



## **74. The physician inventor, entrepreneur and office holder in a company dealing with medications or equipment**

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Over the years, many doctors have conceived and invented improvements in their fields of expertise and designed innovative devices that overcome a deficiency they were exposed to in the course of their medical work.

In the current era, the topic of medical entrepreneurship is gaining momentum. More and more doctors engage in entrepreneurship, develop innovations and even take part in establishing start-up companies or serve as officials in high-tech and medical technology companies.

Sometimes they suffer painful losses, when the invention is not successful - financial losses, loss of time or promotion- and sometimes the equipment or treatment is very successful, improving health, and the doctors enjoy the fruits of the invention.

The medical world is trying to expand and promote medical entrepreneurship. The assumption is that along with the inventions, the diagnosis, treatment and monitoring of various diseases will improve. This progress brings hope for a better quality of life for all patients.

There is a clear interest for all those involved in the field of health, and for the public in general, that medical professionals are involved in health promotion, innovation, inventions, entrepreneurship and patents.

To this end, the Israel Medical Association established the Institute for Medical Innovation and the Medicine of Tomorrow, and there is a strategic partnership between it and the 8400 Health Network in a number of innovative and leading projects.

Following a problematic case, the question arose as to whether a doctor might have a conflict of interest that requires his refraining from providing medical treatment in the event that he also has a financial interest, due to his involvement in the development of the invention?

Section 10 of the Physicians' Ordinance states: "A licensed physician shall not engage in another occupation in circumstances where a conflict of interest may arise between his occupation as a licensed physician and the other occupation."

On the other hand, it is clear to those involved in medicine that a doctor who practices and treats in a certain field can often be the entrepreneur who invents the device that will facilitate, refine or improve the medical treatment in the field in which he practices. And so, a dilemma may arise.

The general ethical duties of doctors require first and foremost loyalty to the patient and the avoidance of situations that pose a conflict of interest.

Special detail is given in the rules of ethics that deal with the relationship between



commercial or pharmaceutical companies and doctors. This is a complex relationship, in which the importance of the cooperation between the doctors and the pharmaceutical companies is clear, and on the other hand, it is necessary to address the impression that the economic power of the pharmaceutical companies and medical devices may create a conflict of interest among the doctors, and therefore it is necessary to establish rules for the existence of proper cooperation.

Along with the doctor's duties in his position as a doctor, one who also serves as an officer in a company also has his duties in this position, such as a duty of care and a duty of trust, which include the duty to avoid conflicts of interest.

The Companies Law, for example, establishes various mechanisms for dealing with the range of possible situations of conflicts of interest, such as due disclosure, mechanisms for approving transactions, consulting an audit committee, avoiding involvement, and the like.

It is unreasonable to completely prevent a doctor who practices in a certain field and was involved in a development that advanced this field from using in his practice a tool that he invented, initiated, produced or marketed.

Naturally, doctors develop ideas, ventures and inventions in their fields of practice, in which they are involved and which they understand. It is rare for a doctor from a certain field to use his knowledge and experience for an invention in another field.

We must find the appropriate and balanced way in which it will be possible for the physician entrepreneur to use the fruits of his initiative also in his role as a practicing physician.

**In the discussion at the Ethics Bureau we decided on the following principles:**

1. The Bureau advocates for the promotion and development of devices and technologies and the continuation of scientific medical education for the physician entrepreneur.
2. There is no prohibition for a doctor to receive rights and make a decent living from a new product which he invented, initiated or developed or from his position in the company that develops and produces such product, and there is no justified reason why only others should benefit from the fruits of his labor.
3. A medical preparation or device will be qualified for testing, use and medical treatment as accepted in the world of medicine, legally and ethically. Any experimental use will be subject to all the accepted rules for a clinical trial, including compliance with the rules of the Helsinki Convention.
4. The inventor doctor or the interested party in the developing company may use the product to treat his patients as a practicing physician only if the product has been approved as accepted (FDA, European Union, Ministry of Health, etc.) and is in regular use by doctors in the relevant profession.



5. A doctor is expected to publicize the preparation or device, as is customary, in the professional medical press under peer review, appear at medical conferences and face the criticism and questions of his peers from the medical field.
6. The doctor must make sure to comply with the rules regarding advertisements and avoid prohibited publication.
7. The doctor must avoid actions that could be considered a conflict of interest with promoting the health of his patients or the patient population in general, and actions that would harm the public's trust in doctors.