We can work it out: Should I hire my patient?

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Douglas Mossman, MD
Department Editor

Dear Dr. Mossman,
Each month, I see my patient, Mr. R, for a 15-minute medication management appointment. At his latest visit, Mr. R mentioned his financial difficulties. He also observed that our office needed to have some carpentry work done—not a surprise, because he's known in our area as one of the best carpenters around. He suggested that I hire him as payment for the next 6 appointments. What risks might I encounter if I oblige him?

Submitted by "Dr. Z"

Nearly 29 million Americans are uninsured,[1] and even more have trouble accessing mental health care.[2] Many psychiatrists struggle to provide affordable services while remaining financially viable.[3,4] For outpatients with limited means to pay for care, spacing appointments to fit their budgets might compromise treatment.[5] Simply not charging patients poses its own clinical and ethical challenges.[6-8]

As a result, some mental health professionals make barter arrangements to help their patients enter or continue treatment. To answer Dr. Z's question on whether exchanging services might be a way to arrange matters with some patients, we explore:

- the idea of bartering for psychiatric treatment
- related ethical and legal considerations
- when and in what situations bartering might be appropriate.

Think of what I'm saying: Bartering for treatment

"Barter" refers to exchanging commodities, products, or services of equivalent value without using money.[9] In 2010, Nevada Republican Senate candidate Sue Lowden encouraged barter for health care and harkened back to an earlier time where "they would bring a chicken to the doctor; they would say 'I'll paint your house.'"[10]

Such payment arrangements have been encouraged as health care has become increasingly commoditized.[11-13] This happens through both direct barter between physician and patient and barter exchanges. Barter exchange systems have been set up on Web sites (as of 2013, at least 400 such online exchanges were available[14]), local communities,[11,15] and social programs. For example, through the "Swapping Guns for Therapy" program, psychologists in California gave free or reduced-fee care for people who traded in their guns.[16]

Try to see it my way: A prevailing view of barter

Several psychiatrists recommend against bartering for treatment, for a variety of reasons.[7,8,17-19] Simon[18] argues that a stable fee policy is part of a proper therapeutic frame-

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▶ Submit your malpractice-related questions to Dr. Mossman at dmossman@frontlinemedcom.com.

▶ Include your name, address, and practice location.
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Table 1

Factors for and against barter arrangements

For	Against
Fostering psychological separateness of the patient	Fostering psychological dependence
Builds trust, alliance, discussable; passes "well-lit room" test	Motives not discussed, serves personal interests
Patient is free of obvious personality disorder or traits	Manipulative patient, risk of deceiving the clinician
Barter would involve limited personal intimacy	More personal intimacy (for example, babysitting)
Sole boundary crossing	Part of progressive pattern of boundary crossings
Mutual awareness of potential issues and greater capacity to give consent	Patient cannot or will not recognize dilemma or salient issues
Time-limited or biological treatments	Long-term or intensive psychotherapy
Rural setting	Urban setting
Barter is for goods	Barter is for services
Previously sought patient's goods or services	New service relationship
Mutual unavailability of others with similar expertise	Wider availability of sought expertise

Source: References 6,8,16,18,27,29-31,35-37

work, and money is "the only acceptable medium of exchange when receiving payment from patients." Emotional distress and the power differential inherent in treatment might prevent a patient from making an accurate assessment of the value of the bartered goods or services,[7,8,17,18,20] which could lead to future claims of undue influence from trading goods or services below market value.[17] To avoid the possibility of exploitating the patient, Simon[18] recommends that the psychiatrist's professional fee be "the only material benefit received from the patient."

The American Psychiatric Association's code of ethics states that "it is not ethical to switch a doctor–patient relationship to an employer–employee one … and, in most cases, such an arrangement would be unethical."[21] In some therapeutic settings, employing a patient risks inappropriate self-disclosure and intrusion.[16]

More than other physicians, psychiatrists pay special attention to professional *boundaries*, the technical term for the "edge of appropriate behavior," within which safe, effective care can occur.[22,23] Although some boundary crossings can be harmless and even constructive, repeated boundary crossings are the forerunners to improper behavior, including sexual relationships with patients.[24-26]

Out of concern that bartering could become the first step down a slippery ethical slope toward patient exploitation, mental health clinicians have deemed the practice "ethically troubling,"[19] said it did "not usually work out well,"[7] and declared it "so fraught with risks for both parties that it seem[ed] illogical to even consider it as an option."[27]

While I see it your way: What barter proponents say

Reports of bartering for chickens[28] and purchasing fuel from a patient in remote Alaska[29] show that not all physicians agree

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and why they feel that professional codes of ethics reflect an urban bias.[28,29] In many rural areas and small towns, access to mental health services is limited, and patients often interact with their doctors outside of clinical encounters.[23,29-31]

Bartering can benefit a physician's practice by:

- reducing the need to discount services
- eliminating bureaucratic burdens of traditional insurance arrangements
- facilitating development of a patient base
- allowing patients choice and flexibility in seeking medical care.[6,16,32]

Bartering could confer certain clinical benefits, such as:

- enhancing trust and empathy[32]
- encouraging patients to make their needs known constructively[6]
- modeling financial self-care[6]
- helping the doctor to feel fairly compensated for providing thoughtful care[6]
- acknowledging the patient's cultural values[15,33]
- affirming that patients and doctors both produce things of value.[16]

I have always thought: Other ethical models

An ethical approach to bartering that requires careful thought and respect for the patient's needs appears consistent with a primary goal of treatment: "to increase the capacity of individuals to make more rational choices in their lives and to be relatively freer from disabling conflicts."[20] Some authors criticize slippery-slope arguments and strict-rule ethical approaches as being too rigid, limiting, or risk-averse.[22,26,34] In *Table 1*,[6,8,16,18,27,29-31,35-37] (*page 35*) we list several factors that might weigh for or against a decision to enter into a barter arrangement as payment for care.

In a similar manner, Martinez[33,38] proposed a graded-risk framework that encourages examination of potential harms and benefits of a decision, potential coercive or exploitative elements, the clinician's intentions and aspiration to professional ideals, and the context of the decision. Within this framework, some bartering arrangements might be encouraged and, perhaps, even obligatory because of the potential benefits to the patient; other arrangements (eg, trading psychotherapy for menial services) might be unjustifiable. Martinez[38] argues that this approach fosters mutual decision-making with patients, discourages physician paternalism, and "demands that we struggle with the particulars with each case."

Gottlieb's decision-making model[35] recognizes that trying to avoid all dual relationships is unrealistic and not all dual relationships are exploitative. Instead, a clinician must assess 3 dimensions of current and proposed relationships:

- the degree of power differential
- the duration of treatment
- the clarity of termination.

The decision-making process also requires involvement of the patient, who if "unable to recognize the dilemma or is unwilling to consider the issues before deciding, should be considered at risk, and the contemplated relationship rejected."[35]

So I will ask you once again: Dr. Z's decision

In the case of Dr. Z and Mr. R, a barter arrangement might work in the sense of permitting and sustaining good care. Mr. R suggested the idea and might not be able to afford care without it. Nothing in Dr. Z's description suggests that Mr. R has personality characteristics or other conditions that would compromise his ability to give informed consent or to understand the nuances of a barter arrangement. Dr. Z is not providing a treatment (eg, psychodynamic therapy) that a barter arrangement could contaminate. That the arrangement would be circumscribed

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limits the effect of a power differential, as would its brief duration and defined termination endpoint. Dr. Z's letter to the authors also shows his willingness to seek consultation.

There's a chance that we may fall apart: Reasons for caution

Martinez's graded-risk approach recognizes reasons for caution:

- the risk of harm to the patient or doctor–patient relationship
- the uncertain benefit to the patient
- the blurring of Dr. Z's self-interest and Mr. R's needs
- some ambiguity about possible exploitation.

Dr. Z and Mr. R have not discussed the value of Mr. R's work—which might create a rift between them—and despite Mr. R's reputation, other carpenters are available. Future med-check appointments will give them little time to explore and discuss the meanings of the barter.

Any proposed barter arrangement creates some clinical perils that can be particularly salient in mental health treatment. Patients could view themselves as "special" or entitled to enhanced access to the doctor because of exchanged services, which could take a toll on the doctor.[39] The physician's objectivity might diminish, and the business aspect of their relationship could make both parties less comfortable when discussing sensitive information relevant to treatment.[31,40] Also, the suggested barter is for services to be provided at Dr. Z's office, where confidentiality may be breeched and transference issues could arise.

A medical malpractice claim states that a doctor has breached a duty of care to a patient such that harm (or "damages") resulted.[41] Should Dr. Z and Mr. R's barter agreement turn sour and harm follow, Mr. R could sue for recovery of damages based of a claim of duress, undue influence, or other aspects of the doctor–patient power differential.[27,42,43] Given the published views we have described, a psychiatrist who barters also may be viewed as violating state regulations that measure the standard of care against generally accepted practice.

Only time will tell if I am right or I am wrong

If you face a situation similar to Dr. Z's and want to consider a barter arrangement, you can take several steps to mitigate potential risk to your patient and ensure competent care (*Table 2*[5,6,15,16,32,35,39,40,44-47]). One of the most important steps is to seek ongoing consultation, both before and

Table 2

Limiting the risks of a barter arrangement

Limiting the risks of a barter arrangement
Assess your likelihood to exploit patients (eg, by using the Exploitation Index questionnaire)
Seek consultation
Make arrangements with the patient directly rather than through your staff
Review relevant state laws regarding payment
Document the risks, particularly of breach of confidentiality
Itemize the value of services and consider outside appraisal
Discuss what will happen if a patient is injured while providing the traded service
Discuss what will be done if the work is unsatisfactory or untimely
Set a limit to the extent and duration of services, and consider receiving the goods or services upfront
Establish how payment will be distributed among any partners in your practice
Pay relevant taxes
Monitor and listen carefully to the patient
Consider the patient's point of view
Keep adequate and accurate records throughout the barter transaction

Source: References 5,6,15,16,32,35,39,40,44-47

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after a decision to barter. Ideally, the consulting colleague would know you and your circumstances and would have sufficient clinical grasp of the patient to make an informed assessment of risks and benefits.[35] This consultation, as well as your own rationale for acting on recommendations, should be thoroughly documented in the patient's records.[26,44,45]

Certain types of barter should be off limits, including:

- trading prescription drugs for goods or services
- trading for services that tie into the success of one's business (eg, business advising or marketing)[16]
- offering treatment in exchange for illegal or ethically unacceptable services.[48]

Beyond ethical considerations are some practical issues. The Internal Revenue Service has specific rules regarding taxation of bartered goods and services, which must be included as taxable income.[46] If possible, an independent agent should appraise the traded goods or services before the agreement.[6] When working in a group practice, the clinician might have to figure out how to allocate the received goods or services such as shared overhead costs.[28] Preferably, the patient's goods or services should be provided before care is delivered.[16] If not, the duration of services rendered should be limited, and either party should have the option to disengage from the relationship if one feels dissatisfied.[16]

A written contract, discussed ahead of time, can be a sound way to summarize the terms of the arrangement. Both sides also should consider what would happen if an injury occurred.[16] Finally, you must adhere to any relevant state laws regarding payment for services, particularly if the patient has health insurance.[32]

If the bartering arrangement does not work, you should take an open and nondefensive approach. If you believe you have made a mistake, consider apologizing.[45]

Clinical Point

An ethical approach to bartering requires careful thought and respect for the patient's needs

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Bottom Line

Traditionally, psychiatrists have discouraged barter. But recent trends and pressures in the delivery of health care have made it more common. Before you accept a patient's goods or services as payment for care, get consultation and think through the ethical, legal, clinical, and practical implications. If, after consultation, a barter arrangement seems suitable, take steps to mitigate risks and to promote a positive outcome.

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Seek ongoing consultation before and after the barter, discuss the written contract, and adhere to relevant laws regarding payment