

PRACTICE POLICIES, STATEMENTS & GUIDELINES

40-11 Sales of Products in Medical Offices

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Purpose: To provide guidance regarding the sale of products in medical offices

POLICY: It is the position of the Colorado Medical Board (“Board”) that the in-office sale of products, including prescription drugs, to patients by physicians, physician assistants, or anesthesiologist assistants (hereinafter “licensees”) potentially creates a financial conflict of interest. Any activity that creates a conflict of interest casts doubt on the licensees’ ability to fulfill fiduciary obligations and undermines the patient’s trust. In-office sales transactions risk exploiting the inherent imbalance of power in the provider-physician relationship. In many cases, patients lack the expertise and independent judgment to make a proper determination about their need for the product and have no alternative reliable source of information. They may feel compelled to buy an item because they wish to secure the doctor’s favor, or because they have placed implicit trust in their doctor’s judgment and believe that he or she is acting in their best interest. Because of the risk of patient exploitation, licensees should take steps to minimize financial conflict of interest.

One mechanism to limit the conflict of interest is to take the element of financial gain out of the transaction. Many licensees distribute health-related products to their patients free of charge. In other cases, licensees sell health-related products to their patients at cost, in order to make useful products readily available to their patients. An “at cost” sale refers to the sale of products at a price that covers the reasonable expense of obtaining, storing, and dispensing the products.

Another mechanism to minimize conflict of interest is to limit the appropriateness of sales to those circumstances that serve the immediate and pressing needs of patients.

One of the most important safeguards to limit conflicts of interest is disclosure. Licensees selling health-related products should disclose to the patient their financial arrangements with the manufacturer or the supplier of the product.

In-office sales of health-related products for which the licensee claims to offer a unique benefit to patient health and are available only through licensees raises concern for the potential of a coercive relationship or other boundary violation.

Licensees should not sell non-health-related goods from their offices or other treatment settings, with one exception. Licensees may sell non-health-related goods from their offices for the benefit of community organizations provided that: (a) the goods in question are low-cost; (b) the licensee takes no share in profit from their sale; (c) such sales are not a regular part of the licensees’ business; (d) sales are conducted in a dignified manner; and (e) sales are conducted in such a way as to assure that patients are not pressured into making purchases.