

JAMA Announces Gag Rule on Conflict-of-Interest Whistleblowers

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by John Gever, *Senior Editor, MedPage Today* March 23, 2009

CHICAGO, March 23 -- Individuals who spot undisclosed conflicts of interest by authors published in the *Journal of the American Medical Association* are invited to inform the journal's editors -- but telling anyone else is forbidden under a new *JAMA* policy.

"The person bringing the allegation will be specifically informed that he/she should not reveal this information to third parties or the media while the investigation is under way," according to an editorial published online last week and signed by editor-in-chief Catherine DeAngelis, M.D., M.P.H., and executive deputy editor Phil B. Fontanarosa, M.D., M.B.A.

The editorial did not specify what punishment the journal would mete out to future whistleblowers who violate the new gag rule.

But some idea may be gleaned from what happened to the Tennessee neuroanatomy professor whose efforts to publicize an unreported conflict of interest prompted the new policy.

The story began with a May 2008 *JAMA* report on a comparison of escitalopram (Lexapro) with problem-solving therapy in poststroke depression. (See: [Preventive Therapies May Cut Depression Risk After a Stroke](#))

The lead author, Robert Robinson, M.D., of the University of Iowa, reported relationships with two companies but not with Forest Laboratories, manufacturer of escitalopram.

In fact, Dr. Robinson had received lecture fees from Forest, which he had reported in other publications but not in the *JAMA* report.

The omission was discovered by neuroanatomist Jonathan Leo, Ph.D., of Lincoln Memorial University in Harrogate, Tenn., and Jeffrey Lacasse, Ph.D., who teaches social work at Arizona State University. In October, they wrote to *JAMA* to point it out.

They also decided to submit a lengthier analysis of the escitalopram study and Dr. Robinson's apparent conflict of interest to *BMJ*. That analysis appeared in *BMJ* on March 5. Dr. Leo also

passed along information on the conflict to a reporter at the *New York Times*.

JAMA's editors eventually determined that Drs. Leo and Lacasse were correct, and in the March 11 issue, they published a correction and apology from Dr. Robinson.

But by then, stung by the *BMJ* publication and Dr. Leo's contact with the *Times*, the journal had directed its wrath at him.

Drs. DeAngelis and Fontanarosa devoted more than a third of their editorial to criticizing Dr. Leo for taking his concerns to outsiders.

"While the confidential investigation of unreported conflicts of interest is under way, we consider involvement of third parties -- such as Leo had done by his posting on the *BMJ* site and by contacting the media -- to be a serious ethical breach of confidentiality that not only potentially damages our ability to complete a fair and thorough investigation (of the specific issue that Leo had brought to our attention), but also potentially damages *JAMA*'s reputation by the insinuation that we would fail to do so," they wrote.

The editorial gave some hints as to how ugly the situation became.

It quoted an e-mail they received from Dr. Leo on March 5, the day of the *BMJ* article's scheduled publication -- a week before the *JAMA* correction came out -- in which he said, "You asked in your previous e-mail why I contacted the press. At the time, I was highly skeptical that *JAMA* would set the record straight on this matter. It has been almost five months since this matter was brought to your attention, and *JAMA* has done nothing to correct the record."

Drs. DeAngelis and Fontanarosa said they responded by telling Dr. Leo that, "if his actions represented his apparent lack of confidence in and regard for *JAMA*, he certainly should not plan to submit future manuscripts or letters for publication."

Although the *BMJ* article was not overtly critical of *JAMA* -- it mainly addressed the substance of the original paper and the potential effects of the unreported conflict of interest -- *JAMA*'s editors also contacted Dr. Leo's dean to complain about what they said was an attack on the journal's reputation.

There's more. A *Wall Street Journal* reporter said that, in an interview, Dr. DeAngelis called Dr. Leo "a nobody and a nothing He is trying to make a name for himself."

The *JAMA* editorial said her remarks were "erroneously reported" and insisted that she would never say such a thing. But the reporter stood by the quote and said the newspaper had not received a complaint directly from Dr. DeAngelis or *JAMA*.

Dr. Leo said that Dr. DeAngelis had demanded that he retract the entire *BMJ* article and, when he refused, tried to get his dean to order it.

He also reported a phone conversation with Dr. Fontanarosa, who, he said, told him he was "banned from *JAMA* for life" and that he, his students, and his school would be sorry. A *JAMA* spokeswoman said that was a misrepresentation of the conversation.

Dr. Leo said in a statement that the new *JAMA* policy was "an infringement of academic freedom," noting that the information he reported about Dr. Robinson was freely available on the Internet.

"The view that *JAMA* should control such information is anachronistic at best," he said. "At worst, it is a reflection of a scientifically and ethically inappropriate effort to suppress the free exchange of information, which is at the heart of productive scientific discourse."

Sources: