



## A Conflict Is a Conflict Is a Conflict . . . Redux

By Marianne M. Jennings, J.D.

Senator Charles Grassley has conducted a very simple investigation over the past six months. He asked the leading medical researchers in the country for copies of their conflict-of-interest disclosure statements and then compared those disclosure forms with the actual records of pharmaceutical firms' payments to the same researchers. The picture the information paints is not a pretty one because there is universal discrepancy between the docs' disclosures and what the docs were actually paid. A summary appears in chart form below:

The doctors seem to operate, as it were, under the assumption that an acknowledged relationship with the pharmaceutical firms is what matters. And they did indeed all disclose some level of relationship. But, the lack of candor in giving full disclosure only exacerbates the questions about conflicts. Despite all of the attention, the ongoing

investigations and discoveries of lapses, the NIH regulation, the mandatory forms, and professional group vigilance in early-and-often disclosure, we seem to not really believe in conflicts of interest. The current attention is focused on doctors and their direct relationships with the pharmas. But, the docs' fees are among the most transparent of conflicts in the medical field. The following is a list of the various forms of conflicts floating about the medical community that remain problematic and unresolved. In some cases the conflicts are not yet acknowledged.

### Issue

- Endowed chairs donated by pharmas.
- Research awards to doctors for life-time achievement given by pharmas.
- Unrestricted educational grants to departments by pharmas.

- Doctor memberships on pharma advisory boards (compensated positions).
- Free food to medical schools from pharmas.
- Continuing medical education programs sponsored by pharmas that focus on company products.
- Trips and entertainment for purposes of medical education (sponsored by pharmas).
- Payments to medical communications firms by pharmas for organizing seminars that feature the pharmas' products.
- Pharma sponsorship of required continuing education for physician/professors at medical research facilities.
- Pharma and company sponsorship of nonprofit foundations with foundations then donating research funds to universities.
- Researchers serving as expert witnesses for companies in product liability litigation.
- Universities accepting money for research from companies and agreeing not to disclose results of their research without talking to the company first and securing approval.

### The Rationalizations

A conflict is a conflict is a conflict. There are only two ways to manage a conflict: don't do it or disclose it. Yet the problems continue and the published reports have a common thread of a response that finds those involved in the conflict asking, "What? And this is a problem because?"

University/ Medical Center	Physician	Amount Reported	Amount Actually Received
Emory University	Charles Nemeroff	\$1.6 million	\$2.8 million
Harvard University	Joseph Biederman	unclear	\$1.6 million
Harvard University	Timothy Wilens	reported after investigation	\$1.6 million
Harvard University	Thomas Spencer	reported after Investigation	\$1.0 million
University of Cincinnati	Melissa DelBello	\$100,000	\$238,000

In fact, the responses to revelations about conflicts are those of novices in the area of ethics.

Dr. William Clark, who testified on behalf of Federal Signal Corporation, in a suit on hearing loss in firefighters, did not disclose that Federal Signal had helped him gather data for his study or that he had testified as an expert for the company when he submitted his research for publication in *Ear & Hearing*. Dr. Clark indicated that he “did not have the time, or the energy, or the resources to try and talk every fire company in the country into participating in the study.” Dr. Clark’s schedule is not the issue nor is how many fire companies he could recruit. The full disclosure and extent of his relationship was required for the submission to a refereed journal.

GlaxoSmithKline-Kline paid Dr. Nemeroff \$960,000, but he disclosed only \$35,000. A Glaxo spokesperson said, “Dr. Nemeroff is a recognized world leader in the field of psychiatry.” I grant Dr. Nemeroff that skill as an unassailable proposition. He still had a conflict that had to be disclosed, in its entirety.

company. The justification provided by one writer, “But the Cornell scientists promoting it are also trained professionals who (conflict of interest disclosure infractions aside) have successfully run the gauntlet of peer review. The top Cornell administrator who approved the tobacco payments is also a distinguished physician-scientist.” No one doubts the scientists, the administrators, or the science itself. There is still a conflict, one that is quite easily resolved. The scolding and the doubts are thwarted by upfront disclosure.

Virginia Commonwealth had an agreement with Philip Morris (PM) that no faculty member would publish research results that PM was funding without permission from PM. The University’s vice president for research said that the non-disclosure clause was “language we thought we could agree to. It’s a balancing act.” Fair enough, but there still must be disclosure of the arrangement with Philip Morris.

In the orthopedic device investigations doctors have assured investigators that it is “too simplistic” to assume that doctors

success whether there is indeed a conflict of interest because the drivers have their sponsors’ trademarks and names on their racing suits and their race cars. We know how to evaluate the drivers’ “research” because we know who’s behind the drivers’ efforts. And NASCAR does not have the problems of after-the-fact disclosure.

I’m not asking for pharma names on the lab coats and trademark stickers on the Bunsen Burners; a footnote in journal submissions and articles will do nicely. And keep those NIH disclosure forms up-to-date and accurate. The rest of the post-mortem (as it were) dialogues on these newly discovered conflicts are simply rationalizations offered as justifications that serve to raise additional questions. Even researchers with their skill and integrity will fall victim to questions and doubts because of their lack of disclosure. Further, the regulatory crunch is here. Without more attention to the conflicts issues noted here, without more voluntary disclosures (early and often), and without more accuracy, the rash of recent activity in the medical field and in Congress indicates that we are tromping ever closer to detailed and costly regulation. Senator Grassley has noted that medical centers and universities do not seem up to the task of monitoring conflicts and self-reporting by doctors. Time is limited, but self-regulation is still possible. Changing attitudes and processes on conflicts requires leadership, some bright lines, and adherence to the simple, two-part rule for conflicts: Don’t or Disclose. **NP**

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“*There are only two ways to manage a conflict: don’t do it or disclose it.*”

Doctors who receive compensation from Vox Medica and other medical marketing firms are not disclosing their relationships in medical journals because the payments are “not directly from the pharmaceutical firms.”

An associate professor of physiology and biophysics at Georgetown University who is trying to teach medical students about the importance of resisting pharma reps’ perks gets push-back from students who fancy themselves above conflicts, “I’m too smart to be bought by a slice of pizza.”

The researchers at Cornell who did not disclose that the nonprofit organization funding their lung cancer research was funded by the Liggett Group, a tobacco

would choose the device to implant in a patient on the basis of tickets, lodging, food, and gifts the companies have furnished to the doctors. Perhaps so, but there is still a conflict and the docs must disclose.

As simple as the rule on conflicts is (don’t or disclose), we seem to have ongoing struggles with the failure to do either. Perhaps we need an easier way to think about conflicts. A colleague of mine suggested in a discussion on endowed chairs and the resulting conflicts with faculty research that we learn from NASCAR drivers. We know when a driver describes STP, Michelin tires, and Frosty Flakes as the secrets to his or her

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*You have enemies? Good. That means you’ve stood up for something, sometime in your life.*  
~Winston Churchill