

Health Insights

A gift bejewelled with risk

In what circumstances should a gift from a patient be politely declined?

Doctors are entrusted with acting in their patients' best interests. They work hard to treat their patients' sicknesses and keep them healthy. As a result of doctors' care, their long-term patients often display a profound sense of gratitude; a more emotional feeling than any appreciation they may have for a lawyer, builder or financial advisor. As a measure of thanks, they offer gifts to their doctors; commonly flowers, chocolates and bottles of wine.

Most doctors will have received similar gifts from their patients over the course of their career. In fact, small tokens of appreciation, like bunches of flowers, are frequently observed in GP clinics. Provided these gestures are infrequent and of limited value, doctors face little risk when electing to enjoy their benefits. However, accepting more substantial gifts is discouraged. In circumstances where a clear power imbalance exists between doctor and patient, accepting a gift might be regarded as unethical by the doctor's colleagues, inappropriate by the patient's family members, and in breach of the code of conduct by the Medical Board.

A recent query

A query was recently received by a doctor whose long-term patient was in palliative care. The patient was given less than 24 hours to live, and, when visited by his doctor, he gifted her a set of diamonds that he had recently purchased.

Clause 8.12.2 of the Medical Board of Australia's Code of Conduct states that doctors must 'not encourage patients to give, lend or bequeath money or gifts that will benefit you directly or indirectly.' Yet by all accounts, this was a voluntary gift of which the doctor had no prior knowledge. There was also nothing to suggest the doctor had failed to act in the patient's best interests at any time. Accordingly, accepting the diamonds did not indicate any clear breach of the Code. But does this mean the doctor should make off with the diamonds?

Crucially, there are broader factors to consider.

A previous decision

Last year, in a NSW inquiry into the professional conduct of a GP, the Professional Standards Committee confirmed that several factors beyond the Code of Conduct should be considered when determining whether the receipt of a gift by a patient is improper. In particular, the doctor should consider the monetary value / nature of the gift, the context of the giving of the gift, and any vulnerability of the patient.

While these factors are not binding in all jurisdictions, they are sensible and appropriate. And when considering these factors, it is clear that accepting a set of diamonds (with significant value) from a patient on his deathbed (with enormous vulnerability) is inappropriate.

There was no actual conflict of interest on the facts. Yet in these circumstances, a doctor - who has been gifted an object with great value as a token of thanks for her treatment of a palliative care patient - might be perceived to be conflicted. For example, the doctor's decisions about keeping the patient alive or providing the patient with pain relief might be perceived to be influenced by the patient to whom they may feel indebted. This perceived conflict, even if it never manifests, is enough to advise against the acceptance of the gift.

Deciding to accept or decline

Before accepting any gift, a doctor should first have a conversation with the patient about why the gift is being given, and the doctor should discourage the giving of the gift. They should consider the patient's motivations and the context for the giving of the gift, as well as its value and frequency in being offered. Doctors should also factor in whether treatment is ongoing, whether the gift is given openly or secretly, and whether there are any signs of a more personal relationship present.

In most circumstances, if a doctor decides not to accept the gift, they should politely and directly decline. If there are hospital or practice policies which forbid the acceptance of certain gifts, this should be explained. In some instances, the patient may be a proud and independent person who enjoys giving gifts, and would take offence to any rejection of their offers. If the doctor determines that their refusal to accept may distress the patient, the doctor may elect to accept the gift and return it quietly via a note, or through a family member.

Takeaways

Accepting gifts of value from patients may cause family members and other hospital staff to be suspicious and concerned. And despite a doctor's best intentions, accepting a gift of value may affect a doctor's ability to provide their patient with the most appropriate care. Any perception of unethical behaviour can harm professional and personal relationships, as well as the reputation of the medical profession. When deciding whether to accept a gift from a patient, doctors should always consider how their actions might be perceived by those around them.

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