and respect the quality of their work." Their concerns focused on such compensation exceeding the income of most medical students, negatively impacting the election pool and causing students to "take a year off." The counter comments were that many highly qualified students do have additional degrees and would be capable of such incomes were they not in medical school, and equal compensation would broaden the candidate pool. As noted by the MSS, there are associations who compensate equally all Trustees who share the same Trustee responsibilities and there are some associations who do not.

The RFS reached a strong consensus for equal compensation for both the student and resident Trustee to recognize their contributions and ensure that the expectations for these Trustees to meet a Trustee's responsibilities is the same as other Trustees. Their input supported Trustee compensation based on value delivered, not on the basis of lost practice income.

The YPS recommended that the compensation structure for the student and resident Trustees remain at its current levels. They support the premise that compensation for Board members should be based on loss of income away from their practice. Providing equal compensation for the student and resident would also put their incomes well above most of their colleagues and negatively influence the reason for seeking a Trustee position.

The Committee carefully considered the above input. Fundamental to the discussion is agreement on the premise for compensating Trustees. The Committee believes that compensation should be commensurate with the scope of responsibilities and time commitment and the value provided by the Trustees.

It is the Committee's observation that all AMA Trustees, including the student and resident, have the same Trustee ethical, legal and fiduciary responsibilities as well as liabilities. They should receive equal honorarium, as they are required to prepare, attend and actively participate at all meetings and discussions, and by most accounts, have shown an increasing value to the success of the Board. When they are identified to represent the AMA under the Representation Program, they also incur similar responsibilities and preparation time as other non-officer Trustees, and should be compensated with the same per diem.

RECOMMENDATION

The House of Delegates Committee on Compensation of the General Officers recommends that the following recommendation be adopted and that the remainder of this report be filed:

That the resident and student compensation be changed from an annual stipend to an annual honorarium and per diem at the same level as other Trustees for the period July 1, 2004 - June 30, 2005.