A practice standard reflects the minimum standard of professional behaviour and ethical conduct on a specific topic or issue expected by the College of all physicians in British Columbia. Standards also reflect relevant legal requirements and are enforceable under the Health Professions Act, RSBC 1996, c.183 (HPA) and College Bylaws under the HPA.

Registrants may seek advice on these issues by contacting the College and asking to speak with a member of the registrar staff, or by seeking medical legal advice from the CMPA.
PREAMBLE

This document is a standard of the Board of the College of Physicians and Surgeons of British Columbia. Advertising or an advertisement means any communication made orally, in print, through electronic media or via the internet by or on behalf of a registered practitioner to the public in general or to one or more individuals that has as its substantial purpose the promotion of the registered practitioner, or a clinic or group with which the registered practitioner is associated.

COLLEGE’S POSITION

Physicians must ensure that professional advertising and public communication is accurate and truthful. This is a professional responsibility defined within the Canadian Medical Association’s Code of Ethics and Professionalism, which the College has adopted. This standard is also guided by the College Bylaws made under the Health Professions Act, by court decisions and other legal precedents, by the Canadian Code of Advertising Standards, and by guidelines established by the Board.

In drafting the Bylaws and standards, the College is guided by the criteria set out by the Supreme Court of Canada in its 1990 decision of Rocket v. Royal College of Dental Surgeons of Ontario. The court held that professional advertising is permissible when it serves a legitimate purpose of providing the public with relevant information. However, regulatory bodies are able to adopt standards to maintain a high standard of professionalism and to protect the public from irresponsible and misleading advertising.

Physicians’ professional services must not be advertised or offered in ways which might motivate the patient to consent to such services because no fee or a reduced fee is attached.

Similarly, physicians’ services must not be presented in a way which might motivate the physician to provide a service to a patient who might otherwise be deemed to be unsuitable.

Any inducement, enticement or incentive to a patient may interfere with the patient’s autonomy and with the physician’s fiduciary responsibility. Issues which arise in the context of inappropriate enticements or incentives include the following:

- the potential of the patient’s well-being being replaced by physician self-interest
- the creation of unnecessary patient risk and in some situations, patient harm
- the minimization of the risks inherent in medical interventions
- the clouding of the context in which patient’s consent is sought or given
- the limiting by contract of physician access to essential patient information
- the potential violation of the patient’s right to privacy
- the limitation of patient redress because of inappropriate waivers

Physicians, therefore, must not offer, or promote through referral, those medical services that generally might include, through advertising or promotion, the perception of coercion, inducement, enticement, or inappropriate incentive.

Based on the above ethical principles, the College has determined that physicians must not, as part of advertising or promotion, include:
offers of prizes, gifts, gift certificates, card points, bonus points, discounts or time-limited benefits for medical services, or inducements, including alcoholic refreshments, for attendance at informational sessions promoting medical interventions, cosmetic or otherwise

“Before and after” photos are permitted provided that physicians have obtained written consent from each patient to permit the use of their photographs in physician advertisements, which are available in the public domain. This consent must be available for the College to verify, if requested.

If a physician uses photographs of models in his/her advertisements and those models have not received the services advertised by the physician, a disclaimer to this effect must be included in the advertisement.

Physicians may advertise and provide no-charge consultations to assess a patient’s suitability for and to provide information about cosmetic procedures.

Physicians must be cautious when establishing business alliances that might limit their own control on the advertisement and promotion of their services. Physicians are responsible for advertising content prepared by an advertising agency or third party.

If there is any doubt or question about the appropriateness of a proposed advertisement, physicians are advised to seek input from the College. The College does not pre-approve or endorse any advertisements or public communications.

Physicians who advertise services to the public must be aware of federal regulations regarding product advertising and may wish to review the Regulatory Requirements for Advertising section found on Health Canada’s website (http://www.hc-sc.gc.ca/dhp-mps/advert-publicit/index-eng.php) to ensure compliance with federal law.