

Mediaportal Report

22/06/2007

▶ **The ethics test**
Medical Observer, 22/06/07, General News, Page 17
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Clip Ref: **00028580278**

1204 words

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The ethics test

How tough are ethical requirements on doctors compared to other professionals? *Kate Woods* finds out.

TIMES are tough when GPs have to agonise over accepting branded notepads from pharmaceutical reps.

But with increased public interest in doctor behaviour following the 'Dr Death' scandal at Bundaberg Hospital, the sale of patient data to pharmaceutical companies by doctors, and media reports of pharma companies spending large amounts of money on expensive medical dinners, GPs could be forgiven for wondering whether every ethical decision is laced with an element of danger.

Much of the fuss began in 2002, when Medicines Australia revised its code of conduct to redefine what it deemed acceptable relationships with doctors.

The move, which banned entertainment and lavish menus at medical functions, made headlines. And it caused many doctors to question why their activities were being so heavily scrutinised compared to other professions.

But is medicine really operating under a tougher ethical

regime? There certainly seems to be no shortage of guidelines doctors are asked to heed.

There's the Medicines Australia Code, which, while it applies to the pharmaceutical industry, has implications for doctors in terms of what they accept from companies.

Then there's the AMA Code of Ethics, revised last year, as well as its separate policy specifically on doctors' relationships with the pharmaceutical industry.

Most of the medical colleges also have their own ethical guidelines, and while the RACGP follows the AMA Code of Ethics, it has its own policy on accepting gifts.

The Royal Australasian College of Physicians (RACP) has also developed guidelines on gifts, which ban doctors from accepting even free drug samples and small items such as pens and notepads.

And medical boards in each state impose their own codes of practice on doctors in their jurisdiction.

All in all, a hefty set of rules to follow, and while guidelines issued by professional bodies such as the colleges are voluntary, the AMA code is widely regarded

as a document with quasi-legal status and is often quoted in court to judge the standard of conduct of doctors.

"We have a very high expectation of ourselves; our peer group has a very high expectation of professional behaviour; and the AMA upholds a very high expectation," says AMA president Dr Rosanna Capolingua.

She argues that the esteem in which patients hold their doctors is a result of this professional introspection, and that there are few professions with standards as high as those imposed by the AMA.

"Transgressions that we view as unprofessional conduct may not be deemed as such in other professions."

One reason for this is that doctors are placed in a position of power and influence over patients.

"We have to be mindful that in all our... interactions, we never use that power to unduly influence patient care," Dr Capolingua says.

Jay Hooper, the Pharmaceutical Society of Australia's immediate past president, prefers not to "venture a view" on whether the pharmacists' code of ethics is more onerous than the one for doctors.

But he says pharmacy boards are strict about



Dr Capolingua



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General News

Region: National Circulation: 23558

Type: Magazines Lifestyle

Size: 905.46 sq.cms

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compliance. "I can think of one situation going back to when anabolic steroids were widely used and pharmacists were actually being deregistered for dispensing the prescriptions.

"There might have been two or three pharmacists who lost their registration

"We have a very high expectation of ourselves"

Dr Capolingua

in Queensland, which was a very severe penalty... while the doctors who prescribed the steroids... received [only] reprimands."

The pharmacists' code of ethics is a 14-point document that states all pharmacists should make the health of their clients their first consideration. It also says pharmacists should:

- supply professional advice and counselling
- respect the trust and confidentiality of professional relationships with clients
- consult colleagues and other health professionals when it's in the best interest of the patient
- not attempt to attract business by making exaggerated or unsubstantiated claims.

As for lawyers, they do abide by professional guidelines – though many doctors might question how closely their legal colleagues stick to the ethical script.

Dr Tom Faunce, a senior lecturer at both the Australian National University's medical school and its college of law, says while there are no Hippocratic oaths or Geneva declarations for lawyers, the Australian Bar Association and the various state law societies have codes of ethics.

The bar association, for example, requires barristers to respect the confidentiality of their clients. They must also seek to "advance and protect" their client's interests uninfluenced by their personal view of the client "and notwithstanding any threatened unpopularity or criticism of the barrister".

"There are some areas in which there are naturally going to be wide ethical differences [between doctors and lawyers] but [regarding] financial exploitation of patients, I think lawyers and doctors are on even terms [as far as] principles prohibiting it."

Dr Faunce says that since the codes don't have enforceable sanctions behind them, the only way ethical principles

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can work is if they are incorporated into the life narrative of the professional and applied consistently when obstacles arise.

"Compared to doctors, I really don't think lawyers have been very successful in doing this," he says.

"But I think the difference is that doctors are face-to-face with human suffering, and this proximity evokes certain things in people that then encourage consistent application of ethical principles in the face of obstacles."

RACP ethics convenor Professor Paul Komesaroff concurs. "Every [medical] practitioner has to be an ethicist because ethics is something that is so bound up in the nature of clinical practice.

"Every minute of every day contains ethical content as well as it does scientific or technical content, so the two can't be separated," he says.

Surprisingly, there is no code of ethics for federal politicians, though Prime Minister John Howard did introduce a code of conduct for his ministers in 1996.

The government has since been criticised for what some consider a lax interpretation of what might constitute a sackable offence under this code.

The other criticism is that the Prime Minister is the only person who really sits in



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judgement of his ministers – there is no external body to rule on what may constitute a breach.

The code, called *A Guide on Key Elements of Ministerial Responsibility*, says ministers shouldn't use their influence to obtain "improper benefit" for themselves or others.

It also says that ministers' dealings with lobbyists should not give rise to a conflict between public duty and private interest.

This concept was brought into sharp relief recently during the Brian Burke affair, where many politicians, including Opposition leader Kevin Rudd, were left scrambling for explanations over their associations with the disgraced former WA premier.

While there is no overarching code for federal politicians, the various state governments do have guidelines in place.

In Tasmania for exam-

ple, the *Code of Conduct: Government Members of Parliament* says that cabinet members, parliamentary secretaries and their immediate families should not accept gifts "other than token items".

Dr Frank Madill, a part-time GP and former Tasmanian state politician, says it is hard to argue against the introduction of a code for federal politicians: "What is good for one should be good for the other."

The Tasmanian code gives many specific examples of unethical behaviour – prob-

Prof Komesaroff

ably to address various situations that have arisen in the past, Dr Madill says – and, as with medical codes, it tries to address the problem of influence.

With regard to accepting gifts or being "wined and dined" by lobbyists, Dr Madill says politicians, like doctors,

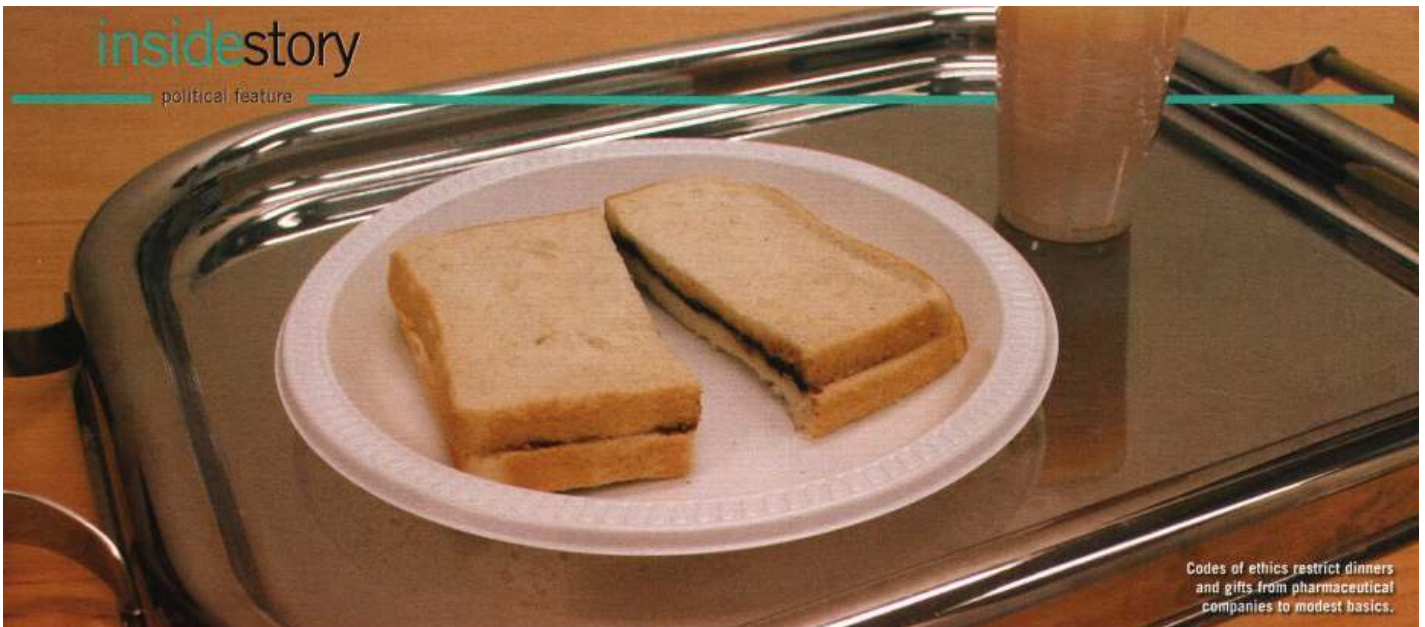
would argue that they could remain impartial.

"Are politicians going to accept a lobby group's view more readily if they hear it over a gourmet meal than if they hear it over a wooden desk? I would hope not... I would hope they would be choosing based on merit and objectivity."

Dr Madill adds that while the current state guidelines for politicians are appropriate and do impose strict behavioural standards, he hopes they will advance over time.

"Since pre-biblical times, doctors have been aware of the need for a code of ethics, which have evolved and developed into the high professional standard they are today. I hope the political codes do the same." ☺

"Every minute of every day contains ethical content"



Codes of ethics restrict dinners and gifts from pharmaceutical companies to modest basics.