

ETHICS ROUNDS

Sale of a House to a Patient?

Is it permissible for a physician to sell a house to a patient? From an ethical perspective, this situation creates a potential conflict of interest, in which the physician's professional obligations to the patient may conflict - or be perceived to conflict - with the physician's own interests. Situations involving conflicts of interest threaten to erode the primary professional obligation of physicians, that is, to promote the interests of their patients even above their own. The sale of a home to a patient could also potentially interfere with the patient's trust in the physician, and thereby harm the therapeutic relationship. For example, a patient might accept a higher price in order to secure the physician's good will, then later resent the physician for taking unfair advantage of their relationship.

Several professional organizations have published ethics standards that are relevant to such a sale. For example, a 1998 report from the American Medical Association's Council on Ethical and Judicial Affairs states that "[t]he for-profit sale of goods to patients by physicians inherently creates a conflict of interest...there are some activities involving their patients that physicians should avoid whether there is evidence of abuse or not."¹ Although this particular report focuses on the sale of goods from a physician's office, the issues are similar to those raised by the sale of a home.

Conflicts of interest are greater when stakes are high - when the physician stands to gain a great deal (e.g., in the sale of a home), the patient is particularly vulnerable (e.g., the patient is critically ill), or the therapeutic relationship is ongoing and close (e.g., the patient is undergoing psychiatric counseling). The American Psychiatric Association's annotated code of medical ethics notes that "the inherent inequality in the doctor-patient relationship may lead to exploitation of the patient," and therefore "[t]he psychiatrist should diligently guard against exploiting information furnished by the patient and should not use the unique position of power afforded him/her by the psychotherapeutic situation to influence the patient in any way not directly related to treatment goals."²

In addition, the sale of a house to a patient may be prohibited by the licensing standards of some state medical boards. For instance, the North Carolina Medical Board statement on physician-patient relationships asserts that "any act by a physician that violates or may violate the trust a patient places in the physician places the relationship between physician and patient at risk.... The physician who puts the physician-patient relationship at risk also puts his relationship with the Board in jeopardy.... Patient trust...requires that there be no conflict of interest between the patient and the physician."^{3,4} Like the previously mentioned AMA report, the Federation of State Medical Boards' Report of the Special Committee on Professional Conduct and Ethics addresses the sale of

goods from physician offices. Here the Federation states that "In [their] fiduciary capacity, physicians have a duty to serve the interests of patients above their own financial or other interests."⁵

Although the Veterans Health Administration (VHA) does not currently have a national policy governing the sale of non-medical good to patients, some Veterans Integrated Service Networks (VISNs) and facilities have local policies that address this issue. For example, the organizational ethics policy at the Prescott VAMC, AZ,⁶ explicitly prohibits "any personal financial transactions, including purchases, sales, or borrowing or loaning of money, with patients or others acting on behalf of the patient." The "Boundaries Policy" of the Black Hills (SD) Health Care System⁷ spells out the ethical difficulties that can arise from having a dual relationship with a patient - where interactions extend beyond the professional level to the social or business level. The policy views such relationships as potentially exploitative, and therefore to be avoided.

Finally, the sale of the home to a patient may raise important legal questions. For example, VHA physicians have special responsibilities because they are federal employees who must abide by "Government ethics" rules - national legal standards governing the ethical conduct of employees of the executive branch. These rules prohibit any employee from using his or her public position for personal gain.^{8,9} (For further discussion of Government ethics, see the *Legal Briefs* column in this issue of **news@vhaethics**.)

In summary, the ethical, policy, and legal implications of the sale of a home to a patient by a physician warrant careful analysis. The ethical implications of such a transaction - including potential conflict of interest and potential harm to the therapeutic relationship - are considerable. The sale of a home to a patient may also violate professional guidelines, licensing standards, local VAMC or VISN policies, and/or legal requirements. Especially if the physician maintains an ongoing professional relationship with the patient, ethical standards argue against the permissibility of the sale.

1. The American Medical Association Council on Ethics and Judicial Affairs. Sale of non-health related goods from physician's offices. *JAMA*. 1998;280:p563.

2. American Psychiatric Association. The principles of medical ethics with annotations especially applicable to psychiatry 1998 edition. Section 2, comments 1 & 2. Available at: http://www.psych.org/apa_members/ethics_index.cfm. Accessed December 4, 2000.

3. North Carolina Medical Board. Position statements of the north carolina medical board. Available at: <http://www.docboard.org/nc/pos2.htm>. Accessed December 4, 2000.
4. North Carolina Medical Practice Act, NCGS Chapter 90, §90-14, (a) 1,6,8, and 12.
5. The Federation of State Medical Boards. Report of the special committee on professional conduct and ethics. Section V. Available at: <http://www.fsmb.org/profconductpd.htm>. Accessed December 4, 2000.
6. Prescott Arizona VA Medical Center. Statement of organizational ethics. Medical Center Memorandum No. 00-16. June 1999.
7. Black Hills Health Care System. Relationships between employees and patients, former patients, and patient's families. Policy DIR-05. August 12, 1998.
8. Standards of Ethical Conduct for Employees of the Executive Branch of 1998 (codified at 5 CFR §2635) (especially §2635.702).
9. Principles of Ethical Conduct for Government Officers and Employees, Executive Order 12731, Oct 17 1990.