



# Practice Advisory

## Participation of neurologists in direct-to-consumer advertising

The Ethics, Law and Humanities Committee of the American Academy of Neurology\*

Increasingly, prescription pharmaceuticals and medical devices are being advertised directly to patients. This direct-to-consumer advertising (DCA)—the “ask-your-doctor” approach—may be conducted through print media, television, audiotapes, and videotapes. DCA serves two purposes: it informs patients about a product and it attempts to persuade them that one company’s product is superior to that of its competitors. Although DCA may be regarded as educational when it serves an informational purpose (for example, teaching patients with chronic illness how to obtain assistance from a company’s support services), it is also a marketing tool designed to create a favorable attitude toward the company and its products.

Neurologists may be solicited by pharmaceutical or medical device companies to participate in DCA. We hope that neurologists who consider doing so will benefit from the considerations and recommendations presented here. We base this Practice Advisory on the following tenets: 1) Patient education materials produced by pharmaceutical and medical device companies may provide useful information but also serve the purpose of advertising and should therefore be regarded as DCA. 2) Mass marketing through DCA may promote a drug or device to an individual for whom it is unsuitable. 3) Participation in DCA may have an unfavorable effect on a neurologist’s professional reputation and trusted relationship with patients. 4) The relationship between neurologists and industry merits further analysis and improvement. 5) Public information about advances in therapy should be effectively conveyed from reliable, impartial sources.

Neurologists may participate in DCA in several ways. For example, they may write or edit informational material that becomes an insert, “supported by an unrestricted grant” from the sponsoring company, in a magazine for persons interested in a par-

ticular disease. They may also authorize excerpting or reproducing their oral presentations or articles for videotapes, audiotapes, and pamphlets distributed from an industry source to individual patients, industry-sponsored support groups, and nonprofit patient service organizations.

Neurologists who participate in DCA may be motivated by the belief that they are providing a wide group of patients useful information they could not obtain otherwise, or are providing it in an especially effective way. This activity, however, may create risks of two sorts: the neurologist’s contribution may be distorted in the process of reaching its final form and the neurologist’s participation may be wrongly interpreted.

Material from a presentation excerpted for advertising purposes may become distorted if the neurologist’s qualifying and cautionary statements are omitted in the process. Through editing, opinion may be presented as fact, or information may be offered to patients that has not been subjected to peer review, as it would be prior to publication in a scientific journal. A neurologist who expresses a preference for a particular drug in DCA material may unintentionally make it more difficult for another neurologist to recommend an alternative medication that may be better suited to the patient’s needs. A participating neurologist may be perceived by both colleagues and patients as a spokesperson for the company or its products.

An additional concern created by neurologist participation in DCA is conflict of interest. A neurologist who accepts compensation for contributing to DCA may feel a sense of obligation that may make it difficult to be completely objective when assessing the relative merits of competing products. This lack of objectivity could influence the neurologist’s statements and perhaps adversely affect the care of patients who read, hear, or view the DCA. Neurologists

\*Members of The Ethics, Law and Humanities Committee of the American Academy of Neurology are listed in the Appendix on page 996.

From the American Academy of Neurology, St. Paul, MN.

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have fiduciary duties to patients to put their best interests first and not to harm them. Strategies of avoidance, withdrawal, and disclosure should therefore be used to mitigate conflicts of interest.

Full disclosure is the most common means of mitigating a conflict of interest. The same standard of disclosure required for presentation at a scientific meeting or for publication should be applied to DCA. When neurologists are paid for any DCA activity, such as writing or editing a newsletter or creating a videotape, this financial relationship should be disclosed. Appropriate disclosure may be difficult to achieve in practice because the company may wish to minimize or avoid it. Direct disclosure to the public, with the same completeness as in a peer-reviewed publication, is the proper standard.

**Recommendations.** A neurologist who participates in DCA should insist on the following conditions:

1. The neurologist should have the opportunity to review the finished product for accuracy and fairness and to withdraw if it cannot be modified as needed to the neurologist's satisfaction. A mechanism for reviewing the finished product should be agreed upon prior to the neurologist's participation. Approving the DCA entails assuming responsibility for the accuracy of any claims of the product's efficacy and any

comparison with competing products. The neurologist should not unintentionally participate in promoting one drug or medical device over another.

2. The neurologist's participation should be contingent upon the inclusion, in any industry-sponsored advertising, promotional, or educational materials, of a disclosure statement similar to those used for presentations at AAN meetings and for articles published in *Neurology*. The disclosure statement should indicate that payment or other compensation has been received, if that is true, and should clearly state any other conflicting interest, as required by the AAN Policy on Conflicts of Interest.

#### **Acknowledgment**

The Ethics, Law and Humanities Committee acknowledges the contribution of Ann Weiss, MSW, wife of the principal author. As a selected recipient of DCA in which neurologists had participated, she made us aware of her concerns, sparked our interest, and provided direction to our work.

#### **Appendix**

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