

SMA ADVISORY NO. 01/2005

Medical Fee-Splitting Among Doctors

An ethics advisory from the 46th SMA Council and the SMA Centre for Medical Ethics and Professionalism.

PREAMBLE

SMA has received several enquiries made by doctors in recent weeks on the ethical and legal position in Singapore regarding the above practice.

ADVISORY

The SMA would like to advise all members that:

1. Fee-splitting, or fee-sharing, defined as “**payment by or to a physician solely for the referral of a patient**”, has always been considered unethical and unprofessional. Fee-splitting also includes any arrangement by a doctor or group of doctors to co-manage a patient with another physician or allied health professional, in return for some financial gain, which is not paid directly by the patient as a professional fee. In Singapore, **fee-sharing is explicitly prohibited by the Singapore Medical Council Ethical Code and Ethical Guidelines, which clearly states in paragraph:**

4.6.2 Financial conflicts in clinical practice**A doctor shall refrain from:**

- a. Improperly obtaining money from patients
- b. Improperly prescribing drugs or appliances in which he has a financial interest
- c. **Fee-sharing or obtaining commissions from referral of patients**

2. The key reason for this ethical prohibition is that fee-splitting puts the doctors involved and the profession in an irreconcilable position of financial conflict of interests. Fee-splitting arrangements, or any other arrangements that provide personal financial gain to the doctor when referring a patient to another colleague, threaten to bias the doctor’s decision-making, impair the doctor’s ability to consider the patient’s best interests, and erode the patient’s trust. Even a mere appearance or potential for impropriety compromises the patient’s trust for the doctor involved, and undermines the public confidence towards the entire medical profession.

3. A patient relies upon the unbiased advice of the doctor on matters of referral. All referrals must be based on the skill, reputation and training of the doctor to whom the patient has been referred, to meet the patient’s needs and not on kickbacks, expected further referrals or other self-serving bases. This is important as many patients rely on the referring doctor to assess appropriateness of such skill, reputation and training, to their needs on their behalf, knowing that such information is likely to be very incomplete, and probably unbalanced, outside the profession. The doctor must seek to ensure that the medically appropriate level of care takes primacy over financial considerations imposed by the doctor’s own practice, investments, or financial arrangements.

4. In US, such practices are not just opposed in ethical and professional codes, but have also been prohibited either by legislation or ruled illegal in cases brought before the court. American Association of Medicine (AMA), for example, has explicit guidelines against fee-splitting.

4.1 The Code of Medical Ethics by AMA’s Council on Ethical and Judicial Affairs (CEJA) states in clause E-6.02 on Fee-Splitting that:

“Payment by or to a physician solely for the referral of a patient is fee-splitting and is unethical.”

It goes on further to say that:

“The patient relies upon the advice of the physician on matters of referral. All referrals and prescriptions must be based on the skill and quality of the physician to whom the patient has been referred ...”.

4.2 The American College of Physician’s Ethics Manual (*Ann Intern Med. 2005; 142:560-582*) also states very clearly that:

“A fee paid to one physician by another for the referral of a patient, historically known as fee-splitting, is unethical. It is also unethical for a physician to receive a commission or a kickback from anyone, including a company that manufactures or sells medical instruments or medications that are used in the care of the physician’s patients.”

5. The SMA Council therefore strongly advises members against participating in any form of practice activities that involve fee-splitting arrangements. Doctors are entitled to charge the patient a professional fee for medical referrals, but the referring doctor should not demand for any payment from the referred doctor, neither should the referred doctor offer any financial gains to the referring doctor. This is regardless of whether the “referral fee” is couched as “administrative fee” or “assistant fee”. Administrative cost arising out of any referral should be borne by the patient, or by the referring doctor, to avoid any conflict of interests. To avoid even a perceived impropriety with respect to co-management financial arrangements, it is recommended that doctors involved submit separate bills to the patient for their respective professional services. If submitting separate bills is not possible, then the professional charges for different services should be itemised explicitly in the bill for the patient.

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