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The Conflict Between Ethics and Business in Community Pharmacy: What About Patient Counseling?

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ABSTRACT. Patient counseling is a cornerstone of ethical pharmacy practice and high quality pharmaceutical care. Counseling promotes patient compliance with prescription regimens and prevents dangerous drug interactions and medication errors. Counseling also promotes informed consent and protects pharmacists against legal risks. However, economic, social, and technological changes in pharmacy practice often force community pharmacists to choose between their professional obligations to counsel patients and business objectives. State and federal legislatures have enacted laws that require pharmacists to counsel patients, but these laws have had mixed results. This essay argues that community pharmacy's patient counseling conundrum can be solved through additional moral education and moral persuasion, not through additional legal mandates.

KEY WORDS: business objectives, community pharmacy, ethics, managed care, moral education, moral persuasion, OBRA '90, patient counseling

Introduction

The conflict between ethics and business in community (also known as retail) pharmacy is as old the occupation itself (Kronus, 1975; Ladinsky, 1971; Quinney, 1964). The conflict arises because community pharmacy is a business but community pharmacists are health care professionals. Community pharmacists are in the business of selling medicines but they also have ethical and legal responsibilities to their patients. The American Pharmaceutical Association's Code of Ethics gives top priority to the dignity and welfare of patients. According to the Code:

- A pharmacist respects the covenantal relationship between the patient and pharmacist.
- A pharmacist promotes the good of every patient in a caring, compassionate, and confidential manner.
- A pharmacist respects the autonomy and dignity of each patient (American Pharmaceutical Association, 1994, p. 1).

This commitment to the dignity and welfare of patients can be compromised when pharmacists allow business objectives to influence and control their conduct. For example, pharmacists face this kind of conflict when they must decide whether to sell tobacco products and unnecessary food supplements, whether to fill prescriptions from Medicaid patients, and whether to recommend less expensive generic equivalents for medications (Gupta and Rappaport, 1996; Taylor, 1992). For the purposes of this article, we will not explore all of these possible conflict situations, but we will discuss how the conflict between ethics and business can have adverse effects on patient counseling in community pharmacy. Although governments have enacted some legal mandates designed to promote patient counseling, such as the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), we will argue that strengthening the commitment to ethical practice is the best way of supporting patient counseling in community pharmacy.

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The obligation to counsel patients

Taking the time to counsel patients is one of the most important elements of ethical pharmacy practice. First, counseling plays a key role in compliance with prescription regimens and thus helps to promote the health of patients. Patients require proper counseling to take their medicine as indicated and to avoid dangerous drug interactions, drug allergies, or activities that should not be undertaken while on medications (Bailey, 1995; Park et al., 1996; Carroll and Gagnon, 1983). Patient counseling can help reduce prescribing errors, and a failure to provide proper counseling can result in ineffective medications, wasted money, drug overdoses, illness, injury, suffering, or death (Rupp, 1992; Headden, 1996; Brushwood and Simonsmeier, 1986). Pharmacists who fail to counsel patients properly can also be sued for malpractice or even found criminally negligent if their transgressions adversely affect the health and safety of patients (Brushwood and Simonsmeier, 1986). Overall, high quality counseling is one of the most effective tools in ensuring favorable patient outcomes in pharmaceutical care (Dobie and Rascati, 1994).

Second, patients require counseling to safeguard their dignity, autonomy, and informed consent. If patients are to make free, informed choices concerning their healthcare, then they need to obtain information about the medications they take (Lamsam, 1997). Patients cannot make free, informed choices when they lack important medical information, and pharmacists play a key role in communicating medical information to patients. Third, the patient-advocate model of pharmacy practice also implies a commitment to patient counseling since one of the best ways to promote the interests of patients is to provide them with the information they require to make responsible and effective decisions (Schulz and Brushwood, 1991). Fourth, the covenant (or fiduciary) model of pharmacy practice implies a strong commitment to patient counseling since counseling plays an important role in establishing and maintaining trust between pharmacists and patients (Lamsam, 1997).

Although most pharmacists recognize the importance of patient counseling, social and economic forces are conspiring against this key element of ethical pharmacy practice.

Community pharmacy in the 1990s

In an earlier period, pharmacists were freer to take time to counsel patients. As recently as the 1960s, most pharmacies were owned and operated by local pharmacists and business people. In this setting, pharmacists developed close relationships with their patients, and they could take time to talk to their patients about their medications. Pharmacists were better able to treat their patients with dignity and perform the role of patient advocate (Lamsam, 1997; Schulz and Brushwood, 1991). Although community pharmacy was a private enterprise, business objectives did not pose a dire threat to patient counseling since patient counseling played an important role in customer satisfaction and profitability. Pharmacies that did not offer high quality patient counseling would lose customers.

But the community pharmacy landscape in the United States (and elsewhere) has changed a great deal in the last three decades as locally owned and operated pharmacies have given way to national pharmacy chains, mail order pharmacies, drive-through pharmacies, and pharmacies aligned with discount stores and supermarkets (McCarthy, 1988; Headden, 1996). In this transition, there is a great danger that high quality patient counseling will soon become extinct. For those who value the "bottom line," patient counseling is often regarded as a waste of time and energy that contributes little to the maximization of profit. One way to make money in community pharmacy in the 1990s is to offer less expensive prescriptions and various strategies or services to gain customers. When pharmacies pay roughly the same amount for wholesale medications, management often attempts to reduce costs by saving on marketing and human resource expenses. The most extreme example of this trend is the mail order pharmacy, which eliminates many overhead and labor costs while offering virtually no face-to-face patient counseling.

Two of the most important variables in the

profitability equation are the number of prescriptions filled per day and the number of man-hours in employee costs. Many pharmacies attempt to maximize their profits by filling a large number of prescriptions with as few paid employees as possible. It is not unusual for a community pharmacist working in a busy pharmacy personally to fill 160 prescriptions in a twelve-hour work day, or one prescription every three to six minutes (Pugh, 1995). Although pharmacists have some assistance behind the counter, such as pharmacy technicians, interns, and cashiers, pharmacists have the sole legal and ethical responsibility for counseling patients.

What happens to patient counseling in this fast-paced, understaffed environment? Pharmacists recognize this problem and provide patients with written information (usually in the form of computerized printouts) about their medications. But written counseling is no substitute for oral counseling, since many patients do not read or do not understand the written information, and some patients are functionally illiterate in written English. To reduce legal liability risks, computer printouts usually list all known side effects of a medication. However, this long list of possible side effects often does not help patients distinguish between common and uncommon side effects or dangerous and benign side effects. Moreover, some evidence suggests that oral counseling can prevent some common errors that can arise in pharmacy, such as improperly filled prescriptions and undetected drug interactions or drug allergies (Carroll and Gagnon, 1983; Rupp, 1992; Dobie and Rascati, 1994). Oral counseling also plays a key role in communication between the pharmacist and patient and helps to build trust. Clearly, the best kind of counseling should involve written as well as oral communication. But oral counseling takes some time, a precious commodity in today's typical community pharmacy. Oral counseling is all too often a casualty in the ongoing war between pharmacy ethics and business objectives.

Patient counseling decisions in community pharmacy

We will analyze the commitment to oral counseling (or lack thereof) from three different perspectives, viz. from the viewpoint of the individual pharmacist, from the viewpoint of the pharmacy manager, and from the viewpoint of the pharmacy business organization. The individual pharmacist must decide whether and how much to counsel a patient even when she provides the patient some written information. Even if the patient does not express a desire for counseling, the pharmacist is still free to discuss the patient's medication with him and provide the patient with additional information. Sometimes patients may not request counseling because they do not want to impose on the busy pharmacist; sometimes "no" does not really mean "no" when patients are asked whether they want counseling.

In any case, pharmacists face counseling decisions every time they fill a prescription or sell over-the-counter medications. If pharmacists were not constrained by time, then they would be able to offer high quality counseling to all patients. But time is a precious commodity in pharmacy, and counseling takes time. Counseling decisions are ethical dilemmas of time management: pharmacists must decide how to divide their time between patient counseling and other activities, such as bookkeeping, phone and fax correspondence, and paperwork. A pharmacist that takes too much time with a patient may lose patients who are waiting in line to have their prescriptions filled, or he may have to work overtime to finish paperwork.

The pharmacy manager faces questions about how to evaluate the performances of pharmacists working within the pharmacy. Employee evaluations may address a variety of characteristics, such as the employee's punctuality, ability to get along with co-workers, ability to provide patient care, organizational skills, reliability, and efficiency (i.e., speed and effectiveness). A manager in a pharmacy must decide how patient counseling should enter into evaluations of employees, and whether it should be given less weight than these other considerations. If

managers do not reward pharmacists for patient counseling or they punish them for taking too much time with their patients, then they may encourage their employees to be more efficient but less caring. Managers must decide whether they want their employees to pick up the pace or take some time to counsel patients.

Finally, the pharmacy business organization faces a similar conundrum when setting its policies concerning the management of pharmacies: should managers be told to reward employees for patient counseling? Should raises and promotions be based on counseling skills, or should they be based on other abilities, such as efficiency and salesmanship? In making these decisions about the role of patient counseling in their pharmacies, businesses need to consider the follow questions:

1. Does patient counseling contribute to customer satisfaction? If so, how much? Although many pharmacy organizations de-emphasize counseling, some at least advertise their commitment to counseling and use this as a selling point instead of their low prices. (Whether these pharmacies actually "make good" on these claims is an issue we won't explore here, but pharmacies that "talk the talk" should also "walk the walk.")
2. What are the legal liabilities of adopting a policy that does not emphasize patient counseling? Will litigation costs from a failure to offer adequate counseling outweigh the savings in labor costs? (As we noted earlier, the computer printouts that accompany prescriptions are frequently designed to reduce legal risks.)

Some businesses may raise these questions and decide that patient counseling makes good business sense, and they may adopt policies that stress counseling throughout the organization.

However, other businesses may decide to de-emphasize counseling and emphasize other qualities, such as low cost. To lower costs, businesses must decide how to most efficiently manage their human resources. Pharmacy businesses may decide to maximize sales while minimizing human resource costs. This can be accomplished by hiring fewer workers or by hiring fewer high-salaried workers, such as pharmacists. In both cases, employees will need to work at a fast pace so the organization can meet its objectives, and the organization may choose to reward its employees for efficiency. Even if the organization has no policy for rewarding its employees for efficiency, many employees may find that they must operate at a fast pace just to keep working in this setting. Incidentally, many pharmacists report that they have very little time for breaks, such as eating lunch or even going the bathroom. Job-related stress and "burn-out" are two of the main reasons why many pharmacists leave the profession for other occupations (Headden, 1996).

The decision to emphasize efficiency in a pharmacy organization can have detrimental effects on patient counseling. Since high quality patient counseling takes time, many pharmacists may feel compelled to offer low quality counseling to keep up the pace. There are only so many hours in a day, and every minute spent talking to a patient is a minute taken away from another task. This situation may even create a conflict of interest for the pharmacist: pharmacists have professional (i.e., ethical and legal) obligations to counsel patients that could be undermined by financial incentives or other pressures to take less time on patient counseling. A conflict of interest is a situation where a person's personal or economic interests undermine her abilities to carry out her professional obligations (Boatright, 1992). Even if pharmacists are not given direct rewards for efficiency, allowing pharmacists to participate in profit-sharing plans can create a conflict of interest, since these plans give pharmacists financial incentives to increase the pharmacy's profits, and these incentives may undermine their professional obligations.

The upshot of this discussion is that the organization's commitment to patient counseling can play a key role in the conduct of pharmacists that work for the company. If the organization does not emphasize counseling, it is likely that pharmacists will feel some pressure to not counsel patients or to provide inadequate counseling.

In a sense, the very nature of the profession

hinges on a successful resolution to the conflict between ethics and business: if pharmacists are to be health care professionals instead of technicians or cashiers, then they must be encouraged to offer patients high quality counseling. Pharmacy without high quality counseling is a business, not a profession. Several Gallup polls have shown that people in the United States regard pharmacy as the most ethical of all occupations (McAney amd Saad, 1997). If pharmacists are to keep their good reputations, then they need to be able to offer high quality patient counseling.

The dilemmas that arise in pharmacy management are in some ways similar to the dilemmas that occur in managed care. Under managed care, a company's business objectives can conflict with an employee's professional obligations to the patient, since managed care organizations attempt to contain the costs of care, such as referrals to specialists, length of hospital stays, and so on, for the sake of profit (Clancy and Brody, 1995). In pharmacy, businesses may undermine the pharmacist's professional obligations to the patient by containing the costs of pharmaceutical care, e.g., patient counseling, for the sake of profit. Although the concept of managed care seems new to the physicians, one might argue that community pharmacy has been under managed care since the advent of chain pharmacies and the alignment of pharmacies, discount stores, and supermarkets. To understand what medicine might look like under managed care, take a close look at today's pharmacy chain stores.

To prevent business objectives from undermining ethical norms, professional associations, politicians, and the public have called for the regulation of managed care (Pear, 1994; Emanuel and Deubler, 1995; Glasser, 1998). Those who are concerned about how managed care will influence medicine have argued that society needs to develop laws and other safeguards to ensure that patients receive the care they need and that health care providers do not undermine the quality of care to reign in costs. In the United States, federal and state legislatures have responded to some of the dilemmas created by managed care by debating patients' bills of rights (Shapiro, 1998).

Mandating patient counseling in pharmacy practice: OBRA '90

The issues discussed so far transcend national boundaries, since similar economic pressures exist in pharmacies in England, Europe, the Middle East, and throughout the world. Wherever profit-oriented pharmacy chains or supermarket pharmacies replace traditional pharmacies, the conflict between patient counseling and business objectives can arise. Although we would like this essay to offer important insights into pharmacy practice beyond the United States' borders, we would like to take some time discuss an American legal remedy to the conflict between business objectives and patient counseling, i.e. OBRA '90.

OBRA '90 is an extensive and complex piece of legislation that covers many aspects of the federal budget other than reimbursement for pharmacy care. However, Congress passed OBRA '90 with an eye toward addressing concerns about patient care in pharmacy. OBRA '90, which took effect on January 1, 1993, mandated a standard of pharmacy care for Medicaid patients. OBRA '90 covers three aspects of pharmacy practice, patient information, drug-use review, and patient counseling. According to the counseling requirements of OBRA '90, pharmacists are required to offer to counsel Medicaid patients, although patients may decline counseling. Forty-four out of 50 state pharmacy boards have adopted OBRA '90 and require pharmacists to follow OBRA '90 mandates on all patients (Perri et al., 1995).

Preliminary data suggest that OBRA '90 is having a positive effect on patient counseling in community pharmacy. In one survey, 29% of pharmacies report an increase in counseling frequency after the adoption of OBRA '90 (Perri et al., 1995). In another survey, 68% of pharmacists favor the patient counseling requirements of OBRA '90 (Hansen and Ranelli, 1994). Other surveys indicate that OBRA '90 is having a positive effect on business and on the pharmacists' professional satisfaction (Meade, 1995).

However, pharmacists also report some difficulties in meeting the requirements of OBRA '90. In one survey, 97.5% of pharmacists report

that they need more time to fill or refill prescriptions for new or current Medicaid patients, 85% reported needing three minutes or more to fill prescriptions for new Medicaid patients, and 80% reported requiring three minutes or more of additional time to fill prescriptions for current Medicaid patients (Pugh, 1995). As we noted earlier, time is in short supply in busy community pharmacies. Many pharmacies have hired additional staff to have sufficient human resources to meet the demands of OBRA '90. In one survey, 90% of pharmacies reported hiring additional technicians, and 15% reported hiring additional pharmacists (Mead, 1995).

Given the constraints of time and money, it is likely that OBRA '90 will not sufficiently address the need to support patient counseling in pharmacy. Since community pharmacies will attempt to limit their payrolls to maintain profit margins, they are not likely to continue hiring additional staff. In all likelihood, the quality of patient counseling will suffer even as the quantity of patient counseling holds steady or increases. The OBRA '90 requirements do not address the quality of patient counseling: they do not require pharmacists to offer oral counseling nor do they require pharmacists to spend a specific amount of counseling time per patient. Patient counseling under OBRA '90 can be no more than a computer printout followed by a few short words of instruction. It is also possible for pharmacists to get around the OBRA '90 regulations by phrasing their counseling queries in such as way that they discourage patients from requesting counseling.

Indeed, since OBRA '90 also requires pharmacists to spend additional time on patient care activities not related to patient counseling, such as paperwork and drug-use review, the legislation may have the unfortunate effect of actually forcing pharmacists to spend less time on patient counseling. Pharmacies may be compelled to meet the provisions of OBRA '90 by providing low quality counseling, which may be not much better than no counseling at all.

Another troubling aspect of OBRA '90 concerns its enforcement. To enforce OBRA '90, state pharmacy boards have hired undercover agents to determine whether pharmacists are offering to counsel patients, and some pharmacists have been sanctioned by their pharmacy boards for failing to counsel patients (Mead, 1995). We find this undercover spying on pharmacists a disturbing invasion of the workplace and a threat to professional autonomy. How would physicians react if they knew that some of the "patients" in their waiting rooms might be spies?

So are more laws the answer to this problem? Should OBRA '90 be amended or updated? We don't think so. Even if more laws are passed, the constraints of time and money will still exist. New laws will be translated into more regulations and paperwork, which will place additional time and money demands on community pharmacies and pharmacists. As pharmacists spend more time processing paperwork and meeting federal and state requirements, they will have less time to spend on patient counseling. Furthermore, pharmacists will also be tempted to find a way around new laws in order to meet time constraints and business objectives, and new laws would also have to be enforced.

Does OBRA '90 offer any lessons for countries outside the United States? We think so. Clearly, legal mandates can be effective tools in setting standards of conduct in professional settings. Since laws are usually backed by punitive threats, such as fines or incarceration, professional and business organizations have an incentive to comply with the law. However, since professionals and business organizations also have strong economic reasons for attempting to escape the full impact of laws, legal mandates tend to establish a "minimal" standard of conduct (Stone, 1991). Hence, legislation is no substitute for moral guidance. Even well intended legal remedies, such as OBRA '90, will not be very successful unless they are accompanied by moral commitment. Any countries wishing to adopt laws to support patient counseling should pay careful attention to OBRA '90's strengths and weaknesses.

Ethical support for patient counseling

We believe that the best way to support patient counseling in pharmacy, whether in the United States or in other nations, is through additional moral education and persuasion, not through additional legal mandates. Education should take place in pharmacy school, as well as in post-graduate settings. Since many of the problems with patient counseling have resulted from changes in community pharmacy that have occurred in the last two decades, pharmacists who have been practicing for five or more years need to be brought up-to-date on current ethical issues in patient counseling. Since economic, social, and technological developments will continue to influence pharmacy practice, professional education should be conducted on a continuing basis. Educational programs could include workshops, group discussions, and lectures. These programs should address (1) economic, social, and technological changes in pharmacy practice; (2) empirical studies on the impact of patient counseling; (3) legal mandates, such as OBRA '90; and (4) codes of ethics in pharmacy, such as the American Pharmaceutical Association's Code of Ethics.

Pharmacists and pharmacy associations should engage in moral persuasion aimed at supporting patient counseling. Persuasive efforts should attempt to convince people of the importance of patient counseling in pharmaceutical care. Persuasion should target those people who can play a key role in supporting patient counseling, such as pharmacy managers, upper-level executives in business organizations, stockholders, customers, and political leaders. If these efforts are successful, then pharmacy business organizations will adopt policies that support patient counseling, pharmacy managers will implement these policies, and practicing pharmacists will not feel any hesitation when answering the call to counsel patients.

Some unionized pharmacists have already taken some dramatic steps to persuade pharmacy businesses to support patient care. Seven hundred unionized pharmacists employed by Walgreen's in the Chicago area threatened to stop working in an effort to gain support for providing better patient counseling (Williams, 1997). Although we do not recommend that all pharmacists go on strike over patient counseling, we applaud these pharmacists for taking a stand for a worthwhile cause, and we encourage others to take up this issue with their employers and professional associations.

Adequate counseling protects the welfare and dignity of patients and brings a human element to an occupation that continually struggles to meet business objectives. Pharmaceutical care has been touted as pharmacy's mission for the 1990s (Penna, 1990). If pharmacists are to achieve this mission, pharmacy organizations, pharmacy managers, and pharmacists must vigorously support patient counseling.

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