AMERICAN MEDICAL ASSOCIATION RESIDENT AND FELLOW SECTION

Report: H
(I-20)

Introduced by:	RFS Governing Council
Prepared by:	RFS Committee on Business and Economics
Subject:	Pharmaceutical Advertising in Electronic Health Record Systems
Referred to:	Reference Committee

INTRODUCTION

At the Interim meeting in 2019, the RFS assembly heard testimony on a resolution addressing pharmaceutical advertising in EHRs. The resolved clauses read as follows:

> RESOLVED, That our American Medical Association encourage the federal government to study the effects of direct-to-physician advertising at the point of care, including advertising in Electronic Health Record Systems (EHRs), on physician prescribing, patient safety, health care costs, and EHR access for small practices (Directive to Take Action); and be it further
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> RESOLVED, That our AMA study the prevalence and ethics of direct-to-physician advertising at the point of care, including advertising in EHRs. (Directive to Take Action)

The assembly met quorum with 42 of 56 credentialed delegates present. 32 of 42 voting delegates voted in favor of supporting the resolution, so the position became RFS internal policy. At the House of Delegates, the Reference Committee recommendations were friendly and minimal due to largely positive testimony supporting both federal government and AMA studies on the issue of pharmaceutical advertising in EHRs. The resolution was not extracted and was ADOPTED AS AMENDED. However, based on the positions voiced by the delegation and given the complexity of this type of policy and the future AMA report expected, the AMA-RFS Governing Council recommended the AMA-RFS Committee on Business and Economics study the issue and write an internal report in order to support future discussions.

DISCUSSION

Pharmaceutical companies have long advertised to patients, doctors, and hospitals. Direct-to-consumer advertising has recently come under scrutiny since the US and New Zealand are the only two countries that allow this kind of marketing.[1] However, another much less studied topic is direct-to-physician advertising.

In the United States, pharmaceutical companies spend roughly $30 billion a year on advertising with the vast majority ($20.3 billion) being used to market to healthcare professionals.[2] Some regulations have been implemented but they are limited and many

believe more are needed. One example is the Federal Food, Drug, and Cosmetic Act which requires that pharmaceutical advertisements for prescription drugs be accurate and not misleading which is enforced via the Office of Prescription Drug Promotion.[3] Another example is the Open Payments Data website run by CMS, which is a national transparency program that collects and publishes information about relationships between the healthcare industry and physicians plus teaching hospitals. According to this data, approximately 627,000 physicians and 1,180 teaching hospitals received some form of payment from pharmaceutical companies in 2018.[4] Payments can come in many forms including general payments (e.g. gifts, meals), research payments, and ownership/investments. Advertisements do not make the cut for reportable payments.[4]

One of the new advertising techniques being used by pharmaceutical companies is direct-to-physician advertising through EHRs. These advertisements in EHRs can show up as banners, reminder messages, e-coupons, prior-authorization assistance technologies, discharge paper sponsorships, and more. A number of different factors can be used to focus advertising, including physician specialty, geography, past prescribing behavior, patient demographic, current therapy, or patient diagnosis via ICD-10 codes. Pharmaceutical companies have a clear incentive to advertise to physicians in EHRs, which is to influence and reinforce their prescribing decisions.

As stated before, evidence-based literature is noticeably lacking on the topic of direct-to-physician advertising. There was one Australian study identified from 2005 that shows physician opinions of the advertisements are largely unfavorable. However, some physicians had concerns that the price of the EHR software would increase if the advertisements were removed. The paper also theorized that patients may receive suboptimal care if their physician is biased by EHR advertisements and that physicians may under-prescribe less heavily advertised drugs that have better efficacy and/or lower cost.[6] As of now, we have no data on how pharmaceutical advertising in EHRs influence physicians prescribing habits. However, it is reasonable to infer that there is some measurable effect or else pharmaceutical companies would not be funding the advertisements.

Some believe these EHR advertisements to be beneficial. For example, these advertisements could be helping smaller practices to pay for an EHR system they could not normally afford. However, it is unclear if this is true. For example, an article on Practice Fusion EMR states there is “an option to turn the ads off for $100 a month, which is still significantly cheaper than other EMRs.”[7] Furthermore, the technology is usually implemented at an institution level and independent practices do not seem to be a key market.[5] Another argument is that some physicians use these advertisements to keep up to date on new emerging therapies and treatments.[7] However, this argument negates the fact that physicians already have a way to control education via continuing medical education, regular board exams, conferences, etc. Also, pharmaceutical companies have a clear conflict of interest since they are trying to get the physician to prescribe their product, so their main goal is likely not education.

According to the Office of National Coordinator for Health Information Technology, adoption of EHRs among acute care hospitals as of 2015 was around 96%.[8] However, it is largely unknown how many EHR vendors use the direct-to-physician advertising business model or how many pharmaceutical companies are actively pursuing vendors to adopt it. From articles and interviews of industry experts, it is believed that most hospital based EHRs do not allow for advertising inside their platform but have been feeling the

pressure from pharmaceutical companies to do so.[9,10] Practice Fusion, one of the larger EHR vendors to put ads on their interface, states that more than 85% of major pharmaceutical companies are running ads with their system.[10]

Hospital-based EHR adoption provides a unique ethical dilemma since physicians and other providers may not be privy to the change. Furthermore, medical students, residents, and fellows may be affected by such a change if this advertising strategy is adopted at an educational institution. This presents more ethical dilemmas since trainees have not developed individual styles of practice yet and may be highly influenced by such advertisements compared to more experienced physicians. It also should be mentioned that the ACGME Core Competencies do not mention education by drug advertisement or promotion. Furthermore, newer legislation, including the *Physician Payments Sunshine Act* (2010) may further complicate the impact of these advertisements.

Existing HOD Policy

The RFS does not have a prior position on advertising in EHRs, but has prior policy addressing similar issues. Specifically, the RFS has internal policy opposing direct-to-consumer advertising which was passed in the RFS and the AMA HOD.

410.002R Direct to Consumer Advertising: That our AMA oppose Direct to Consumer Advertising of prescription drugs and implantable medical devices. (Report I, A-09) (Reaffirmed in lieu of adopting Resolution 8, A-16)

Many of the concerns that were addressed when passing the direct-to-consumer resolution were also present in the direct-to-physician resolution, yielding a precedent of supporting less pharmaceutical advertising.

The AMA code of ethics has multiple stances on the relationship with pharmaceutical companies that also apply. The policy entitled “9.6.2 Gifts to Physicians from Industry” recognizes that preservation of trust is fundamental to the patient-physician relationship and public confidence in the profession should be a main area of focus when interacting with industry. Another policy entitled “9.2.7 Financial Relationships with Industry in Continuing Medical Education” recognizes that individual and collective physicians must ensure that the profession independently defines the goals of physician education. Finally, a key tenet in the above policies as well as the policy entitled “10.6 Industry Representatives in Clinical Settings” is that an industry intervention must improve the safety and effectiveness of patient care in order to be acceptable.

RECOMMENDATION

Based on the report and recommendations prepared by the AMA-RFS Committee on Business and Economics, your AMA-RFS Governing Council recommends the following:

1) That the AMA-RFS oppose medical education institutions and teaching hospitals accepting pharmaceutical and device advertisements in EHRs.

REFERENCES

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