

ETHICAL MOMENT

IS IT UNETHICAL TO OFFER INCENTIVES FOR PATIENT REFERRALS?

Q I recently received a letter from a local dental specialist offering incentives for patient referrals. The letter invites referrals for specialty services. The specialist offers a free prophylaxis for me or a family member if I refer a patient for examination. If the patient completes a treatment plan, the referring dentist will receive a \$50 gift certificate. If the specialist completes a substantial number of implants for the referred patient, the referring dentist will be entitled to attend a continuing education course on the subject at the specialist's expense (including travel, lodging and tuition expenses). I normally give my patients the names of two different specialists when I refer them for implants. However, I am in need of continuing education, and my children could use the dental care. Does the specialist's offer raise ethical concerns, or is this just savvy marketing?

A In this scenario, it could be a little of both. The gift from the specialist is intended to promote or reward the referral. The gratuity for a completed treatment plan similarly is intended to encourage you to educate and motivate patients toward a specific result before referring, which may or may not, ultimately, be in the best interest of the patient.

A long-held principle that separates dentistry and health care from other services is that professionals have an obligation to place the welfare of their patients above any busi-

ness interests. Under Section 4 of the American Dental Association Principle of Ethics and Code of Professional Conduct,¹ Principle of Justice, "The dentist's primary obligations include dealing with people justly and delivering dental care without prejudice." ADA Code Section 4.D further provides that "dentists shall not accept or tender rebates or split fees." Practitioners should avoid any solicitation or business practice that undermines this principle. A referral fee, split fee or gift associated directly with the referral of a patient, or with subsequent treat-

ment, is unethical. Many jurisdictions actually may prohibit this practice by statute or administrative rule, characterizing it as fee-splitting or "ambulance-chasing." The practice also may run afoul of applicable law regulating federally funded programs.

The same principle applies to a dentist offering gifts or free treatment to referring dentists, their family members or other

third parties for completion of specific procedures. Patients are entitled to the dentist's best professional evaluation and treatment. This includes our judgment when referring them for specialty care and the specialist's judgment when recommending treatment. Some dentists refer patients with a specific condition to one individual specialist or practice, while others, as you do, may refer the same patients to a choice of several. In all cases, the referral should be made with the goal of providing the best care for the patient. Gifts or referral fees might encourage a different decision in referring that may not be in the patient's best interest. Even the appearance of such a conflict can undermine patient confidence and demean the image of our profession.

If the specialist is a friend or someone you can approach, contact him or her personally and express your concern. Mention the references to this issue in the ADA Code and the possible

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conflicts with patient care. If this is not effective or you do not feel comfortable approaching the specialist, contact a senior member of your local dental society for advice. Many local and state dental societies have ethics committees or staff members who can help by making a phone call and/or sending an educational letter to the dentist. They also can advise you of other options you might have under your component and constituent bylaws.

On the whole, you are right to be wary of these offers. Remember: if it sounds too good to be ethical, it probably is. ■

James W. Antoon, DMD, MS, practices periodontics in Rockledge, Fla., and is the

immediate past chair of the American Dental Association Council on Ethics, Bylaws and Judicial Affairs.

Ethical Moment is prepared by individual members of the American Dental Association Council on Ethics, Bylaws and Judicial Affairs (CEBJA) in cooperation with The Journal of the American Dental Association. Its purpose is to promote awareness of the ADA Principles of Ethics and Code of Professional Conduct.

Readers are invited to submit questions to CEBJA at 211 E. Chicago Ave., Chicago, Ill. 60611, e-mail "ethics@ada.org".

Address reprint requests to the ADA Council on Ethics, Bylaws and Judicial Affairs, 211 E. Chicago Ave., Chicago, Ill. 60611.

The views expressed are those of the author and do not necessarily reflect the opinions of the ADA CEBJA or official policy of the ADA.

1. American Dental Association. ADA principles of ethics and code of professional conduct, with official advisory opinions revised to January 2005. Chicago: ADA; 2005.