

MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND  
\*ETHICAL OPINIONS SECTION 500\*

**500. PROFESSIONAL INCOME AND FEES**

**501. DIVISION OF FEES**

There are arrangements which tend to exploit the patient for financial gain and, therefore, constitute an unethical division of fees:

- .01 A voluntary agreement between physicians for division of medical fees which is not based upon the physicians' services, responsibility, or experience is unethical and possibly illegal.
- A. Group Practice. Referrals between members of a group practice (partnership, professional corporation and other similar entities) are not inherently unethical, and in fact, are to be encouraged when use of the group's resources results in convenience and savings to the patient. However, the physician must always act in the best interests of the patient. (PEC 10/22/2002)
  - B. Family Member Physician Teams. Referrals between family members are not inherently unethical. Such referrals are regulated and may be prohibited. The best interests of the patient must always be foremost. When making such referrals, the relationship must always be disclosed to the patient as well as the availability of other consultants in that specialty. (Revision; 3/26/88; PEC 8/27/2002)
  - C. Clinic or Laboratory Joint Company. Joint stock companies of physicians organized for the purpose of operating a clinic or laboratory with the stock owned in part or whole by physicians connected only as stockholders may ethically be formed. However, referral of a patient to a facility in which the referring physician has an ownership interest or a compensation arrangement is strictly regulated by state and federal law. No physician should make such a referral without determining the applicable law in the particular circumstances. In the event the physician determines that a particular referral is not legally prohibited, the physician should decide whether the referral is ethically advisable. (PEC 10/22/02)
  - D. Assisting Physician's Fee.
    - 1. It is ethical for a physician to engage another physician as an assistant, if the assistance of such an assisting physician is in the best interest of the patient. This principle applies whether or not a third party payor covers this service. The attending physician should inform the patient in advance of the importance of an assisting physician and the fact that the patient may be billed for the assisting physician's fee. In circumstances in which there is an emergency and the informing of the patient is not possible, it

would be appropriate for an assisting physician to bill the patient if a third party payor denies the claim. (PEC 8/27/2002)

2. It is ethical in certain circumstances for a physician to engage other physicians to assist him or her in the performance of a procedure and to pay a reasonable amount for such assistance, provided the nature of the financial arrangement is made known to the patient. This principle applies whether or not the assisting physician is the referring physician. (Council 9/24/88; PEC 8/27/02)

- .02 A voluntary prospective agreement between a physician and any other person (including, but not limited to, physicians and other health care professionals) for the division of medical fees based upon the referral of patients is unethical.

Percentage Leases. Percentage lease agreements between health care providers in which the physician is a lessor or lessee are inadvisable and are to be discouraged. (PEC 8/27/2002)

- .03 It is unethical for physicians to accept compensation from any source (e.g. pharmaceutical company, pharmacist, optical company or manufacturer of medical appliances or devices) for referral of patients to said source for the purchase of said medical goods or services. (PEC 8/27/2002)
  - A. Drug Companies. A physician may not accept compensation of any kind from a drug company for prescribing its products or from a pharmacy for referral of patients.
  - B. Clinics or Laboratories. A physician may not accept compensation from clinics or laboratories based upon the amount of work referred by the physician to the clinic or laboratory. (PEC 6/5/84)

## 502. ADVANCE PAYMENT FOR MEDICAL SERVICES

- .01 Physicians may adopt a policy that payment for services be made at the time the service is rendered. The physician should fully advise patients of such policies in advance of treatment. Proper communication is to be stressed. (PEC 8/27/2002)
- .02 In situations where specific conditions warrant the need for prepayment, a physician may require payment in advance for treatment. (P/PRC 9/22/82; Revised PEC 10/2/84)
- .03 When a patient has paid in advance for medical services and cancels or otherwise refuses the service, a physician should refund the advance payment. However, the physician may make a reasonable charge to recoup the cost of any actual out of pocket expenses incurred by the physician in preparation for the performance of medical services, if the patient is adequately notified of this practice in advance. A reasonable charge for the physician's time may be made as provided in Ethical Opinion 504.02. (PEC 11/3/92, 8/27/2002)

503. **PAYMENT FOR POST-OPERATIVE CARE**  
Fees for surgical services normally include routine post-operative care related to that surgical procedure. (Revised P/PRC 9/22/82)
504. **PAYMENT FOR TELEPHONE CALLS, E-MAIL OR MISSED APPOINTMENTS**
01. It is ethical for a physician to charge for telephone calls and e-mail provided the patient is adequately notified of this practice in advance. (PEC 8/27/2002)
  02. It is ethical for a physician to charge a patient for a missed appointment provided the patient's cancellation is not sufficiently timely to enable the physician to schedule an additional patient during the period and the patient is adequately notified of this practice in advance. (P/PRC 3/14/74; Revised PEC 11/3/92; 8/27/02)
505. **CHARGING INTEREST ON DELINQUENT ACCOUNTS**
- .01 A physician who has experienced problems with delinquent accounts may ethically choose to request that payment be made at the time of treatment or add interest or other reasonable charges to delinquent accounts. The patient must be notified in advance of the interest or other reasonable finance or service charge by such means as posting a note in the physician's office, or waiting room, distribution of leaflets describing billing practices, and appropriate notations in the billing statement. The physician must comply with all state and federal laws and regulations, e.g., the truth in lending law, applicable to the imposition of such charges.(PEC 1/25/05)
506. **PAYMENT FOR COMPLETION OF INSURANCE AND OTHER MEDICAL FORMS**
- .01 Where a claim requires research, an examination of previous records, etc., it is the physician's prerogative to determine the extent of this service and it is not unethical for the physician to make a reasonable charge. (PEC 10/22/02)
  - .02 If there is a charge for filling out forms, the patient should be advised in advance. (PEC 10/22/02)
507. **PAYMENT FOR SERVICES RENDERED BY TWO OR MORE PHYSICIANS**
- .01 When one physician covers for another, only one physician may bill for the services rendered. Double billing is strictly forbidden.
  - .02 The bill should clearly inform the patient of the specific medical services included in the bill and the date these services were provided
  - .03 When two or more physicians working in partnership or professional association call on each other for consultation, the medical necessity for such consultation should be clearly documented. (P/PRC 12/14/72; Revised PEC 1/24/85, PEC 10/22/02)
508. **RETURNED CHECKS**  
A physician may ethically charge for the reasonable additional costs incurred in processing returned checks (Council 6/26/75; PEC 10/22/02)

509. BILLING BY PHYSICIANS IN TEACHING INSTITUTIONS

It is ethical for physicians in teaching institutions to bill for medical care rendered in connection with the house officer under their supervision only if the billing physicians were actually physically present and personally involved with the patient and the medical care was performed under their direct personal observation and direction. [This is consistent with current Medicare regulations] (PEC 6/5/84; PEC 10/22/02)

510. FEE SCHEDULES

.01 While a physician should bill every patient for the physician's standard fee, it may be proper for the physician to adjust the portion of the fee for which the patient is responsible based upon the particular circumstances of the individual patient. (PEC 10/1/91; PEC 10/22/02)