

Open Peer Commentaries

Clarifying the Dispute over Academic–Industry Relationships

Thomas S. Huddle, University of Alabama School of Medicine

Howard Brody (2011) accuses those generally supportive of academic–industry relationships (“pharmapologists”) of impugning the notion of conflict of interest as they defend such relationships against the attacks upon them mounted by industry skeptics (“pharmascolds”). He seeks to clarify the problem of conflict of interest in medicine while rebutting pharmapologist attacks on that notion and hence on pharmascold policy recommendations for academic–industry relationships. While the concept “conflict of interest” could perhaps use some clarification, I think Brody has mistaken its importance in the dispute over academic–industry relationships. Pharmapologists are not as dismissive of the notion as he suggests—but they do have a different view of its bearing on academic–industry relationships than do the pharmascolds. The difference follows from the differing views of the world held by the two groups—a difference that I hope to clarify in the following remarks about Brody’s analysis.

Brody’s definition of conflict of interest, while close to standard definitions, is a bit too narrow. He is willing to acknowledge a conflict of interest only if a potentially conflicted person enters into “certain social arrangements,” which remain unspecified. A broader definition is preferable, such as that of Carson, who holds that a conflict of interest is present if a person (a) has duties to another party by virtue of holding an office or position and (b) is impeded in performing those duties by (c) interests that are incompatible with the duty (Carson 2004). By this definition, whether a person is impeded depends upon a judgment made by a “reasonable person” that a person of ordinary moral virtue would be impeded and, most importantly (and here differing from Brody), there is no limitation on the kinds of interests that might be recognized as conflicting. The virtue of such a broad definition is its recognition that conflicts of interest are ubiquitous and hence demanding of prudential assessment rather than summary acceptance or condemnation.

Brody’s narrower definition serves his purpose by suggesting at the outset that some conflicts of interest, those involving yet-to-be-specified social arrangements, are more worrisome than others. He proceeds to argue that financial conflicts of interest are uniquely dangerous and worrisome,

as against the alleged pharmapologist position that such conflicts are unimportant because they “make up only a tiny . . . segment of the total picture” (XX). But the point to make about the ubiquity of conflicting interests is not that financial conflicting interests are thereby unimportant (a point that the pharmapologists cited by Brody do not make, as far as I can tell). It is that one should go carefully in deciding how any conflicting interest, financial or otherwise, should be handled. Removing one conflicting interest may simply open the way for the operation of others. Human decision making does not occur in decision frames that can be purified from conflicting interests. The best we can do is to protect against certain kinds of interest amenable to removal while running the risk of thus giving other interests a higher likelihood of achieving influence.

What follows is not that financial conflicts of interest should be summarily forbidden, but that such conflicts should be carefully scrutinized and judged according to their risks and benefits in individual circumstances. Brody offers several reasons for a more militant approach, none of them persuasive. Pharmapologists may overweight the benefits of financial conflicts of interests compared to the risks; they may indeed, but this will not lead to malfeasance unless pharmapologists are setting the rules, which they will not be doing without the input of pharmascolds such as Brody, who may be equally likely to underweight the benefits. Brody goes on to suggest that financial conflicts should be given no quarter because benefits accruing from such conflicts cannot be weighed against the dangers posed by them (“advocacy for the patients’ health represents a *duty* and not a mere interest; hence the existence of a competing benefit is insufficient to overturn it”) (XX). But this assertion is unsupported. It is exactly the paramount importance of a physician’s duty to patients that demands our careful assessment of interests that may conflict with that duty in terms of risk and benefit. If a given conflicting interest has compensating benefits for physician decision making and our aim is good physician decisions, such benefits need to be weighed against the threat posed by the conflict. Finally, Brody cites Greenland’s suspicion that an investigator’s relationship with a sponsor might affect her results (Greenland 2009) as a reason to conclude that financial

Address correspondence to Thomas S. Huddle, University of Alabama School of Medicine, Medicine, 1530 3rd Avenue South, Birmingham, AL 35294, USA. E-mail: thuddle@uab.edu

90 conflicts of interest are in a class by themselves. But this
 conclusion does not follow, as Greenland himself acknowl-
 edges.¹ Contra Brody, although financial conflicts of interest
 are quantifiable and comparable (to one another) in ways
 that other sorts are not, they are not more or less threatening
 95 to decision making than those other sorts of conflicts.

Having defined conflict of interest in terms of nefarious
 social arrangements and then specified the latter as finan-
 cial conflicts, Brody offers conditions that, if met, would deter-
 mine conflicts of interest to be “morally blameworthy in
 100 themselves.” These include (a) arrangements carrying a “se-
 rious risk of threatening the public trust” in physicians, that
 are (b) avoidable. On the view I would oppose to Brody’s,
 while entering into certain conflicts of interest might in-
 deed be judged morally blameworthy, the blame attaches
 105 after the risk–benefit calculation rather than beforehand;
 Brody’s formula does not get us to the conclusion that the
 rest of his argument has failed to reach, that financial
 conflicts of interest are morally blameworthy simply by virtue
 of being what they are. A further difficulty with Brody’s for-
 mula for conflicts of interest to be proscribed is his appeal to
 110 the “public trust” as the entity under threat. Brody would
 be better advised to seek the protection of the public itself
 rather than its attitudes. The latter are highly malleable,
 and the standard implied, the “appearance of a conflict of
 115 interest,” is troubling, not only for its vagueness (who is
 to say when a given appearance is troubling?) but for its
 invitation to frivolous accusations of malfeasance (Rotunda
 2005; Morgan and Reynolds 2002). It is of course true that
 some appearances are sufficiently troubling to forbid, but
 120 our standard of probity should generally be the avoidance
 of real wrong, not the mere appearance of wrong.

Brody and his fellow pharascolds have been success-
 ful enough in their attack on the pharmaceutical industry
 that public suspicion of that industry is likely at an all-time
 125 high. While some of this suspicion has, of course, been am-
 ply justified by physician and industry misdeeds, the over-
 all condemnation of physician–industry connections that
 some have gone on to offer (Schafer, 2004) has not been, and
 it would be tragic if the connections between academia and
 130 the American pharmaceutical industry to which we owe so
 many new drugs in the past 40 years were to be severed
 because such connections now *appear* suspicious as a result
 of pharascold agitation.

Carson’s definition of a conflict of interest, with its im-
 135 plied requirement for prudential assessment, would lead to
 a rather different recommendation for physicians than that
 offered by Brody. It might go as follows: Physicians should
 avoid a conflict of interest if (a) the balance of risk and
 benefit presented by the conflicting interest to the physi-
 140 cian’s duty offers a net threat to the performance of the
 duty and (b) the conflicting interest is removable. This rec-
 ommendation would reserve moral blame for entering into
 conflicts of interest for which the risk–benefit calculation

1. See remarks beginning with “Although I have focused on dis-
 tortion from financial input, I have no doubt that ideological com-
 mitment can be just as distortive” (Greenland 2009, 597).

is clearly adverse to the removable interest. The practi-
 cal problem is, of course, where to draw regulatory lines. 145
 Brody and his fellow pharascolds favor the removal not
 only of all financial conflicts of interest involving medicine
 and industry but also the proscribing of activities, such as
 pharmaceutical detailing, that likely offer significant bene-
 fits to physician prescribing (and some accompanying dan-
 150 gers), without presenting a worrisome conflict of inter-
 est on any current definition.² Pharmapologists seek the
 continuance of some carefully scrutinized financial rela-
 tionships and a permissive stance toward pharmaceutical
 detailing. 155

Differences over the concept of conflict of interest be-
 tween pharascolds and pharmapologists (as per my argu-
 ment here, there likely are some such differences) do not suf-
 fice to explain the two groups’ vastly differing policy pref-
 erences for regulating academic–industry relationships. It is
 160 more likely that broader differences of worldview explain
 disagreement over both conflict of interest and regulation of
 academic–industry relationships. Take the example of hospi-
 tal formulary committees. At the risk of overgeneralizing,
 I take it that pharascolds would favor prohibiting physi-
 165 cians with ties to a pharmaceutical company from being
 members, whereas pharmapologists would favor a liberal
 membership regime, with members recusing themselves
 from voting on drugs made by companies to which they
 had ties. The pharmapologist recommendation most likely
 170 reflects not a rejection of the notion of conflict of interest but
 instead a conviction that the conflict in this case should be
 judged prudentially, accompanied by a judgment that the
 risks and benefits of company ties for formulary decision-
 making favor allowing company ties among members but
 175 not voting by such members on decisions about their com-
 pany’s drugs.

The pharmapologist judgment here follows from the
 pharmapologist view of the world: Conflicts of interest are
 ubiquitous; that is, human decisions are subject to distort-
 180 ing influences that are pervasive and, in the aggregate, in-
 escapable; removing particular financial conflicts of interest
 from decision making on a formulary committee will simply
 make more room for other kinds of bias, such as prejudice
 against pharmaceutical companies and their brand-name
 185 drugs. The problem to be confronted is not a single subset
 of conflicting interests (that is, financial) but the universe
 of passions and interests that may contaminate rational
 thought. The best protection against such contamination is
 not wholesale removal of a single subset of conflicting inter-
 190 ests, but instead a diversity of voices among those making
 decisions, among whom we may hope that countervailing
 biases will be neutralized. Such a diversity would also en-
 sure that we are not losing valuable expertise or competence
 195 by excluding given classes of committee members, such as
 physicians with industry connections. Of course, some par-
 ticular removable interests should be removed: hence the
 prohibition on members voting on drugs made by compa-
 nies in which they have an interest.

2. As I have argued elsewhere (Huddle 2007; 2010).

200 The pharascold recommendation for restricted formu-
 lary committee membership follows from the pharascold
 view of the world, in which financial conflicts of interest are
 uniquely dangerous and intrinsically immoral. It is these
 205 opposing worldviews, which are in part reflected in dif-
 ferences over conflict of interest, that are most at issue in
 the debate over academic–industry relationships. Thus, I
 take Brody to be mistaken in supposing that it is attacks
 on the concept of conflict of interest by pharmapologists
 210 that have sidetracked efforts to determine how medicine
 may productively but ethically engage with the pharma-
 ceutical industry. Pharascolds and pharmapologists sim-
 ply disagree over what such engagement should look
 like—unsurprisingly, given their differing views of how we
 215 may best achieve productive innovation in medicine while
 preserving physician ethics. ■

REFERENCES

Brody, H. 2011. Clarifying conflict of interest. *American Journal of Bioethics* 11(1): XX–XX.

- Carson, T. L. 2004. Conflicts of interest and self-dealing in the pro-
 fessions: A review essay. *Business Ethics Quarterly* 14(1): 161–182. 220
- Greenland, S. 2009. Accounting for uncertainty about investigator
 bias: Disclosure is informative. *Journal of Epidemiology and Commu-
 nity Health* 63: 593–598.
- Huddle, T. S. 2007. Drug reps and the academic medical center: A
 case for management rather than prohibition. *Perspectives in Biology* 225
and Medicine 51(2): 251–260.
- Huddle, T. S. 2010. The pitfalls of deducing ethics from behavioral
 economics: Why the Association of American Medical Colleges is
 wrong about pharmaceutical detailing. *American Journal of Bioethics*
 10(1): 1–8. 230
- Morgan, P. W., and G. H. Reynolds. 2002. *The appearance of impro-
 priety: How the ethics wars have undermined American government,
 business and society*. New York: Free Press.
- Rotunda, R. D. 2005. Alleged conflicts of interest because of the
 “appearance of impropriety.” *Hofstra Law Review* 33: 1141–1147. 235
- Schafer, A. 2004. Biomedical conflicts of interest: A defence of the
 sequestration thesis—Learning from the cases of Nancy Olivieri
 and David Healy. *Journal of Medical Ethics* 30: 8–24.