Conflicts of Interest In Fund Development

BY ANN NEALE, PhD

Not-for-profit healthcare facilities, given their mission of improving their communities' health status, have long been regarded as worthy beneficiaries of philanthropic organizations. The noble act of giving on behalf of the community's health needs, as well as the reputation of the healthcare profession, merits an ethically sensitive approach to fund development. Well-meaning but ill-considered solicitation and donation of funds could be a conflict of interest, compromising the integrity of the enterprise it is intended to benefit.

A conflict of interest does not in itself necessarily entail a breach of obligation. Rather, it is a situation in which a person, acting on behalf of an organization, *may* be influenced by personal gain or advantage, financial or otherwise.

One important issue is the propriety of soliciting vendors with whom an organization has or may have a business relationship. Organizations that have profited from healthcare—for example, financial organizations, pharmaceutical companies, and manufacturing firms—might be well disposed to dedicating at least some of their philanthropy to the healthcare sector. Furthermore, fund developers cannot be faulted for regarding the companies with whom their organizations do business as "naturals" for fund development. Nevertheless, such solicitations create situations that could inappropriately influence decisions of healthcare professionals, who are rightly held to the highest standards of conduct in both law and ethics.

The Dilemma

Fund developers might encounter a number of circumstances that deserve careful scrutiny to ensure the integrity of their solicitation. For instance, a fund developer might call on a vendor at the same time that vendor is bidding a job with the fund developer's organization, or just after such a bid has been accepted. Even more specifically, although there is no relevant prohibition in the American Institute of Certified Public Accountants Code of Professional Conduct, one might question the propriety of soliciting or receiving a substantial gift from one's auditor, given the special nature of that professional relationship.

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I believe that certain conditions must prevail for fund developers to ethically solicit one of their organizations' vendors. Fund developers need to work carefully with their organizations' finance and operating divisions to ensure that they have in place good business practices and clear guidelines concerning conflict of interest. Otherwise, a vendor may interpret a solicitation as a "downpayment" for acceptance of a bid or as an indication that the healthcare organization might be less inclined to rigorously evaluate the vendor's performance.

Guidelines for Dealing with Conflict of Interest

The objective of fund development is to solicit money to serve an organization's mission. Contributors should be motivated by that mission, which ultimately is to improve the health status of the community, and they should not expect or receive anything tangible in return for their gift.

The following guidelines may allay vendors' suspicions that donations are related to past or future business with the healthcare organization:

- All substantial contracts (the amount may vary with the organization's contracting entity) should be competitively bid, and the organization must have and use objective criteria in evaluating those bids and making its selection.
- The organization must have and use objective methods of evaluating a vendor's performance.
- Before soliciting a vendor, a fund developer should know what business his or her organization has done, is doing, or may do in the near future with that vendor.
- The organization's board should be apprised of all solicitations in which there is a conflict of interest.

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Patient Self-Determination Act, which established patients' right to formulate advance directives for treatment decisions, portends a situational ethics, with even greater emphasis on individual rights. We can expect, for example, greater public support for legislation permitting self-*termination* choices. Such support would be a logical outcome of the growing perception that we are owners, rather than stewards, of our bodies.

Care givers are threatened as never before by a public that wants to have its cake and eat it too. Little authority exists within healthcare to resolve conflicts between patients and care givers regarding treatment decisions, and so the issues are often left for the courts to address. But is it ethical for healthcare professionals to throw in the towel and accede to every demand for greater patient autonomy, yet ignore the human cry for relief from pain and suffering that patients cannot face alone?

Care givers who listen can help their patients perceive and accept their limitations. Our mission involves more than merely offering machines, pills, shots, and a comfortable environment. We owe our guests additional help as they strive to find answers to the tormenting questions, Why me? Why this burden, this cross, this pain? We must be able to show them that something better must exist, that their pain is not futile.

If we really hear the patient's lament, we are obliged to point out gently that he or she is not alone. We are all part of the human community. When a person can no longer handle the drama of life and ceases to adjust or compromise, that person dies defeated. Patient suffering ought not to be accepted as frozen in situ. Our failure to find the words or actions to help patients transcend their pain encourages society's acceptance of abominable solutions.

Such burdens weigh most heavily on those outside the social mainstream. In the guise of commiseration and charity, assisted suicide is even suggested by some as a quick fix for fiscal and medical insolubility. But the poor are sicker than the rich in part because of low self-esteem. Can we accept responsibility for helping them arrive at a more positive attitude?

We need to develop a more critical awareness of sickness, poverty, and life's "bad deals." Many of our patients today are indeed afflicted by sickness and disease, but they are also afflicted by other circumstances beyond their control. Who knows their despair, their loneliness, their overwhelming frustrations? To send them away cured of bodily maladies but still mired in their stress and misery is to abdicate our responsibility as healers.

Can today's physicians be kind, caring, competent, and committed in language and manner, yet still respect the newly established patient rights that place such a strain on the patient-physician relationship? Preserving this possibility may, in fact, be one of the primary services an ethics committee can provide. For if these committees can help all parties arrive at tolerable compromises on conflicts over treatment decisions, physicians and patients may remain close enough to identify shared concerns and meet mutual needs. □

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- Strict criteria should be in place, indicating how a vendor's contribution can be used and how the organization will communicate this use to the vendor.
- All of the healthcare organization's employees having any financial interest in a company that is doing business with the organization should sign a conflict-of-interest statement identifying their relationship with the company.
- The healthcare organization should have a policy prohibiting employees from accepting any item of substantial value and favor or hospitality that might influence decisions or actions affecting their organization.

Even when the above conditions are met, internal auditors must carefully monitor each situation to be sure that solicitation and receipt of charitable donations do not influence the healthcare organization in the awarding, evaluation, and renegotiation of business with a vendor, and that a vendor does not misinterpret a solicitation and feel compelled to make a donation. Materiality is a relevant principle in this regard. When a vendor's contract is a small portion of its business (e.g., less than 5 percent) and the vendor's gift is not a substantial portion of the contributions the organization receives (e.g., less than 5 percent), undue influence is probably not an issue.

Fund developers, cognizant that their organizations' financial assets are really those of the community they serve and desirous of maintaining integrity in all dimensions of the giving process, should find potential benefactors appreciative of their vigilance in addressing and preventing conflicts of interest. □