

Are Surgeons Accepting Bribes?

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The relationship of orthopedic surgeons to medical device companies has come under increasing scrutiny in recent months. A front-page article in the September 22, 2005, issue of *The New York Times* reported that a Louisiana orthopedic surgeon paid \$10,000 in fines after state investigators determined that his consulting agreement with an implant manufacturer was an improper conflict of interest under the state ethics code. In the January 24, 2006, issue, the *Times* described a whistle-blower lawsuit that alleged that an implant company gave a consulting spine surgeon “excessive remuneration and bribes....for purchasing goods and medical devices.” On the basis of these reports, the public might well believe that every orthopedic surgeon is on the take and accepting bribes. Clearly, this is not the case.

What’s an Orthopedic Surgeon to Do?

David M. Dines, MD, past-president of American Shoulder and Elbow Surgeons, invited Austin B. Byrd, Vice-President for Ethics and Compliance at Smith-Nephew, Inc., to address the issue of surgeons’ relations with the implant industry at our Annual Closed Meeting in November, 2005. Mr. Byrd presented an outstanding summary of this issue, and I have asked Mr. Byrd and his colleague Melissa B. Tearney, a partner in Nixon Peabody, LLP, of Boston, to expand upon this topic in the pages of AJO.

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Part I, printed in this issue, delves into the history and legal background relevant to today’s concerns and is divided into three sections: the reasons that the government is investigating the surgeon-industry relationships, a summary of the various laws and regulations that govern such relationships, and an exploration of recent cases brought by government agencies.

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Part II, to be published in the April issue, will review the specific codes of ethics established by our professional societies, the AMA and AAOS, as a guide for determining appropriate relationships and will offer recommendations for the ethical and legal interaction between surgeons and industry. I believe you will find their work illuminating and constructive.

As we head to our annual AAOS meeting in Chicago this month, I am certain that these matters will receive much attention. The AAOS has been proactive for many years in addressing the issue by requiring full disclosure of all financial agreements by orthopedic surgeons involved in any Academy-sponsored program and by having a long-established Code of Ethics and Professionalism for Orthopaedic Surgeons clearly stated in our by-laws.

The practice of orthopedic surgery, as with most surgical specialties, relies on continuous advancements in technology and techniques. These advances cannot be achieved without the direct input of practicing orthopedic surgeons. Certainly, consulting surgeons and implant companies may profit from such advancements, but in a market economy, successful entrepreneurs *should* be rewarded, provided that these partnerships comply with legal and ethical standards.

The issue of surgeons’ interconnections with medical device makers does raise important and complex concerns. Mr. Byrd’s and Ms. Tearney’s work will, I trust, help clarify these issues and provide legal and ethical guidelines that will help promote the legitimate relationships between surgeons and industry, whose necessary collaborations lead to technical advances that dramatically improve patient care.

Finally, in this era of full disclosure, I would like to share with you that I am a consultant for DePuy, ConMed Linvatec, and Bayer HealthCare. By the way, I do not accept bribes. ■