

Receiving gifts from patients: A pragmatic shade of grey

Whether to accept gifts from patients is a thorny issue, made even more fraught in the psychiatric context. Here is an examination of the issue and a comparison of the policies of Canadian provinces regarding gifts from patients.

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I have been taught to accept a gift graciously regardless of whether I like it. The decision of whether to accept a gift has never caused a problem for me as a medical student, since patients tend to tolerate us rather than give us gifts. There has been much discussion in recent years about physicians accepting gifts from the pharmaceutical industry. What about gifts offered by patients? What do the different Canadian provinces have to say? What should a psychiatrist do when a patient brings a gift?

Border crossings

The power differential inherent in the physician-patient relationship is significant, so it is important that boundaries be set to protect patients. Patients entrust their welfare to the physician, who receives payment for service rendered. The limits of the fiduciary relationship are usually defined in terms of professional boundaries, which balance the patient's benefits with the doctor's power. Written guidelines define the "parameters of professional conduct in the practice of psychotherapy by physicians."¹ Boundary *violations* differ from boundary *crossings*, in that crossings are minor and are not exploitative, whereas boundary violations are damaging.¹ Some boundary transgressions are clearly unethical while others are misunderstandings or misjudgments. The slope from minor misunderstandings

like accepting a gift to serious unethical behavior can be slippery.

Some gifts are clearly inappropriate, such as those of a very personal nature, cash, or gifts of significant monetary value. They are "inconsistent with the maintenance of the doctor-patient relationship" and can "make the treating physician feel uncomfortable and interfere with boundaries of professionalism."²

Canadian society's trust in the profession of medicine relies on the ideal of equal access and a sense of justice in the distribution of care. Thus it is inappropriate for any communication from a doctor implying a demand for further payment. Out of proportion to the physician's service, significant monetary gifts may imply that the patient is offering the physician a tip. This can lead patients to "mistrust the care that they receive."²

Most patients offer gifts without any expectations: a simple gift as an expression of gratitude. However, some patients think that "a gift will elevate them above the status of the ordinary patient and allow them to receive more specialized or personal care."² In offering a gift, patients may also want to change the patient-physician relationship, hoping for a professional colleague or social friend. Sometimes patients' expectations are benign, related more to their need for satisfaction and for relationships. Consciously or not, a gift may be a bribe and an expectation of reward or acknowledgment. Regardless of the intentions behind the gift, it introduces a sense of obligation into the relationship.

Justice and equity in the physician-patient relationship argue against accepting gifts. Gifts can lead to doctors thinking or behaving differently toward patients who have given gifts. Similarly, if a doctor becomes more of a friend to a patient because of a gift, the doctor-patient relationship is compromised by the possibility of critical judgment being sacrificed and the risk of boundary violation.

Different provinces, different perspectives

There is consensus among the Canadian provinces that the CMA Code of Ethics (2004) and the CMA Charter for Physicians (1999) are the foundation for provincial policies on ethics and boundary issues for physicians. Neither document specifically addresses the issue of gifts in the patient-physician relationship. The ethical framework provided by the code guides Canadian physicians, and is "based on the fundamental principles and values of medical ethics... compassion, beneficence, non-maleficence, respect for persons, justice, and accountability."³ As a physician you are encouraged to "resist any influence or interference that could undermine your professional integrity."³ Also, the physician is responsible to "recognize and disclose conflicts of interest..."³ The charter states that "a strong patient-physician relationship is one based on trust, honesty, confidentiality, and mutual respect."⁴ While all the provinces agree that physician behavior should be professional, some provincial policies include more detail than others regarding gifts from patients.

Continued on page 130

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Continued from page 129

British Columbia

According to the College of Physicians and Surgeons of British Columbia, an ethical physician is one who does not take advantage of a patient—physically, emotionally, or financially. The physician is to be aware of and protect the trust that underlies the doctor-patient relationship. The College directs physicians not to betray their trust by accepting a gift, and that acceptance of a substantial gift may occur “only after the patient has received independent financial and/or legal advice, and, if possible, discussion with family members of the patient.”⁵

Alberta

In Alberta acceptance of gifts that are “small, and of minimal monetary value”⁶ is allowed. Acceptance is discouraged if a physician feels any discomfort in the interaction during which the gift is presented.

Manitoba

The Manitoba Code of Conduct instructs physicians to “refrain from accepting any gift from a patient of a substantial nature, whether monetary or in the form of property with significant commercial value, but may receive token gifts.”⁷

Ontario

Ontario has created a document on maintaining physician boundaries, which cites “giving or receiving inappropriate gifts”⁸ as an example of a boundary violation. It further clarifies that when gifts with significant value are offered, a “sensitive explanation” of the reasons for refusal should be provided. Also it is important to consider the frequency of gifts from a patient, irrespective of the value.

Quebec

The Code of Ethics of Physicians of Quebec specifies “the physician must refrain from accepting, in his capacity

as a physician... any commission, rebate, or material benefit, with the exception of customary presents and gifts of modest value.”⁹ What is “customary” is not defined.

Nova Scotia

The College of Physicians and Surgeons of Nova Scotia refers to the CMA Code of Ethics and to a publication⁸ from Ontario regarding physician boundaries.

PEI

In PEI, conduct of a physician that gives a patient special status may be considered boundary crossing.¹⁰

Newfoundland and Labrador

Newfoundland and Labrador deem accepting and giving substantial gifts as professional misconduct.¹¹

Neither Saskatchewan nor New Brunswick directly addresses the issue of gifts from patients on their web sites.^{12,13}

It appears that British Columbia and Ontario provide the most explicit details on dealing with gifts offered by patients. Both provinces acknowledge the impact on boundaries and the patient-physician relationship. British Columbia does not directly state that substantial monetary gifts should be refused. Rather, such gifts may be accepted if certain conditions are met. It is my view that when a large gift is accepted, the impact on the patient-physician relationship occurs regardless of any legal/financial advice or discussion with family members.

Gifts in psychiatry

Psychiatry deserves special attention when dealing with boundaries and the issue of accepting gifts from patients because the professional relationship between physician and patient is established on interpersonal boundaries. Words or actions by either patient or physician can disrupt this relationship. Boundary crossings may or

may not harm a patient, or may even help a patient. Some issues are blatantly unethical, while others require careful consideration.

Classic psychoanalysis teaches that gifts should never be accepted because unconscious motives exist and need to be analyzed. More modern theory sees this issue in shades of grey rather than black and white, encouraging a nuanced approach. The heightened emotional aspect of the therapeutic relationship requires reflecting on the issues unique to psychiatry. Differences in treatment models and transference and counter-transference issues complicate the

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analysis. Accepting a gift can be appropriate at times; however evaluation of each case individually and “exploration of the intention and meaning of the gift”¹⁴ are central to the psychiatrist’s approach. “A gift indicates that they [the patient] thought about the doctor before the meeting, during the performance of a purposeful act (the acquisition of a gift)... the doctor persists in the patient’s mind as an internal ‘object’...”¹⁵

What kind of gift could be accepted in psychiatry? Safe gifts to accept would be “culturally appropriate gifts of low monetary value.”¹⁵ Any gift so valuable that it might be viewed as

“incurring undue influence” should not be accepted.¹⁵ Another relevant question when evaluating a gift is to ask, “why now?” Especially in psychiatry, where gifts can threaten the psychotherapeutic relationship, evaluation of any recent changes or the underlying state of the patient is important. A gift offered without an easily identified service done by the doctor becomes suspect; this could be an effort by a dependent or borderline patient to create alliances and manipulate the relationship.

Gifts affect the transference and countertransference in the doctor-patient relationship. For example, when a patient idealizes, becomes dependent on, or sees the doctor as a hero or rescuer, the mutually consenting relationship changes. The patient’s emotions toward the physician can impair his or her judgment. What may begin with the acceptance of a gift can lead to a time when the physician no longer has an “objective, professional judgment.” In this case, the doctor’s countertransference has changed the relationship and the patient may no longer “feel that his/her needs are paramount.”¹¹ Breaching the trust underlying the relationship is clearly unethical.

A framework of “clinical pragmatism,” an approach to clinical ethics that specifies several core values that ought to be balanced in patient care¹⁴ has been proposed. In deciding whether to accept a gift, the psychiatrist evaluates the “specific results of that decision for the particular patient in question”¹⁴ instead of simply basing a decision on abstract moral principles. Why not involve the patient in discussion? Do others outside the patient-physician relationship have input? Seeking advice from colleagues remains simply that: advice. Ultimate responsibility for action lies with the physician seeking the advice. Consulting the provincial college or the local health ethics team may be more beneficial than seeking advice

Declining or accepting a gift: Communication guidelines

There will be times when you need to decline a gift, and others when a gift may be graciously accepted. In addition to the pragmatic approach described in the text, the following communication guidelines may be helpful.

When declining a gift

- Explain the reason you are declining the gift.
- Emphasize that declining the gift is not equal to rejecting the giver.
- Record gifts offered.

When accepting a gift

- Explain that the acceptance of the gift does not alter your relationship or affect treatment quality.
- Discuss accepted gifts with your colleagues to promote accountability and transparency.
- Record gifts received.

from colleagues in difficult situations. Presentation of a gift can ensnare the psychiatrist in “a complex interpersonal, social, legal, and ethical web.”¹⁴ Rather than giving a standardized answer, clinical pragmatism emphasizes evaluating the situation with a framework of six questions.¹⁴ The pragmatic model promotes case-by-case analysis with primary consideration of the patient’s best interest and the result for the patient when deciding whether it is appropriate to accept a gift. By considering the issue beforehand with this framework in mind, a physician is prepared to respond promptly and appropriately when offered a gift.

Summary

Boundaries exist to protect each party in the patient-physician relationship. They provide balance to an inherently unbalanced relationship. They define professionalism and assure a patient that their interests will be placed ahead of the doctor’s. Across Canada there is consensus that while small gifts may be accepted, acceptance of significant gifts breaches professionalism. Gifts, however, are not simple; intentions, conscious or not, exist. An action initially meant to simply express gratitude can significantly affect a relationship.

The interpersonal boundaries of

the psychotherapeutic relationship and the heightened emotional component in psychiatry add to the complexity of the issue. There may be times when it is appropriate to accept a gift from a patient and others when it could be detrimental to the relationship and the patient; black and white smudge into shades of grey. Both ethics and psychiatry remain subjective areas requiring case-by-case consideration.

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Continued on page 132

Continued from page 131

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