

Report and Advisory Opinion of the Council on Ethics,  
Bylaws and Judicial Affairs

**Marketing or Sale of Products or Procedures**

**Background:** A small but significant number of dentists sell or market dental products to their patients. One survey puts the figure as high as 17%.<sup>1</sup> They may also engage in the sale or marketing to their patients of non-dental products, such as vitamins and nutritional supplements.<sup>2</sup>

In most cases, the sale or marketing of products by dentists is ancillary to the delivery of dental services and is motivated by considerations of patient convenience and compliance. For example, some dentists carry fluoride formulas or flavors that pharmacies decline to carry because of insufficient prescription requests and high inventory costs. Dentists may sell or market oral hygiene aids to their patients to help reinforce their hygiene recommendations.

The sale or marketing of products in the dental office is a potential source of income. Income enhancement is a common inducement for dentists to participate in multi-level marketing programs or distribution networks.<sup>3</sup>

No one knows more about oral health care or is better qualified than the dentist to make recommendations about the safety and efficacy of dental products. Indeed, patients look to their dentists for this kind of advice. In a 1994 ADA survey, the dentist topped the list of sources Americans rely on for dental information.<sup>4</sup> Dental manufacturers report that the dentist's recommendations can have substantial influence on the consumer's decision to buy a particular dental product.<sup>5</sup>

The fact that the dentist derives income from the sale or marketing of products does not, by itself, make the practice unethical; after all, dentists also derive income from the delivery of dental services. Any transaction for profit involves the potential for conflict between the interests of the buyer and the seller. However, dentists, as professionals, have an ethical obligation to put the interests of their patients above their own financial gain. As stated in the Preamble to the *ADA Principles of Ethics and Code of Professional Conduct (Code)*, "The American Dental Association calls upon dentists to follow high ethical standards which have the benefit of the patient as their primary goal."

Section 5 – Principle: Veracity of the *Code* states:

This principle expresses the concept that professionals have a duty to be honest and trustworthy in their dealings with people. Under this principle, the dentist's primary obligations include respecting the position of trust inherent in the dentist-

patient relationship, communicating truthfully and without deception, and maintaining intellectual integrity.

The principle of veracity is directly relevant to representations dentists make about products they sell or market to their patients.

**Ethical Considerations Involved in Marketing or Sale of Procedures:** Some dental practices offer financial incentives to their staff as a way to increase office production.<sup>6</sup> The ethical considerations that apply to these incentive programs are similar to those involved in the marketing or sale of products. First and foremost is the principle of veracity. Staff should not be allowed to “oversell” procedures to patients by misrepresenting their value.

Providing financial incentives to staff based on production also raises concerns about the appropriate use of auxiliary personnel. Dentists are ethically obliged to protect the health of their patients by only assigning to qualified auxiliaries those duties which can be legally delegated and by supervising the patient care provided by auxiliaries (*Code*, Section 2.C. USE OF AUXILIARY PERSONNEL). Only the dentist is qualified by education and training to diagnose dental disease and prescribe treatment. Auxiliaries under the dentist’s supervision should not be permitted to recommend treatment until the dentist has examined the patient and determined that the treatment is appropriate.

In May 1995, the Council adopted Advisory Opinion 5.D.2 covering the sale or marketing of products in the dental office. The Council subsequently amended the advisory opinion in February 1999 to address the sale or marketing of dental procedures. As amended by the Council, Advisory Opinion 5.D.2 reads as follows:

**5.D.2. MARKETING OR SALE OF PRODUCTS OR PROCEDURES.** Dentists who, in the regular conduct of their practices, engage in or employ auxiliaries in the marketing or sale of products or procedures to their patients must take care not to exploit the trust inherent in the dentist-patient relationship for their own financial gain. Dentists should not induce their patients to purchase products or undergo procedures by misrepresenting the product’s value, the necessity of the procedure or the dentist’s professional expertise in recommending the product or procedure.

In the case of a health-related product, it is not enough for the dentist to rely on the manufacturer’s or distributor’s representations about the product’s safety and efficacy. The dentist has an independent obligation to inquire into the truth and accuracy of such claims and verify that they are founded on accepted scientific knowledge or research. Dentists should disclose to their patients all relevant information the patient needs to make an informed purchase decision, including whether the product is available elsewhere and whether there are any financial

incentives for the dentist to recommend the product that would not be evident to the patient.

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<sup>1</sup>Grove, SJ, *et al.* Root Canals and Retailing. *J Health Care Marketing*. 1994;14:36-40.

<sup>2</sup>Gabriel, T. Many Trade a Briefcase In For the Sample Case of Sales. *New York Times*. January 28, 1997.

<sup>3</sup>See, e.g., Position Statement on PharmAssist AP-24, Oral Care System. Council on Dental Therapeutics; January 2, 1994; Kaster, D. Fresh Breath Centre. *The Profitable Dentist*. 1995;89:5-6.

<sup>4</sup>Survey on Dental Health Care Issues. American Dental Association; November 1994.

<sup>5</sup>Schwartz, DM. Should Selling Products Be a Part of Your Practice? *Dental Management*. 1989;29(1);28-37.

<sup>6</sup>ADA Council on Dental Practice. *Employee Office Manual: A Guide for the Dental Practice* (1995); ADA Council on Dental Practice. *Recruiting and Retaining Staff: A Guide for the Dental Office* (1998).

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