

## Errata for Dilemma 34

The number of the dilemma on page 84 is incorrect. It should read "Response to Ethical Dilemma #34," not "Response to Ethical Dilemma #32."



## Important Notice

This is one of a series of ethical dilemmas published in the *Texas Dental Journal* between 1993 and 2005. The lead author of these dilemmas, Dr. Thomas K. Hasegawa, died tragically in 2005. The dilemmas remain an important legacy for dentistry.

### Format

Each ethical dilemma was originally introduced in one issue of the *Texas Dental Journal* with the question, "What would you do?" The more expansive analysis of the dilemma was presented in a subsequent issue. The second page of this file depicts the cover of the issue containing the analysis of the dilemma, not the issue containing the briefer introduction to the dilemma. The ethical dilemmas were compiled for digital use by the American College of Dentists in 2008.

### Purpose

This ethical dilemma and the other dilemmas in the series are only meant to further your knowledge and understanding of dental ethics by presenting, discussing, and analyzing hypothetical ethical dilemmas that may occur in dental settings. The dilemmas are not intended to: a) provide legal advice; b) provide advice or assistance in the diagnosis or treatment of dental diseases or conditions; or c) provide advice or assistance in the management of dental patients, practices, or personnel.

### Terms of Use

To use the digital ethical dilemmas in the series, all or part, you must first agree to the Terms of Use specified at <https://www.dentaethics.org/termsfuse.shtml>. By using this dilemma, or any in the series, you are affirming your acceptance of said Terms of Use and your concurrence with the Purpose presented immediately above.

### Permission

The ethical dilemmas are used with the permission of the *Texas Dental Journal*.

### Support

For more information about this series of digital ethical dilemmas, contact:

American College of Dentists  
839J Quince Orchard Boulevard  
Gaithersburg, MD 20878-1614

301-977-3223  
fax 301-977-3330  
[office@acd.org](mailto:office@acd.org)



January/February 2001

# TEXAS DENTAL Journal



**The TEXAS Meeting**

**131st Annual Session of the Texas Dental Association  
May 3-5, 2001, San Antonio, Texas**



# What Would You Do?

## Ethical Dilemma #34

Dr. John Hedley is a generalist who has been in practice for 16 years. He is one of six generalists who occupy a group practice in the suburbs of a community of 200,000. The practice started with two dentists, John and another founding member, and has grown and thrived in this vibrant college town.

John is fortunate to have a number of excellent specialists in the community. There is a manageable balance of specialists to generalists except for one area: the number of periodontists has tripled within the last 3 years. It seems that John and other generalists are being invited almost weekly to attend some type of social event by the new periodontists. The events themselves are not the problem because John enjoys meeting the new practitioners, and they appreciate his encouragement as they begin their specialty practice. What seems to be a problem is that a few have been offering some type of incentive for John to refer patients. After a referral, besides receiving a report of the treatment outcome, a few of these specialists have been sending movie and opera tickets, restaurant gift certificates and bottles of expensive wine. John has already told them that he appreciates these gifts but they are unnecessary — since his real reward is their professional attention given to his patients. It seems that there is a pattern, a progression, in these gifts depending on the number of referrals each quarter. There is almost a competition from a few of these specialists for increasing the expense of these gifts for referrals. Other members of John's group practice have recently commented on this trend.

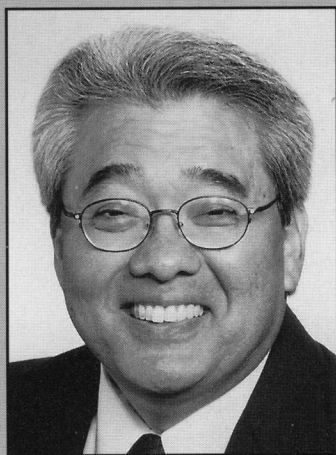
John is now faced with an ethical dilemma. Check the following course(s) of action John should take in this case and mail, FAX this page, E-mail your recommendation, or send a note as instructed below:

1. \_\_\_\_\_ John should just ignore this situation for now and enjoy these gifts;
  2. \_\_\_\_\_ John should discuss these concerns with the specialists again and insist they stop sending gifts;
  3. \_\_\_\_\_ John should assist these new specialists in their networking efforts;
  4. \_\_\_\_\_ John should ask other generalists if they have had the same experience and plan an effort by the practicing community to address this;
  5. \_\_\_\_\_ John should contact the State Dental Board for advice; or
  6. \_\_\_\_\_ other alternative (please describe): \_\_\_\_\_
- 
- 
- 
- 

SEND YOUR RESPONSE BY **September 15, 1996** ATTENTION: Dr. Thomas K. Hasegawa, Jr., Department of General Dentistry Baylor College of Dentistry, P.O. Box 660677 Dallas, TX 75266-0677, fax to (214) 828-8952, or E-mail to: tk.hasegawa@baylordallas.edu

# Ethical Dilemma

By Thomas K. Hasegawa, Jr., D.D.S., and Consultant Merrill Matthews, Jr., Ph.D.  
Office of Clinical Services, Baylor College of Dentistry



Hasegawa

## The Specialist's Gift *Response to Ethical Dilemma #32*

**D**r. John Hedley is a generalist who has been in practice for 16 years. He is one of six generalists who occupy a group practice in the suburbs of a community of 200,000. The practice started with two dentists, John and another founding member, and has grown and thrived in this vibrant college town.

John is fortunate to have a number of excellent specialists in the community. There is a manageable balance of specialists to generalists except for one area: the number of periodontists has tripled within the last 3 years. It seems that John and other generalists are being invited almost weekly to attend some type of social event by the new periodontists. The events themselves are not the problem because John enjoys meeting the new practitioners, and they appreciate his encouragement as they begin their specialty practice. What seems to be a problem is that a few have been offering some type of incentive for John to refer patients. After a referral, besides receiving a report of the treatment outcome, a few of these specialists have been sending movie and opera tickets, restaurant gift certificates and bottles of expensive wine. John has already told them that he appreciates these gifts but they are

unnecessary — since his real reward is their professional attention given to his patients. It seems that there is a pattern, a progression, in these gifts depending on the number of referrals each quarter. There is almost a competition from a few of these specialists for increasing the expense of these gifts for referrals. Other members of John's group practice have recently commented on this trend.

Dentists who responded to this case\* chose three of the six alternatives and included a few of their own. They include: 1) John should ignore this situation for now and enjoy the gifts; 2) John should discuss these concerns with the specialists again and insist they stop sending gifts; and 3) John should ask other generalists if they have had the same experience and plan an effort by the practicing community to address this.

Twice as many dentists chose to insist that the specialists stop sending gifts or would possibly take a community action to address the concern as those who would just enjoy the gifts. The accompanying comments varied widely, from one dentist who "would be uncomfortable getting a gift," to another who felt that receiving a gift was "fairly normal." Is this merely a matter of etiquette or an ethical problem? The ethical concerns in this case include: 1) gaining a market share through quality service; 2) who benefits from a referral; and 3) a gift by any other name.

## Gaining a the Market Share through Quality Service

Businesses know that customer satisfaction is essential for success. That often means taking one step more than the competition so that the customer, recognizing the additional effort, will feel inclined to return. As consumers, we come to look for and even expect those thoughtful extras that leave a positive impression. For example, a stay in most modestly priced national motel chains could find individual soaps and shampoos, clothes irons, hair dyers, coffee makers, and maybe even candy on the pillow at night and a newspaper on the doorstep in the morning. We realize that we all pay for these extras but they do add to the aura of the experience. These small niceties may even cause us to want to return to the same motel chain in the future. Are they bribes? No. They are inducements intended to lure us back. But they are no substitute for quality service. A chocolate mint will not make up for a dirty room or rude employees. In the competitive motel service industry, a chain's market share will depend on name recognition based in part on its reputation for quality service and whether customers are satisfied.

The relationship between dental specialists, such as periodontists, and referring generalists could be viewed in a similar light. The periodontists, as an example in this case, depend on referring generalists and specialists seeking their expertise in promoting the patient's health. What makes one specialist's practice better than another? And if there are many periodontists in a locality, as in this case, what can they do to secure a fair market share or maybe even gain a competitive edge?

A small gift can be that little extra that is not obtrusive but expresses appreciation — and provides an edge over other practices. Does this then create a conflict of

interest, or feeling of obligation or reciprocity(1)? That's where the role of personal motives comes in.

## Who Benefits From a Referral?

Patients trust that their clinicians make referrals to specialists with the confidence that these referrals will result in quality care. In the jargon of the health professions, specialists exceed mere competency and are indeed proficient, even performing in some cases at a mastery level. The specialist complements the generalist's practice by providing special skills. The ADA Code (2) under the principle of nonmaleficence, or "do no harm," advises that: "Dentists shall be obliged to seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those who have special skills, knowledge, and expertise." While patients may not know the credentials of the specialist, the referring clinician usually knows by experience, reputation or reports by other trusted colleagues which specialists to refer to. The referring clinician will probably know if the person is a recent graduate from a 2-year certificate program or a board certified specialist. The clinician may know that the last 10 patients sent to this specialist were of similar complexity and all managed well and the patients pleased. Of course, dentists often know when just the opposite is the case.

Even periodontists in a locality or practice may subspecialize in various aspects of surgical care. One may have special skills and training in soft tissue grafting for esthetic cases and another for guided tissue regeneration. The periodontist, in fact, must assess each new case to assure that the expected outcomes of care by the referring clinician and patient are reasonable and within the limits of his or her own skill.

Patients expect that referrals to specialists are made for the patients' best interest. When a specialist gives a referring dentist a gift, does this action constitute a breach of this expectation, or at least create a reasonable doubt? Is this just a case about simple etiquette or is it really a breach of ethics?

## A Gift by Any Other Name...

Let's consider a range of gifts with a bottle of wine on one side and a check for \$100 on the other. It is clear that fee splitting or taking payments by or to a clinician solely for the referral of a patient is unethical according to the ADA Code (2), the AMA Code (3), and State Dental Codes (4). Gifts such as the bottle of wine are not as clear.

Two questions are at the heart of the case: 1) Is the referring dentist influenced to change his or her referral patterns based on gifts? If so, then it is clear that the dentist is no longer promoting the patients' best interest. 2) Is the specialist who receives referrals trying to influence those generalists? Both questions are subjective and depend on the motive of the dentist involved. Even self-evaluation might not provide an accurate answer. One test might be for the dentist to ask himself or herself whether informing a patient about the nature and cost of the gift would raise concerns in the patient's mind (5). Patients recognize thank-you gifts as part of the culture, and most also know that there is a difference between a thank-you gift and an inappropriate inducement. One gesture expresses appreciation and the other expectation. As one dentist wrote, "I refer my patients to periodontists because of their skills, not how nice the gifts may be. I would be uncomfortable getting a gift. I would feel obligated once I received a gift."

Establishing or changing specialty referral patterns should be



based on the cold, hard knowledge that we have made the best match between the needs of the patient and the skills of the specialist.

Maybe part of the conflicting views in the case is the fine (gray) line between ethics and etiquette. For example, is there a difference between two tickets to a movie or to the Super Bowl? Or the difference between a \$100 check and a \$100 bottle of wine? You do the math. Along these lines one author (6) stated, "If a small gift from the dental specialist is an expression of gratitude for referrals — a way of saying thank you — and the quality of patient care is excellent, then it should not be an ethical dilemma. On the other hand, extravagant gifts are inappropriate. In these cases it is only proper and ethical for the referring dentist to refuse these elaborate material rewards for patient referrals."

## Conclusion

Clinicians are obligated to act in the best interest of their patients. Each clinician must decide if gifts from specialists have any influence over their referral patterns or create a tension to reciprocate. Whatever the motives are for the gift, the dentist is ethically justified to refuse any gift no matter the value with the simple statement that the office refers to specialists based on their quality of care and, while the thought behind gifts is appreciated, they are not accepted.

## References

1. Orlowski JP, Vinicky JK, Edwards SS. Conflicts of interest, conflicting interests, and interesting conflicts, part 3. *J Clin Ethics*, 1996 Summer: 184-6.
2. 2.B. Consultation and referral. 4.E. Rebates and split fees. ADA principles of ethics and code of professional conduct. April 2000:3, 6.
3. 6.02 Fee splitting. AMA code of medical ethics and current opinions of the council on ethical and judicial affairs. 1994
4. Rule 109.102 Fee splitting. Rules and regulations Texas state board of dental examiners. November 1999.
5. Chiodo GT, Tolle SW. Ethical issues in the acceptance of gifts: part 1. *Gen Dent* 1999 May-Jun; 47(3): 248, 250, 252, 254.
6. Rinchuse DJ, Rinchuse DJ, Deluzio C. Ethical checklist for dental practice. *J Am Coll Dent* 1995;62(3): 45-8.

\* Results were compiled from the two printings of this case.

# Your Practice is as unique as your thumbprint....

## Amarillo

Well established, still growing practice. \$1.2 million in revenues/high-profit margin. Associateship leading to buy-in. High quality FFS practice.

## Northwest Houston

Excellent FFS practice in well established, beautiful area. Associateship/buy-in opportunity, ultimate buy-out. Five ops, roomy, lovely office, Dentrux software.

## North Central Texas

Excellent opportunity, no urban pressure, great family area, draws from large surrounding area. Excellent support from Chamber of Commerce.

## Austin

General dentistry partnership with large established practice. Great working environment with terrific staff and partner dentist.

## Southwest Houston

Mature general practice with office building to lease or buy. All FFS, FAGD retiring dentist who also does ortho.

Please visit our website, [HindleyGroup.com](http://HindleyGroup.com), for more details regarding these, as well as other opportunities.

No one can handle your individuality better than we can!

*The Hindley Group*

We assist with acquisition terms and conditions, the financing process, and other practice transition issues in order to effect a timely and orderly transition.

For something new and very exciting, see our full-page ad announcing [TheDentalCommunity.com](http://TheDentalCommunity.com) — an opportunity that is sure to be a milestone in the professional careers of private dentists!!

1717 Woodstead Court • Suite 106  
The Woodlands, Texas 77380  
281-367-1955 • FAX 281-363-9296  
1-800-856-1955