

Position Statement on Sale of Goods by Physicians and Physician Advertising

*Adopted as policy by the Federation of State Medical Boards
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Sale of Goods by Physicians

Physicians may choose to make health-related and non-health-related goods available to patients from their offices or on their practice websites. This is often in order to meet a legitimate patient need in instances where the goods are medically necessary for patients and not immediately or reliably available to patients by other means.

Physicians who choose to make goods available to patients must be mindful of the inherent power differential that characterizes the physician-patient relationship and therefore the significant potential for exploitation of patients. Physicians must always place the interests of their patients above their own financial interests so that they may avoid conflicts among these interests that could place patient wellbeing at risk. This means only offering treatments or products that can be shown to maintain or enhance their patients' health, in accordance with professional duties of beneficence. Physicians also demonstrate respect for patient autonomy by allowing patients to make their own informed health-related decisions in the absence of any undue influence arising from the substantial degree of trust they have in their physicians.

In order to avoid any perceived or real conflicts of interest, physicians should:

- Make products available at reasonable cost and refrain from excessive mark-ups,
- Ensure that products sold balance benefits to patients with any financial benefit to the physician,
- Provide a disclosure statement with the sale of any goods, informing patients of their financial interests,
- Not engage in exclusive distributorships and/or personal branding, and
- Only offer products that are not otherwise readily available to patients.

An exception exists with respect to non-health-related goods associated with a charitable or service organization (for example, raffle tickets for a local charity or Girls Scout cookies). If physicians choose to make such goods available, they are encouraged to follow the advice of the American Medical Association and ensure 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.”¹

The principle of non-exploitation of patients also applies to scenarios involving physician-owned pharmacies located in practice offices. In such instances, physicians should offer patients

¹ Opinion 8.062 of the American Medical Association, “Sale of Non-Health-Related Goods from Physicians' Offices”

freedom of choice in filling any prescriptions and must therefore allow prescriptions to be filled elsewhere. The existence of such a pharmacy must not influence the physician's clinical judgment in any way and does not change the acceptable standard of care. Further, if medications are prepared and dispensed by physicians and members of their staff, rather than by licensed pharmacists, patients may not be offered the same safeguards and safety checks that pharmacists are obligated by law to provide.

Physician Advertising

Physicians are permitted to advertise themselves, their practice and services offered, provided that the advertisements do not contain any claims that may be deceptive or are intentionally false or misleading. Further, physicians should be mindful of ways in which patient testimonials, quality ratings, or other evaluative data is presented to prospective patients through advertisements. Such information must be presented in an objective manner and physicians must not deliberately misrepresent the expected outcomes or results of treatments offered. This also applies to advertisements about the benefits or efficacy of medical devices sold or rented by physicians. Physicians should be prepared to support any claims made about benefits of treatments or devices with documented evidence, for example with studies published in peer-reviewed publications.

Physicians must be accurate and not intentionally misleading in providing descriptions of their training, skills, or treatments they are able to competently offer to patients. This includes descriptions of one's specialization and any specialty board certifications. For example, a family physician who chooses to expand his or her area of practice to offer cosmetic procedures cannot describe him or herself as a cosmetic or plastic surgeon in advertisements, unless they have undergone the appropriate postgraduate training to assume the relevant title. As part of the informed consent process, it is essential that patients are fully informed and not misled about any treatment to which they are consenting, as well as the qualifications of the person or people providing it.