



STANDARDS OF PRACTICE

Conflict of Interest

Under Review: Yes

Issued By: Council: January 1, 2010 (*Conflict of Interest Involving Financial or Personal Gain by Physicians*)

Reissued by Council: October 8, 2015 (*Conflict of Interest*)



The **Standards of Practice** of the College of Physicians & Surgeons of Alberta (“CPSA”) are the **minimum** standards of professional behavior and ethical conduct expected of all regulated members registered in Alberta. Standards of Practice are enforceable under the *Health Professions Act* and will be referenced in the management of complaints and in discipline hearings. CPSA also provides **Advice to the Profession** to support the implementation of the Standards of Practice.

1. A conflict of interest may arise where a reasonable person could believe that a regulated member’s duty to act in the patient’s best interests may be affected or influenced by other competing interests, including financial, non-financial, direct, or indirect transactions with patients or others. A conflict of interest—real, potential or perceived—can exist even if the regulated member is confident their professional judgment is not being influenced by the conflicting interest or relationship.

Commented [CD1]: “Conflict” definition from footer added as clause per consultation feedback.

1.2. A regulated member **must** resolve any real, potential or perceived ~~conflicts~~ conflict of interest² in the best interest of the patient.

2.3. A regulated member **must**:

- a. make full, frank and timely disclosure of any real, potential or perceived conflict of interest to the patient;
- b. document the details of the disclosure made to the patient in the patient’s record; and
- c. comply with clause (1.2) regardless of whether the regulated member has obtained consent from the patient to remain in the conflict of interest.

Commented [CD2]: Added for consistency with clauses 1 and 2 per consultation feedback.

3.4. A regulated member **must not**:

¹ From CPSO’s *Physicians’ Relationships with Industry: Practice, Education and Research (September 2014)*

² ~~A conflict of interest may arise where a reasonable person could believe that a regulated member’s duty to act in the patient’s best interests may be affected or influenced by other competing interests, including financial, non-financial, direct, or indirect transactions with patients or others. A conflict of interest can exist even if the regulated member is confident their professional judgment is not being influenced by the conflicting interest or relationship. [from CPSO’s Relationships w/Industry—endnotes]~~

Terms used in the Standards of Practice:

- “Regulated member” means any person who is registered or who is required to be registered as a member of this College. The College regulates physicians, surgeons and osteopaths.
- “Must” refers to a mandatory requirement.
- “May” means that the physician may exercise reasonable discretion.
- “Patient” includes, where applicable, the patient’s legal guardian or substitute decision maker.

a. ~~accept or offer commissions, rebates, fees, gifts or other inducements related to patient referrals or devices, appliances, supplies, pharmaceuticals, diagnostic procedures or therapeutic services;~~

Commented [CD3]: Added back per consultation feedback: concern that accepting gifts may be seen as permissible otherwise.

~~a.b.~~ seek or accept any benefit for a referral, service or product provided by another regulated professional to a patient, other than for services provided by a partner, associate, employee or locum of the regulated member;

~~b.c.~~ offer an inducement to another regulated professional conditional on providing a referral, service or product to a patient, whether or not such referral, service or product is medically appropriate; or

~~c.d.~~ encourage another person to offer or accept an inducement conditional on providing a referral, service or product to a patient, whether or not such referral, service or product is medically appropriate.

4.5. A regulated member **must not** refer a patient to any facility or healthcare business separate and apart from the regulated member's medical practice in which the regulated member has a direct or indirect financial interest unless ~~there are no viable alternatives to meet the regulated member has the prior approval of the Registrar, patient's needs and is able to substantiate compliance with the following on request conditions are all met:~~

Commented [CD4]: Registrar approval removed based on associated risk given lack of approval process. From legal review: "Prior approval also creates additional work for the Registrar and suggests this kind of thing is a "restricted activity" for which the physician must justify the ability to do it. It should not be the case that the Registrar is put in a position where they are required to "approve" of referrals in a conflict situation. If there is a set of criteria, presumably all conflicts are going to be approved which meet it. If they are not approved, that raises questions as to what kind of judgment call is being made by the Registrar."

~~a.~~ any ~~interest or~~ benefit the regulated member receives ~~is directly attributable due to their financial interest is based on~~ the regulated member's ~~proportionate~~ financial contribution or effort provided to that facility;

A better solution is to allow referrals to occur, even though there is a conflict, but to specify that the referral can only be made if there are no viable alternatives and all the conditions are met. "No viable alternatives" is more protective of the patients than Registrar approval. In addition, this is effectively the same situation where the Registrar would approve all applications if the conditions were met. These conditions ensure that, although there is a recognized conflict, the conflict is being managed in the patients best interest and the patient is being protected."

~~b.a.~~ there are no terms or conditions that relate any benefit to the regulated member ~~to past or expected and not on the~~ volume of patient referrals or other business from the regulated member ~~to the facility;~~ and

~~c.b.~~ there are no terms or conditions that require the regulated member to make referrals to the facility or otherwise generate business for the facility; ~~and~~

~~c.~~ the regulated member fully discloses the interest they have in the facility or healthcare business to the patient prior to the referral.

Commented [CD5]: (a)And (b) revised by legal reviewer to be less confusing while still maintaining the intent.

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