REFLECTION

Professional Medical Organizations and Commercial Conflicts of Interest: Ethical Issues

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ABSTRACT

The American Academy of Family Physicians (AAFP) has recently been criticized for accepting a large corporate donation from Coca-Cola to fund patient education on obesity prevention. Conflicts of interest, whether individual or organizational, occur when one enters into arrangements that reasonably tempt one to put aside one's primary obligations in favor of secondary interests, such as financial self-interest. Accepting funds from commercial sources that seek to influence physician organizational behavior in a direction that could run counter to the public health represents one of those circumstances and so constitutes a conflict of interest. Most of the defenses offered by AAFP are rationalizations rather than ethical counterarguments. Medical organizations, as the public face of medicine and as formulator of codes of ethics for their physician members, have special obligations to adhere to high ethical standards.

Ann Fam Med 2010;8:354-358. doi:10.1370/afm.1140.

See Heim for a related article: http://www.annfammed.org/cgi/content/full/8/4/359.

INTRODUCTION

This essay addresses the recent controversy over the American Academy of Family Physicians (AAFP) accepting a large sum of money from The Coca-Cola Corporation to support patient-education materials on obesity prevention. Critics of the arrangement denounced the conflict of interest; AAFP's leadership responded that any conflict was only apparent, not real.[1-4]

I will focus on 2 issues. The first is the ethical analysis of the relationship between AAFP and Coca-Cola, whether it constitutes a conflict of interest, and whether the conflict, if it exists, is ethically worrisome. The second is an analysis of the various defenses for the Coca-Cola arrangement offered by AAFP leadership. One of the most important features of the ethical landscape surrounding conflicts of interest between the medical profession and commercial entities seeking to influence medical behavior is rationalization.[5] Although most ethical issues in medicine yield relatively straightforward statements of the various positions taken, commercial conflicts of interest are perhaps unique in giving rise to a multitude of rationalizations that tend to obscure rather than to illuminate the core ethical concerns. Accordingly, it is important to separate rationalizations from legitimate ethical arguments.

In a brief conclusion I will comment on features of the leadership of medical organizations that might make matters such as Coca-Cola more likely to occur and more difficult to resolve.

Conflicts of interest: The author is a member of the American Academy of Family Physicians. No other conflicts reported.

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ORGANIZATIONAL CONFLICT OF INTEREST

A conflict of interest arises when individuals or organizations enter into a set of arrangements which under usual circumstances would lead to the reasonable presumption that they will be tempted to put aside their primary interests (such as advocacy for the patient and the public health) in favor of a secondary set of interests (the financial well-being of some commercial entity, or their own financial profit).[6,7] Schafer adds that the language, conflict of interest, actually understates the moral seriousness of the situation. The usual language makes it sound as if one has two interests and they are in conflict. Actually, the physician's or the medical organization's commitment to patient and public health is a moral duty and not a mere interest.[8]

The basic idea behind conflict of interest that makes the concept ethically important is something happens which threatens trust in a social role.[6] Both individuals and organizations occupy social roles, and so each can have conflicts of interest. A medical organization can have a conflict if it receives money from commercial enterprises that may wish to influence its behavior or public positions in such a way as to prevent it from fulfilling its primary responsibilities. Alternatively and additionally, individual officers of the organization may have conflicts if they have personal financial ties to commercial entities that could influence how they vote on organizational matters.

It is true that where a conflict of interest exists, no actual unethical behavior has necessarily arisen. There may be a strong temptation to serve a competing interest instead of doing one's duty, and yet one may have successfully withstood the temptation. To many critics of the concept of conflict of interest, it seems arbitrary to assume the worst and to attach blame without proof of wrongdoing.[9,10] These critics, however, neglect the significance of the basic concept—trust in a social role.[6] Trust is a delicate matter that often depends as much on appearance as on reality. The appearance created by an arrangement that could interfere with physician or organizational allegiance to their duty to promote the public health may be as corrosive of public trust as actual unethical behavior.

Although trust in a social role is important, ethical assessment of conflicts of interest also hinges on the existence of practical alternatives. We tolerate many conflicts of interest that might otherwise be blameworthy because they are practically unavoidable. All known ways of paying physicians create temptations to act in ways that fail to serve the patient's health—fee-for-service rewards overtreatment whereas managed care capitation rewards undertreatment, for example. But we have discovered no way to deliver health care without paying physicians. A key question, therefore, is whether any conflict of interest that arises in medical organizations is truly necessary to achieve some important public goal. A good deal of debate over commercial conflicts of interest today arises from arguments regarding their necessity. One often-quoted defense of financial ties between physicians and the pharmaceutical industry claims that financial payment unleashes an entrepreneurial spirit, without which many fewer important scientific discoveries would be made and then developed for wide use.[11] Even assuming this claim to be true, it is noteworthy that the same reasoning does not seem to apply to conflicts of interest between medical organizations and industry. I will say more about this line of argument in the next section.

If a physician or organization has a financial conflict of interest because of income received from a commercial entity, one way to proceed is to disclose the existence of the conflict and to adopt rules designed to limit any ill effects. This approach has been termed a Management Strategy.[4] Alternatively, one may insist that the entity cease to receive the income (Divestment Strategy). For decades, generous payments and gifts from the pharmaceutical industry to physicians and organizations appeared to be an ineliminable feature of medicine, and ethical recommendations were often confined to the Management Strategy. More recently, writers have documented the pervasive harm caused by these conflicts of interest.[4,12-15] Leaders in academic medicine began to call for strategies closer to divestment than management.[16,17]

As calls for divestment mounted, defenders of the lucrative status quo became concerned, and defenses of the Management Strategy multiplied.[18] A common defense is to argue that conflict of interest is actually ubiquitous in medicine, and it is therefore arbitrary and foolish to single out one particular form (pharmaceutical financial ties) for special condemnation. Every investigator, for example, believes in her own pet hypothesis and wishes that the outcome of the experiment will support rather than refute that hypothesis. One cannot eliminate all such intellectual conflicts of interest without eliminating science itself.[19,20]

In my view, the ubiquity argument serves as a smoke screen that confuses a narrow concept, conflict of interest, with the much wider concept, investigator bias.[21] The empirical record suggests that these two concepts are vastly different in terms of their impact on the outcomes of science. For example, one always expects an investigator to want to show positive outcomes and so is alert to that possibility when reading a study. Commercial interests in having the study result in certain outcomes, by contrast, would be opaque unless one's attention is explicitly called to them. To take one more example, an investigator naturally wants her pet

hypothesis to be verified by experimental data. Few investigators, however, have the financial muscle to hire medical communications firms and commission skilled medical writers to compose journal articles that appear to prove the favored hypothesis even when the data are skimpy or contrary, and then to have these ghostwritten articles placed in major medical journals.[22]

The recent literature on medical organizations and conflicts of interest tilts toward the stricter Divestment Strategy instead of the looser Management Strategy.[23,24] There are two main reasons for this preference. First, medical organizations often promulgate codes of ethics and generally give advice for professional, ethical behavior to their physician members. Such advice is considerably weakened if members observe the organization itself acting contrary to that advice. If it is desirable for individual physicians to refuse to accept gifts from pharmaceutical company detail representatives, as many are now urging, it seems important that medical organizations set a good example in refusing such funding as well. Second, medical organizations represent the public face of the profession, and how they behave will determine to a considerable extent the degree of trust and respect that medicine earns from the general public and from societal leaders. This public responsibility would argue for a higher rather than a lower ethical standard for organizational behavior.

COUNTERARGUMENTS VS RATIONALIZATIONS

In public statements and in communications with dissenting members, the AAFP leadership has indicated strong support of its actions regarding Coca-Cola (Douglas J. Henley and Lori Heim, personal communication, November 2009.)[1,2,4] It is worth reviewing these arguments in some detail to determine which count as valid ethical arguments and which as mere rationalizations that serve to obscure the ethical issues.

Premature Accusations

The leading argument offered by AAFP appears to be that any accusation of conflict of interest is premature until critics have seen the content of the patient educational materials actually produced as a result of the Coca-Cola funding. The suggestion is that the AAFP may well issue serious recommendations against the consumption of sugar-containing soft drinks, in which case it will have been proved that no conflict of interest existed.

The definition of conflicts of interest given above demonstrates that a conflict occurs when one enters into certain social arrangements with other parties—not when the final behavioral outcomes become known. To offer a crude analogy, imagine that a judge who is sitting on a case involving a contract dispute between two companies is discovered to own $100,000 worth of stock in one of the companies. The judge cannot divert criticism of this conflict of interest by saying, "But you haven't waited until I delivered my verdict—how do you know that I won't rule against the company in which I own stock?" In the AAFP case, if the final educational material includes a strong statement against sugary soft drinks, we will never know whether, absent the Coca-Cola funding, the statement would have been even stronger. That such questions will inevitably be raised shows the conflict of interest is both present and serious, quite apart from the eventual contents of the educational materials.

Other Party Not Evil

Another response is to protest that just because Coca-Cola manufactures beverages that may contribute to obesity, they are not necessarily evil, and it is inappropriate to imply that they are by accusing AAFP of a conflict of interest in accepting their funding. This is a straw man argument. The argument against AAFP's accepting funding from Coca-Cola does not hinge in any way upon an assertion that the company is evil. Similarly, to say that a physician and a drug company have a conflict of interest if the former accepts free dinners from the latter is not to say that the drug company is evil. We live in a capitalist society, and it is both legal and ethical for companies to market their wares. The problem is not good vs evil but differing interests (or duties). The physician has a duty to prescribe medications or make dietary recommendations based on scientific evidence. The companies have an interest in selling more beverages, or more drugs, regardless of the evidence.

Wrong Not to Engage

In showing why it would be wrong not to engage with Coca-Cola in addressing the obesity problem, AAFP leaders cite the example of negotiations among the Robert Wood Johnson Foundation, the William J. Clinton Foundation, and the American Beverage Association on the sale of sugar-containing drinks in school vending machines. The suggestion is that their critics would object to the AAFP engaging with Coca-Cola in the name of ethical purity, thereby passing up opportunities to influence the company's behavior for the better.

This is another straw man argument, closely allied to the "evil" argument above. Schafer noted the propensity for engagement with industry, in such discussions, magically to convert itself into accepting large sums of money from industry.[6] AAFP leaders were silent on the

question of whether the Johnson and Clinton foundations, when they engaged the American Beverage Foundation, simultaneously had their hands out for 6-figure donations. If they did, then public trust in those previous transactions would surely have suffered. No one is suggesting that the AAFP not engage Coca-Cola if the engagement avoids conflicts of interest and the result of the engagement would be improved public health.

Coca-Cola vs Sunbeam

Commercial conflicts of interest among medical organizations call to mind the most prominent recent scandal, involving the American Medical Association (AMA) and Sunbeam in 1997 in a multimillion-dollar product endorsement deal. AAFP leaders defend themselves by protesting that the Sunbeam analogy does not apply at all to Coca-Cola. The latter contract involved no product endorsements and was thoroughly reviewed by the AAFP Board of Directors, for example.

The primary ethical analogy between the AMA-Sunbeam and the AAFP-Coca-Cola deals is how each medical organization looked once the facts became generally known, and what that disclosure of facts did to public trust in the respective organizations. In this regard, what sounds most disturbing is the statement from AAFP leaders, "Our Board took the lesson of Sunbeam very seriously in our deliberations and took pains to avoid all those traps."[23] The "deliberations" of the AAFP Board were not, it appears, directed at learning the key ethical lessons from AMA-Sunbeam. The goal, rather, appears to have been securing the money without suffering any of the legal or public relations fallout.

Differing Definitions of Conflict of Interest

The outline of a true counterargument to its critics is contained in a statement from AAFP on a slightly different subject, commercial sponsorship of continuing medical education: "The argument voiced by many is that even the appearance of a conflict means that a conflict exists and that it is irresolvable. The AAFP has never accepted this line of thinking. Conflicts need to be disclosed and then dealt with. Again, the AAFP has been very successful in disclosing and managing any potential conflicts…."[25]

According to the definition favored by the AAFP, (1) an "apparent" conflict of interest is ethically unimportant, and (2) the Management Strategy always suffices, so the Divestment Strategy need never be invoked. In the previous section I offered definitions and considerations that I believe are more satisfactory and also more in keeping with the emerging literature on desirable ethical standards for medical professional organizations. If an individual or organization enters into arrangements that would cause reasonable onlookers to believe it will be strongly tempted to abandon its primary advocacy duties, then it is morally responsible for the consequences of entering into those arrangements, assuming that the arrangements could have been avoided. "Apparent" conflicts of interest challenge public trust in medicine and hence are, in fact, conflicts of interest. The Management Strategy sets a low bar for compliance and hence is less satisfactory than a Divestment Strategy for an organization that aspires to higher ethical standards of conduct.

In conclusion, at least two ethical counterarguments can be envisioned—the dispute over the proper definition for conflict of interest and the strategy for dealing with it; and practical debates over the consequences for AAFP activities and functions if a Divestment Strategy were to be adopted (including implications for member dues and loss of some administrative services). The remainder of the AAFP reply to its critics amounts to rationalization rather than ethical reasoning.

CONCLUSION: THE SOUL OF AN ORGANIZATION

When a learned professional society such as AAFP encounters ethical criticisms of its actions, and in reply can offer primarily rationalizations rather than sound ethical arguments, the character of the organization is called into question. This state of affairs suggests that the damage done to the organization as a result of long-standing acceptance of commercial sponsorship runs deep, and further challenges the supposed adequacy of a Management Strategy. Presumably, rule 1 for managing a conflict of interest effectively is to view it clearly, without the need for rationalizations.

In announcing the Coca-Cola funding, the AAFP indicated that the arrangement was merely the first in a series of corporate contracts that are being labeled as a Consumer Alliance Program. The AAFP president described the program, "The Consumer Alliance program is a way of working with interested companies to develop educational materials to help consumers make informed decisions so they can include the products they love in a balanced diet and healthy lifestyle."[26] It is not clear in what sense such a program represents a "consumer alliance." This label appears to be yet another rationalization to conceal the fact that the AAFP has launched a "corporate alliance" program. We ought to be concerned about the development of a corporate culture within a medical professional society. Over time, its leaders come to decide that a certain revenue stream is "necessary" for the organization to function, and then notes that it is unable to maintain that amount of revenue without generous funding from

commercial sources. Critics of these arrangements note that among the supposedly necessary items in such organizations' budgets is often a level of leadership pay and benefits that is more typical of the corporate world than what we have traditionally expected in medical organizations.[27] An organization that develops such a corporate culture may be poorly situated to address the ethical challenges raised by conflict of interest and to place its duty to the public health and public trust at a proper level of priority.

Family physicians are widely trusted by their patients and communities. Merely by having chosen our specialty, family physicians have demonstrated a commendable commitment to putting the health needs of their patients ahead of personal financial gain. They deserve to be represented nationally by an organization that fully reflects those high ethical commitments and standards.

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Key word: Bioethics; conflict of interest; societies; public health

Submitted February 8, 2010; submitted, revised, March 16, 2010; accepted March 23, 2010.

Acknowledgments: I am grateful to several anonymous reviewers for this journal for helpful comments.

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