

GP acquitted of unprofessional conduct after family raises concerns about gifts



Key messages from the case

While accepting gifts from patients does not necessarily breach ethical boundaries, it can lead to questions about doctors' professional objectivity – as a case involving a GP illustrates.

Details of the decision

Boundary issues – gifts

GP Dr W had treated an elderly patient for over 10 years. The patient developed a habit of giving Dr W gifts of wine several times a year for special occasions. On one occasion he gave Dr W a \$200 meal voucher to share with his wife.

The patient also offered cash (\$1000), which Dr W said he refused.

The patient's family complained that Dr W had failed to observe appropriate professional boundaries.

The Professional Standards Committee considered the context in which the gifts were given including:

- the monetary value, nature, and frequency of the gifts
- the patient's personal situation and regular practice in giving gifts to many people – including other professionals and service providers
- whether the GP attempted to discourage or return the gifts.

The committee considered accepting the money would have been unsatisfactory professional conduct, but they found Dr W did not accept the money.

They concluded Dr W had not encouraged the other gifts and that his actions did not amount to unsatisfactory professional conduct in the context of his relationship with the patient.

However, they noted it would have been desirable for Dr W to have talked to the patient about the gifts and reinforced that they were not necessary. They also suggested he could have kept a record of gifts, to be more conscious of frequency of gift-giving and any change in pattern

Standard of care

The family also raised concerns about Dr W's overall clinical care of the patient. The family was concerned that Dr W had sought a second opinion about the patient's capacity. A previous assessment had concluded the patient was suffering from dementia and the patient requested a second assessment of his ability to drive.

There was good clinical reason to make the referral for a second opinion. The previous specialist's report indicated he was unaware of several factors relevant to his assessment of the patient.

Dr W's care was found to be appropriate.

Communication

The patient's granddaughter complained that Dr W had failed to engage with her as her grandfather's enduring guardian and had failed to inform her of her grandfather's request for a cognitive assessment in relation to his capacity to drive.

Dr W argued that since he had assessed his patient as cognitively competent, there was no obligation to involve a carer or guardian.

The committee agreed and confirmed that having determined the patient had capacity, informing his granddaughter without his consent would have breached the patient's confidentiality.

Outcome

The committee found the complaint had not been proven and there was no finding of unsatisfactory professional conduct.

Key lessons

Accepting gifts from patients does not necessarily breach boundaries. However, before accepting a gift, consider how it may be interpreted and whether it may affect your professional relationship with the patient.

Never encourage patients to give you gifts.

If your practice does not have a policy on accepting gifts, consider whether such a policy would be helpful for transparency and to help give insight into quantity and frequency of gift-giving.

Where a patient has capacity, family members including the patient's partner or enduring guardian, are not entitled to access information about a patient without the patient's consent.

Make sure you understand your legal obligations in relation to patients' capacity and when substitute decision-makers need to be involved.

When treating elderly or vulnerable patients, be aware of family members' concerns. Bearing in mind any privacy and confidentiality considerations, discuss with the patient what communication should occur with family members to address any concerns.

References and further reading

Avant factsheet – [Boundary issues](#)

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