

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

383 BOARD OF OSTEOPATHIC LICENSURE

Chapter 17: PHYSICIAN/PHYSICIAN ASSISTANT - PATIENT BOUNDARIES - GIFTS

SUMMARY: The purpose of this rule is to identify under what circumstances the giving or receiving of gifts by a physician or physician assistant is considered as unprofessional conduct.

§ 1 DEFINITIONS

1. "Board" is the Board of Osteopathic Licensure.
2. "Immediate family members" are spouse/partner, dependent children, persons living in the home of the physician or physician assistant, or persons for whom the physician or physician assistant is legally responsible.
3. "Physician" is an individual who is qualified and licensed according to the provisions of 32 M.R.S.A. § 2571 *et seq.*
4. "Physician assistant" is an individual who is qualified and licensed or certified according to the provisions of 32 M.R.S.A. §§ 2594-A and 2594-B.
5. "Significant monetary value" means a value of Fifty Dollars (\$50.00) or over.
6. "Slight monetary value" means a value under Fifty Dollars (\$50.00).

§ 2 GIFTS

1. It is considered unprofessional conduct as defined by 32 M.R.S.A. § 2591-A(2)(F) if a physician or physician assistant:
 - A. accepts from a patient a gift of significant monetary value, frequent gifts of any monetary value, or a gift of a highly personal or intimate nature when the receipt of such gifts interferes with or has a reasonable likelihood of interfering with an appropriate patient-physician relationship;
 - B. gives a patient a gift of significant monetary value, frequent gifts of any value, a gift of a highly personal or intimate nature, or refrains from charging a fee when this is not necessitated by the patient's financial condition;

- C. permits immediate family members to accept or to give gifts to patients when this interferes with or has the reasonable likelihood of interfering with an appropriate patient-physician relationship;
 - D. encourages a patient to bequeath or otherwise give money or anything of significant monetary value to the physician or physician assistant after the patient's death, or does not actively discourage the patient when the physician or physician assistant is informed of the patient's intent to do so, or
 - E. encourages a patient to donate money or anything of significant monetary value or does not actively discourage the patient when the physician or physician assistant is informed of the patient's intent to do so and the donation has the potential for creating a conflict of interest which interferes with or has a reasonable likelihood of interfering with appropriate care of the patient.
2. This rule is not intended to prohibit the physician or physician assistant from accepting certain gifts, such as homemade baked goods and crafts, garden vegetables, photographs and cards that are frequently given by patients around holidays, or to prevent a one time gift of a slight monetary value that has sentimental value for the patient and is given to express gratitude to the physician or physician assistant.

STATUTORY AUTHORITY: 32 M.R.S.A. §§ 2562 & 2581.

EFFECTIVE DATE:

December 23, 2002 - filing 2002-475