

The College of Physicians & Surgeons of Alberta (CPSA) provides advice to the profession to support physicians in implementing the CPSA Standards of Practice. This advice does not define a standard of practice, nor should it be interpreted as legal advice.

Advice to the Profession documents are dynamic and may be edited or updated for clarity at any time. Please refer back to these articles regularly to ensure you are aware of the most recent advice. Major changes will be communicated to our members; however, minor edits may only be noted within the documents.

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## Preamble

The physician-patient relationship is fiduciary, where the physician has a legal and ethical duty to act in the best interest of the patient. This includes managing and avoiding situations where conflicts of interest might occur. A conflict of interest arises when 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 implicit, real, potential or perceived and may arise in a variety of circumstances including financial, non-financial, direct and indirect transactions with patients and others. Financial gain by a physician is not necessary to establish a conflict of

interest. Additionally, a physician does not need to directly profit from the relationship for it to be viewed as a conflict.

A conflict of interest may also arise where the benefit is, or could be, accrued by a physician's family, close friends, corporation or other businesses and business partners.

Physicians are expected to take steps to manage and avoid situations where a conflict of interest might occur and, in the event a conflict of interest arises, disclose this to the patient.

### **Conflict of interest in practice**

Common situations which may give rise to a real or perceived conflict of interest include, but are not limited to, the following:

- Promoting and selling products to patients for profit (please refer to the [Dispensing of Schedule 1 and 2 Drugs by Physicians for a Fee](#) and [Sale of Products by Physicians](#) standards of practice).
- Accepting or offering commissions, rebates, fees, gifts or other incentives related to:
  - patient referrals, or
  - devices, appliances, supplies, pharmaceuticals, diagnostic procedures and therapeutic services.
- Leasing space to or from third parties where 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.
- Accepting or offering fee-splitting. Fee-splitting, also referred to as a “kick-back,” occurs when a physician receives payment in return for making a referral. Patients must be able to trust their physicians will be transparent and make treatment recommendations—including referrals—based on the medical needs of the patient, the quality of products or services provided and the skill of the services, facilities or healthcare professionals to whom the patient is referred.
- Referring patients to businesses or facilities where the physician holds a financial interest, including treatment and/or diagnostic facilities. Referring a patient to a

facility where the physician has an interest may be acceptable if there are no viable alternatives to meet the patient's needs.

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

Physicians must manage this conflict of interest by ensuring:

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

### **Conflict of interest arising from clinical research**

Although advances in medical care depend on sound clinical research, the pursuit of science by clinical investigators can compromise a physician's duty to act in the patient's best interest. In accordance with the [Human Health Research](#) standard of practice, CPSA expects physicians participating in clinical research to comply with the [Health Information Act](#), including submitting a proposal for review by a research ethics board in the province of Alberta. Such boards include:

- [Health Research Ethics Board of Alberta](#) (HREBA)
- [Conjoint Health Research Ethics Board](#) (CHREB), University of Calgary
- [Health Research Ethics Board](#) (HREB), University of Alberta

Approval from the ethics board must be obtained prior to beginning research.

When a physician is offered compensation or reward for participating in clinical research, there is the potential for conflict of interest. While some conflicting interests are inherent in research (such as grants or promotions through research and publication of findings),

ethical problems arise if a physician's personal or financial interest in the research diminishes their ability to be objective in the provision of patient care. It is considered reasonable and acceptable for physicians to be compensated at fair market value for any time they spend conducting the clinical research, for loss of income and for any related expenses incurred during the study.

### **Conflict of interest arising from relationships with industry**

Interactions between physicians and industry may give rise to real or perceived conflict of interest. Physicians must maintain professional independence free from the influence of industry and in the best interest of the patient.

CPSA adopts and endorses the following principles outlined by the Canadian Medical Association (CMA), which applies to all physicians practising in Alberta:

- A physician's primary obligation is to the patient. Relationships with industry are appropriate only if compatible with the fiduciary nature of the patient-physician relationship.
- The primary objective of professional interactions between physicians and industry must be the advancement of the health of patients, rather than the private good of either physicians or industry.
- Relationships between physicians and industry must be guided by the CMA [Code of Ethics and Professionalism](#).
- Physicians must resolve any conflict of interest associated with interactions with industry in favour of their patients.

Please refer to the [Relationships with Industry](#) standard of practice for more information.

### **Conflict of interest in relation to education**

Conflicts of interest related to education may occur in any educational setting where a physician makes an endorsement for personal gain. Physicians involved with educational activities must ensure scientific validity and objectivity of all educational teachings and materials.

Organizers and individual presenters of educational events must disclose any financial affiliations to the participants which may pose a conflict of interest. All industry contributions must also be declared on educational materials.

Medical curricula and clinical training of learners must not be influenced by physician-industry interactions.

### **Unavoidable conflict of interest**

If a conflict of interest is unavoidable, the physician must make full, frank and timely disclosure of the conflict of interest to the patient. After disclosing the conflict, the physician must then obtain [informed consent](#) from the patient before providing any medical advice or treatment. Any conflict of interest must be properly managed so as not to compromise the patient's best interest. In circumstances where a conflict is unavoidable and the patient provides informed consent to continue, the physician must:

- work toward resolving the conflict to ensure the medical care provided is in the best interest of the patient;
- refrain from exploiting the patient for personal advantage; and
- inform the patient when their values would influence the recommendation or practice of any medical procedure the patient needs or wants.

Simple disclosure of a conflict to the patient does not necessarily resolve a physician's conflict of interest. Where an allegation of conflict of interest is made, the onus remains on the physician to justify their actions.

### **Examples of potential conflicts of interest**

A conflict of interest can arise in many different situations. Whether there is a conflict of interest will depend on the circumstances. When considering if a physician is in an actual or perceived conflict of interest, they should assess whether a reasonable person could think a physician's duty to act in their patient's best interest may be influenced by personal interests of the physician. If a physician is unsure, they should seek advice from CPSA or the [Canadian Medical Protective Association](#) before proceeding.

The following represents a non-exhaustive list of situations which may give rise to a real or perceived conflict of interest:

- promoting or selling products to patients for profit;
- accepting incentives from third parties, if the third party receives a patient referral from the physician;
- prescribing a drug to patients in situations where the physician has a financial interest to do so;
- recommending an investigation to a patient where the physician has a financial interest to do so;
- leasing space from a third party in a circumstance where the lease arrangement is dependent on the volume of business generated by the physician;
- attending an event hosted by a pharmaceutical company (e.g., playing a round of golf);
- referring patients to businesses or facilities where the physician holds a financial interest;
- if the physician is a decision maker in a medical department, choosing a supplier for surgical instruments or prosthetics where personal interests or indirect benefits may accrue; or
- recommending or enlisting a patient in a research study when the physician has a financial interest to do so.

The following examples illustrate potential conflicts that would **not** require action:

- prescribing a drug made by a company in which the physician holds shares for retirement earnings. Unless a significant holding is involved, this describes a situation where a reasonable person would not perceive the conflict to be adequately significant to require disclosure; or

- providing free drug samples to an uninsured patient. This describes a situation where, all things considered, the physician's interests are aligned with the patient.

## Resources

CPSA team members are available to speak with physicians who have questions or concerns. Please contact Chantelle Dick, Standards of Practice Advisor, at 780-717-2573 or [chantelle.dick@cpsa.ab.ca](mailto:chantelle.dick@cpsa.ab.ca).

## RELATED STANDARDS OF PRACTICE

- [Boundary Violations: Personal](#)
- [Code of Ethics & Professionalism](#)
- [Dispensing of Schedule 1 and 2 Drugs by a Physician for a Fee](#)
- [Human Health Research](#)
- [Informed Consent](#)
- [Patient Record Content](#)
- [Relationships with Industry](#)
- [Sale of Products by Physicians](#)

## COMPANION RESOURCES

- CPSA Advice to the Profession documents:
  - [Advertising](#)
  - [Boundary Violations: Personal](#)
  - [Informed Consent for Adults](#)
  - [Informed Consent for Minors](#)

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