



GUIDELINE

Conflict of Interest

STATUS:	APPROVED
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Preamble

This document is a guideline of the College of Physicians and Surgeons of Saskatchewan intended for the guidance of Saskatchewan physicians.

This guideline is primarily a statement of principles. Certain activities are defined as conflicts of interest and unprofessional conduct in regulatory bylaw 9.1. Physicians should be aware of what activities are prohibited by regulatory bylaw 9.1

Physicians must act in the best interests of their patients. This includes managing and avoiding situations where conflicts of interest might occur.

A conflict of interest arises where a reasonable person could think that a physician's duty to act in the patient's best interests may be affected or influenced by other competing interests. Conflicts of interest can be real, potential or perceived. Conflicts of interest may arise in a variety of circumstances including financial, non-financial, direct, and indirect transactions with patients and others. Financial gain by the physician is not necessary to establish a conflict of interest. As well, the physician does not need to directly profit from the relationship. A conflict of interest may arise where the benefit is accrued by the physician's family, close friends, corporation or other businesses, and business partners.

The College's Position

Physicians are reminded that the patient-physician relationship is a fiduciary relationship; that as fiduciary, the physician is in a position of power and confidence over the patient; and that power must be exercised in the patient's best interests. Patients are regarded as vulnerable in relation to physicians. They rely on physicians and must be confident that their needs are considered foremost.

Physicians must be aware that even the appearance of a conflict might damage their professional reputation, and must take steps to avoid creating such a perception.

Common situations which may give rise to a real or perceived conflict of interest include the following:

1. Promoting and selling products to patients for profit except in accordance with the policy Sale of Products by Physicians {this must be read in conjunction with bylaw 9.1(e)(iv)}.

2. Accepting commissions, rebates, fees, gifts or other incentives from third parties who:
 - a. receive patient referrals from the physician, and
 - b. provide medically and non-medically necessary services or products to patients, including devices, appliances, supplies, pharmaceuticals, diagnostic procedures and therapeutic services. This must be read in conjunction with bylaw 9.1(e)(i) to (iii).
3. Leasing space to or from third parties in the circumstances identified above if, in exchange, the rental arrangement is markedly different from fair market value and/or the lease arrangements are dependent on the volume of business generated by the physician or third party. This must be read in conjunction with bylaw 9.1(e) (iii).
4. Referring patients to businesses or facilities where the physician holds a financial interest, including treatment and/or diagnostic facilities, almost always creates a conflict of interest. There are two exceptions to this general principle:
 - a. Referring patients to a self-interested facility is acceptable in a community with demonstrated need, such as a rural setting, where there are no or very limited alternatives other than the referred facility.
 - b. In the interest of maintaining continuity of care, physicians may refer their own patients to a College-accredited facility, separate from the physician's own office practice, if the physician directly provides care and services to that patient at the referred facility.

Referrals in the two exceptions identified above are acceptable only if:

- c. the return on the physician's investment is based on the equity or interest in the facility, and not on the volume of patient referrals made by the physician;
- d. prior to referral, the physician fully discloses the interest he/she has in the facility to the patient; and
- e. where applicable, the physician provides accurate information about wait times for alternate facilities to allow the patient an opportunity to make a fully informed decision about whether or not to proceed with treatment at the referred facility.

Physicians should scrupulously avoid situations, real or perceived, where the patient is unduly pressured or coerced into undergoing the procedure at the referred facility.

Conclusion

It is not always easy to identify and manage the wide-ranging circumstances where conflicts of interest might arise in the course of a physician's professional duties and activities. If questions or concerns arise about conflict of interest, physicians are encouraged to consult with colleagues, the College and/or the Canadian Medical Protective Association for further direction and advice.

Guiding Ethical Principles

CMA Code of Ethics and Professionalism

B. FUNDAMENTAL COMMITMENTS OF THE MEDICAL PROFESSION

Commitment to the well-being of the patient

Consider first the well-being of the patient; always act to benefit the patient and promote the good of the patient.

Commitment to respect for persons

Always treat the patient with dignity and respect the equal and intrinsic worth of all persons.
Always respect the autonomy of the patient.
Never exploit the patient for personal advantage.

Commitment to professional integrity and competence

Practise medicine competently, safely, and with integrity; avoid any influence that could undermine your professional integrity.

C. PROFESSIONAL RESPONSIBILITIES

PHYSICIANS AND THE PRACTICE OF MEDICINE

Managing and minimizing conflicts of interest

22. Recognize that conflicts of interest may arise as a result of competing roles (such as financial, clinical, research, organizational, administrative, or leadership).
23. Enter into associations, contracts, and agreements that maintain your professional integrity, consistent with evidence-informed decision-making, and safeguard the interests of the patient or public.
24. Avoid, minimize, or manage and always disclose conflicts of interest that arise, or are perceived to arise, as a result of any professional relationships or transactions in practice, education, and research; avoid using your role as a physician to promote services (except your own) or products to the patient or public for commercial gain outside of your treatment role.
25. Take reasonable steps to ensure that the patient understands the nature and extent of your responsibility to a third party when acting on behalf of a third party.
26. Discuss professional fees for non-insured services with the patient and consider their ability to pay in determining fees.
27. When conducting research, inform potential research participants about anything that may give rise to a conflict of interest, especially the source of funding and any compensation or benefits.

Acknowledgment

The College of Physicians and Surgeons of Saskatchewan gratefully thanks the College of Physicians and Surgeons of British Columbia for its permission to adapt its standard for use in Saskatchewan.

Other Resources

- College of Physicians and Surgeons of Saskatchewan – Regulatory Bylaw 7.1 – Code of Ethics
- College of Physicians and Surgeons of Saskatchewan – Regulatory Bylaw 7.2 – Code of Conduct
- College of Physicians and Surgeons of Saskatchewan – Policy – Sale of Products by Physicians
- College of Physicians and Surgeons of Saskatchewan – Policy – Complementary and Alternative Therapies
- College of Physicians and Surgeons of Saskatchewan – Policy – Performing Office-based Non-insured Procedures
- College of Physicians and Surgeons of Saskatchewan – Policy – The Practice of Telemedicine
- College of Physicians and Surgeons of Saskatchewan – Policy – Uninsured Services

References

- College of Physicians and Surgeons of British Columbia. Practice Standard “*Conflict of interest*”. Vancouver, BC, 2019. Available: <https://www.cpsbc.ca/files/pdf/PSG-Conflict-of-Interest.pdf>
- College of Physicians and Surgeons of Manitoba: Standards of Practice of Medicine, Part 10 – Conflict of Interest
<https://cpsm.mb.ca/cji39alckF30a/wp-content/uploads/Standards%20of%20Practice/Standards%20of%20Practice%20of%20Medicine.pdf#page=48>
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- College of Physicians and Surgeons of Alberta, Standard of Practice “*Conflict of Interest*”. Edmonton, AB, 2015. <http://www.cpsa.ca/standardspractice/conflict-of-interest/?highlight=declaration%20of%20conflict%20of%20interest>
- General Medical Council *Financial and commercial arrangements and conflicts of interest* https://www.gmc-uk.org/-/media/documents/financial-and-commercial-arrangements-and-conflicts-of-interest_pdf-58833167.pdf

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Weinfurt KP, Hall MA, King NM, Friedman JY, Schulman KA, Sugarman J. *Disclosure of financial relationships to participants in clinical research.* **New England Journal of Medicine** 2009;361(9):916-21. Available: <http://www.nejm.org/doi/full/10.1056/NEJMs0902598>