

Case 6.3: Office Sales—Supplemental Income

Case Presentation

Dr. Yueh, a member of Dr. Troy's group practice, approached Dr. Troy with a business proposition. He recently read some clinical studies of an herbal supplement he would like to begin selling from the office. He has procured an agreement from the manufacturer and all he needs now is the agreement of the members of the group. He offers to show Dr. Troy the clinical studies and has a sample display set up in his office. Dr. Troy asks Dr. Yueh to get him copies of the clinical studies and provide all the other relevant material—the cost of the supplements, the group's profit from the sales, etc.

The next morning Dr. Troy finds the published material about the clinical studies on his desk with a quick note from Dr. Yueh. The supplement's wholesale cost is \$9/bottle and the recommended retail selling price is \$15/bottle. Each bottle contains about a month's supply. Even though the clinical studies show marked improvement in research subjects' reported energy level and feelings of well-being, Dr. Troy is unsure of how reliable these subjective reports really are. Upon close investigation, he notes that the study was funded by the supplement's manufacturer. When he asks Dr. Yueh about other studies on the supplements, Dr. Yueh says that there are no other completed studies.

What should Dr. Troy tell Dr. Yueh? (select an option)

- A. [He cannot support the sale of this supplement in the office.](#)
- B. [He will agree to sell it for a month according to the manufacturers recommendations, to see how things go.](#)
- C. [He will agree to sell it from the office at wholesale cost.](#)

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Option Assessment

- A. Telling Dr. Yueh that he cannot support the sale of the supplement is **preferable**. According to the *Code* in Opinion 8.063, "Sale of Health-Related Products from Physicians' Offices": "Physicians... should not sell any health-related products whose claims of benefit lack scientific validity...[and] should rely on peer-reviewed literature and other unbiased scientific sources." Whether or not the benefits of this supplement have scientifically valid support remains unclear. Further, there is reason to suspect that the one completed study is biased because it is funded exclusively by the manufacturer.
- B. Telling Dr. Yueh that he will agree to sell the supplement for a month should be **avoided**. It violates *Code* Opinion 8.063, "Sale of Health-Related Products from Physicians' Offices": "Physicians...should not sell any health-related products whose claims of benefit lack scientific validity." Moreover, Opinion 8.063 goes on, "Physicians may distribute other health-related products to their patients free of charge or at cost...." Selling any product for substantial profit puts Dr. Troy in a position of financial conflict of interest that may compromise his independent medical judgment.
- C. Telling Dr. Yueh that he will agree to sell the supplement from the office at wholesale cost should be **avoided**, even though there will be no financial conflict of interest. The clinical study does not meet the requirements of Opinion 8.063, "Sale of Health-Related Products from Physicians' Offices": "Physicians...should not sell any health-related products whose claims of benefit lack scientific validity...[and] should rely on peer-reviewed literature and other unbiased scientific sources." There is reason to believe the available studies are biased, and there are no means for determining whether the claims of benefit are scientifically valid.

[Compare these options](#)

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Option Comparison

Although selling these supplements wholesale would be less ethically questionable than selling them for a profit, options B and C both should be avoided because it is not clear that there is support for any claim of benefit for this product. Nor is it clear that this product serves a patient need. Accordingly, option A—not selling the product from the office—is preferable.

Preferable: Option A

Avoid: Options B and C

[Additional discussion and information](#)

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Additional Information

Selling any health-related or non-health-related products from the office risks demeaning the profession of medicine. Entrepreneurial financial endeavors are not unethical in and of themselves, but, when they are exercised within the patient-physician relationship, they can create a conflict between the physician's financial interest and the welfare of the patient. Under such circumstances there is serious concern that patients are being exploited. Physicians should take steps to minimize financial conflicts of this type. The following Opinions identify guidelines for the sale of both health-related and non-health-related products from the physician's office.

Opinion 8.063, "Sale of Health-Related Products from Physicians' Offices"

"Health-related products" are any products that, according to the manufacturer or distributor, benefit health. "Selling" refers to the activity of dispensing items that are provided from the physician's office in exchange for money and also includes the activity of endorsing a product that the patient may order or purchase elsewhere that results in direct remuneration for the physician...

In-office sale of health-related products by physicians presents a financial conflict of interest, risks placing undue pressure on the patient, and threatens to erode patient trust and undermine the primary obligation of physicians to serve the interests of their patients before their own.

(1) Physicians who choose to sell health-related products from their offices should not sell any health-related products whose claims of benefit lack scientific validity...

(2) Because of the risk of patient exploitation and the potential to demean the profession of medicine...the following guidelines apply:

(a) In general, physicians should limit sales to products that serve the immediate and pressing needs of their patients...

(b) Physicians may distribute other health-related products to their patients free of charge or at cost, in order to make useful products readily available to their patients...

(3) Physicians must disclose fully the nature of their financial arrangement with a manufacturer or supplier to sell health-related products...

(4) Physicians should not participate in exclusive distributorships of health-related products which are available only through physicians' offices...

Opinion 8.062, "Sale of Non-Health-Related Goods from Physicians' Offices"

...Physicians should not sell non-health-related goods from their offices or other treatment settings, with the exception noted below.

Physicians may sell low-cost non-health-related goods from their offices for the benefit of community organizations, provided that (1) the goods in question are low-cost; (2) the physician takes no share in profit from their sale; (3) such sales are not a regular part of the physician's business; (4) sales are conducted in a dignified manner; and (5) sales are conducted in such a way as to assure that patients are not pressured into making purchases.

It is important for physicians to limit in-office sales to those that serve the immediate and pressing needs of patients. As with prescription products, if a product is available at a local pharmacy, physicians should avoid selling it from their offices.

In-office sales of health-related products that are available only through physicians and offer a unique benefit to patient health raise particular concerns. Since patients are unable to purchase an equivalent product elsewhere, physicians have a monopoly on the market, and patients are captive consumers. Exclusive arrangements such as these are troublesome because they force patients either to purchase the product from their physician or to forgo the recommended treatment. If a physician strongly believes that a patient needs the product that is available only through physician-distributorship, then he or she should encourage the manufacturer to make the product accessible through alternative existing structures such as pharmacies.

Should it be deemed necessary to sell a health-related product from a physicians office, see also Opinion 8.03, "Conflicts of Interest Guidelines;" Opinion 8.032, "Conflict of Interest: Physician Ownership of Medical Facilities;" Opinion 3.01, "Nonscientific Practitioners;" Opinion 8.20, "Invalid Medical Treatments."

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