



| STANDARDS OF PRACTICE

| Non-Treating
Medical
Examinations

| Under Review: ~~No~~Yes
Issued By: Council: January 1, 2010

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.

PREAMBLE

A non-treating medical examination (NTME) is intended to offer a regulated health professional’s perspective of the medical needs or condition of the examinee in circumstances where benefits, compensation, disability issues, custody access or further treatment are being considered or requested by a third party. When conducting an NTME, the regulated member’s role is to provide an impartial medical opinion to a third party. They do not provide treatment to the examinee and, as such, a therapeutic relationship does not exist between the regulated member conducting the NTME and the examinee.

In the context of such evaluations, it is important to ensure that both the examinee as well as the party referring the examinee (e.g. a lawyer, insurance representative, Crown counsel etc.), are treated impartially. Regulated members are expected to clearly communicate the nature of their role, the purpose of the examination and how it differs from a typical physician-patient interaction to the examinee. They are not expected to enforce or proceed with an NTME if the examinee is not cooperative. Effective communication by regulated members and enhanced understanding by the examinee reduces the potential for a complaint.

The purpose of this standard is to ensure regulated members who perform NTMEs are familiar with their professional and ethical obligations when completing an independent medical examination. Regulated members performing NTMEs are held to the same standard of care as those providing patient care.

Regulated members performing NTMEs are also required to fulfill the obligations of the *Minor Injury Regulation* and the *Alberta Rules of Court*.

Commented [CD1]: CPSNL <https://cpsnl.ca/wp-content/uploads/Standards-and-Guidelines/Independent-Medical-Examinations.pdf>

Commented [CD2]: CPSNL

Commented [CD3]: CPSBC <https://www.cpsbc.ca/files/pdf/PSG-Independent-Medical-Examinations.pdf>

Commented [CD4]: CPSS https://www.cps.sk.ca/IMIS/web/Physicians/Law_Guidance/Policies_Standards_Guidelines/PSG_Content/Medical_Examinations_by_Non-Treating_Physicians_NTMEs.aspx

Commented [CD5]: CPSNS <https://cpsns.ns.ca/wp-content/uploads/2023/03/Third-Party-Examinations-and-Reports-Standards-and-Guidelines.pdf>

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.
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DEFINITIONS

Conflict (of interest): in the context of NTMEs, a conflict of interest can arise where a reasonable person could think that a regulated member's ethical duty to provide a complete, fair and unbiased opinion may be affected or influenced by other competing interests (e.g., if the regulated member has a pre-existing relationship with the requesting third party or the examinee). In this context, the regulated member is expected to act in the examinee's best interest by conducting a careful and complete examination and preparing a fair, accurate and objective report, regardless of subsequent outcomes or adjudications that may result.

For more information, please refer to the *Conflict of Interest* standard of practice and Advice to the Profession document.

Examinee: the individual being evaluated.

Non-treating medical examination (NTME): a medical examination of an individual for the purpose of a third-party process (e.g., legal, financial or insurance reasons). An NTME is often requested when there is uncertainty about the cause, nature, or rehabilitation potential of an examinee's disability or functional status. NTMEs are also referred to as independent medical examinations (IME).

Therapeutic relationship: a trust-based relationship between a patient and directed healthcare provider that is caring, positive and advances the best interests of the patient.

Third party: a party, other than the examinee or the NTME physician, who requests an examination of an examinee's medical needs or conditions, generally in circumstances where compensation, disability, or further treatment is being considered (e.g., lawyer, insurance representative).

STANDARD

1. A regulated member is **not** obligated to conduct an NTME and **must** only accept a request to do so if:
 - a. they have an active practice permit;
 - b. the matter falls within their scope of practice and area of expertise;

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Commented [CD8]: Added for clarity (from CPSO: <https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Third-Party-Medical-Reports>).

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- c. they have the requisite knowledge, skill and judgement to conduct the NTME; and
 - d. all real or perceived conflicts of interest, including prior treating relationships, have been addressed to the satisfaction of all parties involved;
 2. Before accepting a request to conduct an NTME, a regulated member must:
 - a. disclose to the third party any real, potential or perceived conflict of interest;
 - b. in consultation with the third party, determine no conflict exists;
 - c. disclose to all parties:
 - i. their involvement at any time in the examinee's medical care, and any relationship with the third party aside from a fee-for-service arrangement; and
 - ii. any relationship with the third party outside of a fee-for-service arrangement;
 - d. discuss, in advance, any requirements or arrangements with respect to fees for the NTME (including cancellation fees for missed appointments), in accordance with the *Charging for Uninsured Professional Services* standard of practice; and
 - e. determine if any limitations exist regarding sharing the NTME results with the examinee or their treating healthcare provider following the completion of the examination;
 3. When agreeing to undertake an NTME, a regulated member must:
 - a. treat the ~~person~~examinee under the same ethical obligations as would apply to any patient;
 - b. provide ~~an~~ a report that is fair, objective and scientifically sound ~~report~~; and
 - c. be aware of the terms of authority for the examination set out in contract, statute or *Rules of Court*, whichever applies.

Commented [CD9]: Added based on internal review: ensures conflicts of interest are resolved.

Commented [CD10]: Added for clarity (from CPSS/CPSO).

Commented [CD11]: Added for clarity (from CPSS/CPSO).

Commented [CD12]: From [current version](#): simplified in preamble – will prevent issues if Rules are renumbered.

Commented [CD13]: Part of new clause 1.

Commented [CD14]: From current version.

Commented [CD15]: Added to mitigate potential payment issues (from CPSO).

Commented [CD16]: Added for clarity: helps protect interests of all parties (from CPSBC & CPSO).

Commented [CD17]: Added to ensure information is shared appropriately (from CPSBC).

Commented [CD18]: From current version with clarity added (from CPSS and CPSM <https://cpsm.mb.ca/assets/Standards%20of%20Practice/Standard%20of%20Practice%20Good%20Medical%20Care.pdf>).

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2-4. ~~When agreeing to undertake an NTME, the examinee, a regulated member must disclose to all parties:~~

- a. ~~his/her involvement at any time in the medical care explain the purpose and scope of the person undergoing the examination; and, including:~~
 - i. ~~how it differs from a typical physician-patient interaction;~~
 - ii. ~~the areas and systems that will be examined and why they will be examined;~~
 - iii. ~~that the regulated member's role is to provide information and/or opinions for the third party and not to determine how the information and/or opinions will be used;~~
- b. ~~explain that the report will include personal health information that must go to the third party and that if the examinee would like a copy of the report, they must request it from the third party;~~
- c. ~~use an independent translator if the examinee does not speak English and/or if the regulated member does not speak the examinee's language fluently;~~
- d. ~~use their discretion in determining whether a chaperone should be present;~~
- e. ~~if any party requests an observer be present or the NTME be recorded, ensure this is mutually agreeable by all parties involved;~~

~~if the parties disagree, the~~

2. ~~In advance of the examination, a regulated member must discuss the fee for the NTME with the party requesting the examination.~~

- i. ~~The regulated member undertaking may postpone the NTME until the matter is resolved;~~

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Commented [CD20]: As above (from CPSNS).

Commented [CD21]: As above (from CPSNS).

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f. obtain consent from the examinee to have a translator and/or chaperone present;

i. if the regulated member believes a translator and/or chaperone is required, but the examinee declines, it is the decision of the regulated member whether to terminate the NTME ~~must~~;

g. obtain informed consent from the ~~person for the examination, diagnostic interventions and release of the regulated member's report.~~ examinee prior to proceeding with the NTME, to be included in the medical record;

4-i. the examinee's counsel may assert the right of the examinee to decline to consent, in which case the regulated member may decide not to proceed; and

h. advise the examinee that consent can be withdrawn at any time.

5. Notwithstanding clause (4), the regulated member is **not** legally required to obtain consent if ~~a person an~~ examinee has been ordered to undergo an NTME by a court order or statutory direction ~~to undergo an NTME; however, the~~.

5-6. A regulated member is ~~also not~~ required to:

- a. enforce the terms of a court order or statutory direction; or
- b. proceed with an NTME if the ~~person~~ examinee refuses to cooperate with the regulated member undertaking the NTME.

6-7. A regulated member **must not** establish a therapeutic relationship with the ~~person being examined unless~~ examinee unless there is no other regulated health professional readily available to provide those services and only **after** concluding the process with the third party

~~c. there is no other regulated member readily available to provide those services; and~~

~~d. then only after concluding the process with the third party.~~

Commented [CD22]: Added for clarity to ensure the examinee understands the parameters of an NTME and sets expectations around what the physician can/cannot do (from CPSBC).

Commented [CD23]: From CPSBC & CPSS: clarifies rights of both regulated members and examinees.

Commented [CD24]: From CPSNS & CPSS: ensures examinee understands their rights.

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- ~~7-8.~~ If a ~~patient~~ examinee requires urgent intervention, the regulated member **must** make arrangements for follow-up care through another regulated ~~member who can treat the patient. If no other regulated member is available or there is no known treating regulated member, the regulated member~~ **must** health professional who can treat the examinee.
9. If no other regulated health professional is available or there is no known treating healthcare provider, the regulated member **must**:
- promptly advise the ~~patient~~ examinee of the particulars of the medical issue that requires urgent attention; and
 - provide necessary care if the situation is emergent or urgent and no alternative is available.
- ~~8-10.~~ The regulated member **must** retain the following records obtained or created for the NTME for a period of ten (10) years, or longer if required by statute:
- the final report and any interim reports issued to the third party;
 - informed consent document;
 - contract (if it exists in written form) outlining scope, purpose, timeliness, and fee arrangements;
 - notes of medical history;
 - notes of physical examination;
 - clinical information or opinions not created by the regulated member, which they relied upon;
 - third party medical reports;
 - audio and video recordings, if made by the regulated member;
 - a list of sources of ancillary information, including medical reports, records, and any audio or visual information recorded by another person; and

Commented [CD25]: Clauses separated for clarity.

Commented [CD26]: Added for clarity (from CPSO).

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h. —the name of any person who attended with the ~~person being~~
~~examined-examinee.~~

ACKNOWLEDGEMENTS

CPSA acknowledges the work of the Colleges of Physicians and Surgeons of British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario and Saskatchewan in preparing this document.

RELATED STANDARDS OF PRACTICE

- [Code of Ethics & Professionalism](#)
- [Charging for Uninsured ~~Professionals~~Professional Services](#)
- [Establishing the Physician-Patient Relationship](#)
- [Informed Consent](#)
- [Patient Record Retention](#)
- [Responding to Third Party Requests](#)
- [Transfer of Care](#)

COMPANION RESOURCES

- [Advice to the Profession:](#)
 - ~~o [Advice to the Profession: Non-Treating Medical Examinations by Non-Treating Physicians](#)~~
- ~~[Advice to the Profession: Informed Consent for Adults](#)~~
- ~~[Advice to the Profession: Informed Consent for Minors](#)~~
 - o [Charging for Uninsured Professional Services](#)
 - o [Establishing a Continuing Physician-Patient Relationship](#)
 - o [Informed Consent for Adults](#)
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