

Module 6

Case 6.1: Gifts from Industry—The Cost of Lunch

Case Presentation

Dr. Mathews is chief resident of the internal medicine residency program at a large teaching hospital. The department chairman asked him to seek sources of funding for the weekly noontime conferences, adding, "With all those drug companies out there wanting time with physicians, you shouldn't have a problem finding someone to buy us sandwiches or pizza once a week."

Dr. Mathews asked, "That's okay with you and the department, allowing a drug company to buy lunch once a week?"

"I think so," the chairman said. "Everyone knows by now that each drug rep is going to tout his own wares. It's a wash, in the end. Most 6-year-olds know how to discriminate among fast-food ads on television; I think residents can make sound independent decisions, don't you?"

Dr. Mathews had, in fact, been talking with a rep from Melissima Inc who was trying to push Melissima's ACE inhibitor. If any product message could be neutralized by the sheer number of competing ads, an ACE inhibitor ad would be it. The rep okayed the plan. She would be there at the weekly conferences, but would only provide information if someone posed a question, she explained.

Dr. Mathews thought that, with a few words from himself to the residents before the Melissima sponsorship kicked off, everything would be okay. After a while, he'd switch companies and let a Melissima competitor buy lunch. Or if it turned out that the Melissima rep was being too chatty, having too much to say to the residents, he'd switch. These things needed to be judged on a case-by-case basis, Mathews thought. All company sponsorship cannot be condemned as bad. By rough calculation, though, Melissima would be spending about \$650 to \$700 on the food per week. He wasn't sure that information would pass the "how would it look in the headlines" test.

What should Dr. Mathews do about funding for lunch at the noontime conferences? (select an option)

- A. [Refuse to allow Melissima or any other industry member to sponsor the lunches.](#)
- B. [Allow Melissima to sponsor the lunches but rotate industry members regularly and set a cap on the amount spent per attendee.](#)
- C. [Allow Melissima to sponsor the lunches without a spending limit but rotate industry member regularly.](#)
- D. [Allow Melissima to sponsor the lunches indefinitely but set a cap on the amount spent per attendee.](#)
- E. [Allow Melissima to sponsor the lunches indefinitely without a spending limit.](#)

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Module 6

- [e-mail](#) |

Case 6.1: Gifts from Industry—The Cost of Lunch

Option Assessment

- A. Refusing Melissima's sponsorship of the lunches is **acceptable**. Although refusing unequivocally avoids all concerns raised in Opinion 8.061, "Gifts to Physicians from Industry," there is no prohibition against industry subsidies.
- B. Allowing Melissima to sponsor the lunches, rotating industry members regularly and setting a cap on the amount spent per attendee is **preferable**. Accepting gifts from competing industry members does not violate the *Code* and the spending limit is supported by the *Code*. Opinion 8.061, "Gifts to Physicians from Industry" states: "Gifts accepted...should primarily entail a benefit to patients and should not be of substantive value...[and] textbooks, modest meals, and other gifts are appropriate if they serve a genuine educational function."
- C. Allowing Melissima to sponsor the lunches without a spending limit but rotating industry member regularly should be **avoided**. It may violate the *Code* in Opinion 8.061, "Gifts to Physicians from Industry": "Gifts accepted...should primarily entail a benefit to patients and should not be of substantive value...[and] textbooks, modest meals, and other gifts are appropriate if they serve a genuine educational function." Without a spending limit, there is a risk that Melissima or some other industry member would provide more than a modest meal.
- D. Allowing Melissima to sponsor the lunches indefinitely but setting a cap on the amount spent per attendee is **acceptable**. It does not violate the *Code* and the spending limit is supported by the *Code* in Opinion 8.061, "Gifts to Physicians from Industry": "Gifts accepted...should primarily entail a benefit to patients and should not be of substantive value...[and] textbooks, modest meals, and other gifts are appropriate if they serve a genuine educational function."
- E. Allowing Melissima to sponsor the lunches indefinitely without a spending limit should be **avoided** because it may violate the *Code* in Opinion 8.061, "Gifts to Physicians from Industry": "Gifts accepted...should primarily entail a benefit to patients and should not be of substantive value...[and] textbooks, modest meals, and other gifts are appropriate if they serve a genuine educational function." Without a spending limit, there is a risk that Melissima would provide more than a modest meal.

[Compare these options](#)

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Module 6

- [e-mail](#) |

Case 6.1: Gifts from Industry—The Cost of Lunch

Option Comparison

Because the weekly conferences serve a genuine educational function, the spending limit confines the sponsorship, and the rotation among industry members limits the exposure of any particular industry representative, option B is the preferable alternative.

Refusing industry sponsorship (option A) is always acceptable, and setting a limit on Melissima's spending for the meals it provides (option D) is also acceptable. There may be some reason to avoid option D, nonetheless. Because of the frequency of the conferences, the weekly modest meal will accumulate to become a substantial gift.

Without a spending limit, there is no way to ensure that the gifts from Melissima or any other industry representative will be modest, and so options C and E should be avoided.

Preferable: Option B

Acceptable: Options A and D

Avoid: Options C and E

[Additional discussion and information](#)

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Module 6

- [e-mail](#) |

Case 6.1: Gifts from Industry—The Cost of Lunch

Additional Information

Throughout this discussion, "industry" refers to all "proprietary health-related entities that might create a conflict of interest." While relationships between industry and the medical community have resulted in important benefits for patient care, there has been growing concern about the potential negative consequences of the relationship. In particular, commentators have increasingly questioned the appropriateness of some of the gifts and other subsidies that are given to physicians by companies in the pharmaceutical, device, and medical equipment industries. Some of these gifts and subsidies may have inappropriate effects and are therefore cause for concern. Accordingly, Opinion 8.061, "Gifts to Physicians from Industry" addresses the appropriateness of gifts given to physicians by health care industries.

Opinion 8.061, "Gifts to Physicians from Industry"

...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...
- (2) Individual gifts of minimal value are permissible as long as the gifts are related to the physician's work (eg, 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...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...It is appropriate for faculty at conferences or meetings to accept reasonable

honoraria and to accept reimbursement for reasonable travel, lodging, and meal 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...

(7) No gifts should be accepted if there are strings attached...

Some of the gift-giving practices by industry are ethical and beneficial to patients. Nonetheless, the practice of gift giving raises a number of ethical concerns. First, industry invests in promotional activities because promotions increase sales. There is no evidence that physicians knowingly or intentionally compromise their patients' care as a result of gifts from industry. Nevertheless, the practice of gift giving may subtly influence practice patterns such that they are based on considerations other than scientific knowledge and patient needs. Moreover, gifts may also affect a physician's continuing education because physicians only have time to attend a limited number of conferences, and industry can make their conferences more attractive by subsidizing the costs of attending.

Second, even if gifts from industry have no effect on a physician's practices, there may be a public impression of impropriety, especially if the gifts are of substantial value. Public trust in physicians may be undermined if it appears that the choice of a drug, device, or other product is influenced by the fact that the physician received a gift from the company that manufactures the product.

Finally, the costs of gifts from industry to physicians are ultimately passed on to the public. In effect, patients pay for a benefit that may be experienced primarily by their physicians.

For further discussion of this topic, see also the "Clarification of Opinion 8.061, Gifts to Physicians from Industry" in the *Code*, and see <www.ama-assn.org/go/ethicalgifts>, especially module 4.

[Next Case](#)

[Module 6 Table of Contents](#)

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