

# Working in Non-Physician Owned Clinics

The College of Physicians & Surgeons of Alberta (CPSA) provides advice to the profession to support regulated members 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.

## Contents

Preamble .....	1
Professional obligations .....	2
Medical-legal considerations .....	3
Electronic medical records .....	4
Remuneration .....	5
Conflict/dispute resolution .....	6
Professional autonomy .....	6
Conclusion.....	7
Resources.....	7

## Preamble

As a physician, you may choose to practise in a clinic owned by someone other than yourself. A clinic owner can be another physician, another regulated health professional, a non-physician or a private company not owned by a physician. Physicians providing clinical services have specific professional and regulatory obligations non-physician owners do not have, and this may present challenges if not properly anticipated or addressed prior to commencing employment.

# Working in Non-Physician Owned Clinics

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Physician-owned clinics can also contract other physicians and, while in those cases, the physician-owners are bound by the same obligations as the physicians who work for them, it is important to be aware of individual responsibilities and have a clear understanding of expectations (see “[Professional Obligations](#)” below).

Key considerations:

- As a contracted physician, you will not have start up or overhead costs associated with owning a clinic
- You may have less control over your working environment and scheduling compared to working at a clinic that you own
- Access to patient records can be difficult if you leave the clinic or practice, as the non-physician owner may maintain ownership over the electronic medical record (EMR) account, potentially impacting your ability to meet professional and regulatory obligations (see “[Electronic Medical Records](#)” below)
- Non-physician owners are not subject to regulatory oversight by CPSA, which means there are fewer avenues by which to address concerns if there is interference with your practice or ability to meet professional obligations
- You must ensure there is a formal agreement (e.g., Information Sharing Agreement (ISA), contract, etc.) that identifies the custodian and/or affiliates (for more information, please refer to the [Physicians as Custodians of Patient Records](#) Advice to the Profession document).

## Professional obligations

Professional and ethical obligations apply regardless of whether a physician is contracted or self-employed. This includes:

- The wellbeing of the patient
- Professional integrity
- Professional excellence

**All** CPSA [Standards of Practice](#) apply to a physician’s practice, regardless of workplace setting.

# Working in Non-Physician Owned Clinics

If you are acting as the Medical Director<sup>1</sup> in an Accredited Medical Facility (in accordance with the [Health Professions Act](#)), medical administrative lead, designated representative, etc. as part of a contracted role, it is important to clarify duties and responsibilities and be aware of the regulatory and legal implications of the role.

CPSA expects physicians to comply with our [Responsibility for a Medical Practice](#) standard of practice (which has a corresponding [Advice to the Profession](#) document for further guidance), which includes ensuring regulated and non-regulated office staff have appropriate supervision, regulated staff have appropriate qualifications, responsible billing practices, appropriate advertising, quality assurance and quality improvements, custody of health information (including maintenance and storage), notification of change to practice location and clear identification of all care providers.

## Medical-legal considerations

Signing a contract requires careful consideration and thorough understanding by both parties. This is particularly important when entering into a contract with someone who is not a regulated health professional and may not be aware of legislated or regulatory requirements and expectations physicians must fulfill.

For example, some non-physician owners will include non-compete or non-solicitation clauses in an attempt to prevent physicians from practising too close to the original clinic or accepting patients who leave the clinic to follow the physician. Others may think of notifying patients when a physician relocates (as required in the [Relocating a Medical Practice](#) standard) as “soliciting” patients.

Review employment or service contracts with your own legal counsel before signing to fully understand what you are being asked to agree to.

While the [Canadian Medical Protective Association](#) (CMPA) does not generally provide advice to members on signing individual contracts, they do provide information and guidance on understanding medical-legal considerations in individual contracts:

- [Medical-legal issues to consider with individual contracts](#)

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<sup>1</sup> The term “Medical Director” is only enshrined in legislation related to Accredited Medical Facilities and, as such, is not otherwise defined outside that context. For more information, please see the [Health Professions Act](#), Schedule 21(8) (Dec. 15, 2022).

# Working in Non-Physician Owned Clinics

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- [The changing practice of medicine: Employment contracts and medical liability](#)

The [Alberta Medical Association](#) may also have additional resources.

## Electronic medical records

The EMR is a system of creating and managing records, but the information contained in those records must be controlled by a regulated health professional custodian in accordance with the [Health Information Act](#) (HIA).

In Canada, patients own the **information** in their medical records and are entitled to examine their records or receive a copy. The physician is the **custodian** of the information in the medical record, irrespective of who holds the account with the EMR provider.

As long as there is an [Information Management Agreement](#) (IMA) in place, the HIA allows custodians to use an Information Manager to perform the following tasks:

- Process, store, retrieve or dispose of health information
- Strip, encodes or otherwise transform individually identifying health information to create non-identifying health information
- Provide information management or information technology (IT) services

An Information Manager does **not** have to be a regulated health professional, which means a non-physician owner can own the EMR and act as the Information Manager (but again, a non-physician owner cannot be the custodian of patient information).

This can create challenges if you leave the clinic/practice because custodianship and information management tasks are complicated and can be easily confused. It is not uncommon for non-physician owners to believe that in owning the EMR, they also “own” the patient records. It is imperative that you have clarity with the non-physician owner (e.g., in an [Information Sharing Agreement](#) (ISA)) regarding ownership, custodianship and how you will access your patients’ records should you leave the clinic/practice.

The non-physician owner of a clinic can own the EMR and, by extension, control access to the records, but they are **not** allowed to access the information in the records themselves if they are not regulated health professionals involved in the care of the patient(s). Doing

# Working in Non-Physician Owned Clinics

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so may constitute a privacy breach by the [Office of the Information and Privacy Commissioner of Alberta](#).

Control over patient records may be restricted when working under a contract in a clinic. This may present challenges in meeting CPSA's [Patient Record Retention, Closing or Leaving a Medical Practice](#) or [Relocating a Medical Practice](#) standards of practice. ISAs and IMAs are key to ensuring that physicians retain access to the information contained in the EMR in the event of leaving the clinic.

It is important to consider obligations, such as patient record retention and [continuity of care](#), and how these will be met in the context of a contractual relationship. For more guidance, please refer to the [Physicians as Custodians](#) Advice to the Profession document.

Key considerations:

- Address issues of record ownership, custody and access **before** entering a contract. Learn more about ISAs and IMAs: [Agreements and Data Sharing \(Alberta Medical Association\)](#)
- ISAs should address issues of the cost involved in transferring records if your contract is terminated or you relocate to another clinic, as well as who will be responsible for chart transfer in the event of a legal request if you are no longer at the clinic
- Consider issues of enduring access to patient records: if you are no longer contracted by the clinic, will you be able to access patient records, and for what period of time?
- If you have provided locum services, how will you access records if needed at a future date?
- Abide by all legal requirements and standards with respect to the creation, maintenance and general use of EMRs where applicable

## Remuneration

The method of remuneration may operate differently when working under contract with a clinic. CPSA cannot assist in payment matters, as billing is outside our purview.

Key considerations:

- Understand the remuneration model as specified in the contract, including whether

# Working in Non-Physician Owned Clinics

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payment is based on fee-for-service billings or an hourly rate, payment schedule and benefits if applicable

- Consider factors such as income predictability, income flexibility and benefits when considering a contract with a clinic

For more information on billing matters, please contact the [Alberta Health Care Insurance Plan](#) or the [Alberta Medical Association](#).

## Conflict/dispute resolution

Disputes may arise from lack of communication, differences in professional priorities or lack of control over the working environment, among other reasons. It is important to maintain healthy and communicative professional relationships, especially when working as a contractor where unresolved disputes may potentially lead to professional disciplinary actions.

Key considerations:

- Ensure familiarity with the dispute resolution mechanisms and processes outlined in your contract
- Inform your employer of issues arising, such as lack of equipment or unsafe/unsanitary working conditions
- Document conflicts/disputes as they arise, as well as steps taken to resolve an issue for an accurate timeline of events
- Consider the possibility of disciplinary actions if conflicts/disputes are unresolved
- Maintain open communication and healthy working relationships to avoid disputes/conflicts as much as possible

CPSA has limited abilities with regard to disputes related to a non-physician owner and cannot provide assistance in business matters.

## Professional autonomy

When working under a contract in a clinic, there may be less control over your workplace environment and schedule.

# Working in Non-Physician Owned Clinics

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## Key considerations:

- Understand work schedule commitments and processes to address changes, flexibility and expectations
- Know the work environment and how much control you may have over equipment/resources
- Gain an understanding of CPSA expectations regarding [facility accreditation](#) or [infection prevention and control](#) (IPAC)
- Be familiar with the non-physician owner's expectations and remember your commitments to the medical profession, regardless of the non-physician owner's expectations

## Conclusion

There are important considerations when deciding to practise as a contracted physician in a clinic. These arrangements may remove some of the financial barriers associated with operating a practice but also reduce your control and autonomy over the clinic and your practice. A physician under contract in a clinic will still be required to meet professional and regulatory obligations, and it is important to understand the terms of a contract before committing in order to make an informed decision that supports safe practice and compliance with professional and regulatory obligations.

## Resources

CPSA team members are available to speak with physicians who have questions or concerns. Please contact 1-800-561-3899 or [support@cpsa.ca](mailto:support@cpsa.ca).

## RELATED STANDARDS OF PRACTICE

- [Closing or Leaving a Medical Practice](#)
- [Code of Ethics & Professionalism](#)
- [Continuity of Care](#)
- [Patient Record Retention](#)
- [Relocating a Medical Practice](#)
- [Responsibility for a Medical Practice](#)

## COMPANION RESOURCES

# Working in Non-Physician Owned Clinics

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- CPSA Advice to the Profession documents:
  - [Closing or Leaving a Medical Practice](#)
  - [Continuity of Care](#)
  - [Physicians as Custodians of Patient Records](#)
  - [Relocating a Medical Practice](#)
  - [Responsibility for a Medical Practice](#)
- [AMA](#):
  - [Agreements and Data Sharing](#)
  - [Data Migration and Management](#)
  - [Information Management Agreement template](#) (Word document)
  - [Information Sharing Agreement template](#) (Word document)
- [Government of Alberta](#):
  - [Health Information Act Guidelines and Practices Manual](#)
    - [Health Information Act Guidelines and Practices Manual – Chapter 15: 2020 Amendments](#)