Doctors told to shun rewards from industry as size of payments becomes clear

Fred Charatan *Florida*

Doctors in teaching hospitals should lead the way in refusing to take gifts from the pharmaceutical and medical device industries, because it damages the reputation of the profession, a leading article in *JAMA* said this week (2006;295:429-33).

The article was published in the month that, during a whistleblower court case originating in Memphis, Tennessee, some spine surgeons were exposed as having accepted hundreds of thousands of dollars from a medical devices company for undertaking limited amounts of work.

The *JAMA* article, which generated widespread publicity, with articles in the *Wall Street Journal*, the *New York Times*, and the *Washington Post*, pointed out that drug companies alone spent \$13 000 (£7360; €10 800) a year per doctor on marketing activities, "the costs of which are reflected in higher drug prices."

Pharmaceutical companies spend more than \$20bn a year on marketing, about 90% of which is directed at doctors. This is far more than they spend on

research or direct consumer advertising, the article said.

"My mother told me never to accept gifts from strangers. If a stranger wants to give you a gift, it's very likely they want something in return," Jordan Cohen, the president of the Association of American Medical Colleges and a coauthor of the *JAMA* article, was quoted as saying in the *Washington Post* (25 January, p A08).

"There is solid evidence it isn't the size of the gift, it's the gifting itself that creates a sense of loyalty and indebtedness," said Sharon Levine, associate executive director of Kaiser Permanente's Northern California group practice, in the same article in the *Washington Post*.

The Kaiser Permanente's 6000 doctor practice in Northern California and the Yale University School of Medicine are among the only institutions in the United States to implement policies similar to those outlined in *JAMA*.

The *JAMA* article says that voluntary guidelines don't go far enough. It recommends:

- Banning all gifts, including

Whistleblower Jacqueline Poteet, a former employee of medical devices firm Medtronic, has accused it of giving bribes to surgeons

free meals. Research shows that even inexpensive gifts, such as pens, can distort doctors' behaviour

- Prohibiting doctors from accepting free samples, a "powerful inducement... to rely on medications that are expensive but not more effective"

- Excluding doctors with financial ties to drug companies from serving on panels that decide what drugs should be prescribed
- Prohibiting drug makers from directly financing continuing medical education.

The whistleblower court case exposed huge payments to some surgeons involved with the company Medtronic, which is based

in Minneapolis. Medtronic is one of the largest makers of medical devices in North America, with \$10bn in annual sales.

Jacqueline Poteet, a former senior manager of travel services at Medtronic, filed a lawsuit in a US District Court in Memphis two years ago, accusing the firm of giving spine surgeons "excessive remuneration, unlawful perquisites and bribes in other forms for purchasing goods and medical devices."

Internal documents from Medtronic filed as part of the lawsuit show that Medtronic spent at least \$50m on payments to doctors over some four years, up to June 2005.

NEJM editor gives pretrial evidence in Vioxx case

Janice Hopkins Tanne *New York*

Trials of three civil actions starting in the United States this month will examine whether Merck's cyclo-oxygenase-2 painkiller Vioxx (rofecoxib) caused the plaintiffs' heart attacks. Lawyers for both plaintiffs and Merck have claimed that editorial information ordered by the court from the *New England Journal of Medicine* will help their cases on whether Merck promptly and accurately disclosed the drug's cardiac risks.

Gregory Curfman, the executive editor of the *New England Journal of Medicine*, last week

gave a deposition—a sworn pretrial "discovery" testimony—in connection with the forthcoming retrial of a federal case originally tried in Houston that ended in a hung jury (8-1 in Merck's favour) last year.

The plaintiff in the case is Evelyn Irvin Plunkett, widow of Richard "Dicky" Irvin, aged 53, who died in 2001 of a heart attack after taking rofecoxib for about a month for back pain.

Eldon Fallon is the US district judge charged with overseeing pretrial matters in 4050 federal lawsuits currently pending against Merck in relation to Vioxx.

Before Dr Curfman was ordered to give a deposition, Judge Fallon ordered the journal to produce to the parties' lawyers over 100 pages of emails, charts, and other material relating to its publication of the VIGOR (Vioxx gastrointestinal outcomes research) study com-

paring rofecoxib with naproxen (*New England Journal of Medicine* 2000;343:1520-8) and the journal's subsequent "expression of concern" about the study, one step short of retraction (2005;353:26).

In the editorial accompanying the expression of concern, the journal said that it learnt in November 2005, during other depositions before the first trial in the Irvin case in Houston, that VIGOR's authors had failed to mention three of the patients being studied who had had heart attacks while taking the painkiller and had deleted other relevant data before submitting their article for publication.

Merck admits that the three patients were left out but claimed that this was because their heart attacks had occurred after the cut-off period for the study.

In December 2005, the journal asked the lead author of the VIGOR paper, Claire Bom-

bardier of the University of Toronto, to submit a response. No response has yet been published.

The Associated Press reported on 25 January that a spokesperson for the university had said that Dr Bombardier had responded to the journal and that the university would comment when the response was published.

The Associated Press also reported on 25 January that the journal's editorial material was released to lawyers representing Merck, who wanted to see it before questioning Dr Curfman. The retrial is due to begin in New Orleans next week (6 February).

The press agency quoted Dr Curfman as writing in an email to a peer reviewer, "Thanks again for all the time you have spent on this Vioxx situation. The more we get into it, the messier it becomes."