



College of Physicians and Surgeons of British Columbia

Practice Standard

Conflict of Interest

Effective:	June 1995
Last revised:	February 2019
Version:	5.0
Next review:	February 2022
Related topic(s):	Treating Self, Family Members and Those with Whom You Have a Non-professional Relationship

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.

Physicians must act in the best interests of their patients. 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 real, potential or perceived. Conflicts of interest 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. A conflict of interest may arise where the benefit is accrued by a physician's family, close friends, corporation or other businesses, and business partners.

This standard addresses circumstances in medical practice, education and research, where there is a high potential for a conflict of interest to occur. Expectations regarding conflicts of interest that may arise from a physician's relationship with industry are also outlined in this standard. The College has developed this standard in accordance with the CMA *Code of Ethics and Professionalism*, which states that physicians, in the process of shared decision-making, are to:

24. Avoid, minimize, or manage and always disclose conflicts of interest that arise, or are perceived to arise, as a result of any professional relationships or transactions in practice, education, and research; avoid using your role as a physician to promote services (except your own) or products to the patient or public for commercial gain outside of your treatment role.

COLLEGE'S POSITION

Physicians are reminded that the patient-physician relationship is a fiduciary relationship; that as fiduciary, the physician is in a position of power and confidence over the patient; and that power must be exercised in the patient's best interests. Patients are regarded as vulnerable in relation to physicians. They rely on physicians and must be confident that their needs are considered foremost.

Physicians must be aware that even the appearance of a conflict might damage their professional reputation, and must take steps to avoid creating such a perception.

CONFLICT OF INTEREST IN PRACTICE

Common situations which may give rise to a real or perceived conflict of interest include the following.

- Promoting and selling products to patients for profit (this must be read in conjunction with the College standard, [Promotion and Sale of Products and Devices](#)).
- Accepting or offering commissions, rebates, fees, gifts or other incentives from/to third parties who receive or provide:
 - patient referrals, or
 - medically and non-medically necessary services or products to patients, including devices, appliances, supplies, pharmaceuticals, diagnostic procedures and therapeutic services.
- Leasing space to or from third parties in the circumstances identified above if, in exchange, 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. Patients must be able to trust that their physicians will be transparent with them and that they will make treatment recommendations, including referrals, based on the skill of other health-care professionals, services or facilities to whom the patient is referred, medical needs of the patient, and the quality of products or services provided.
- Referring patients to businesses or facilities where the physician holds a financial interest, including treatment and/or diagnostic facilities, almost always creates a conflict of interest. There are two exceptions to this general principle. First, referring a patient to a self-interested facility is acceptable in a community with demonstrated need, such as a rural setting, where there are no viable alternatives. Second, in the interest of maintaining continuity of care, physicians may refer their patient to a College-accredited facility, separate from the physician's practice, if the physician provides care and services to that patient at the referred facility.

Referrals in the two exceptions identified above are acceptable only if:

- the return on a physician's investment is based on the equity or interest in the facility, and not on the volume of patient referrals made by the physician;
- prior to referral, a physician fully discloses the interest he/she has in the facility to the patient; and
- where applicable, a 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 about whether or not to proceed with treatment at the referred facility.

Physicians must scrupulously avoid situations, real or perceived, where the patient feels unduly pressured or coerced into undergoing a procedure 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. The College expects that physicians participating in clinical research have completed the most recent *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* (TCPS2) training, and practise strict adherence to the protocols outlined in the TCPS2 modules.

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 his/her 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 they incur during the study.

Physicians must enroll a patient as a participant in research in accordance with the expectations set out in TCPS2. In extreme cases, a lack of objectivity may lead a physician to overestimate the benefits or downplay the risks associated with the research intervention, which can erode patient trust and lessen the integrity of the research.

Obligations

Research subjects must be informed if their physician is receiving a fee for participating in the study.

Before agreeing to participate in clinical research, physicians must ensure that the study has been appropriately evaluated and approved by a recognized and reputable research ethics board that adheres to TCPS2 principles.

CONFLICT OF INTEREST ARISING FROM RELATIONSHIP WITH INDUSTRY

As the interests of industry sponsors are not always aligned with the goal of addressing the health-care needs of the public, or the educational or practice needs of the profession, it is essential that physicians position themselves in such a way that they are well removed from the influence of industry.

The following principles from the Canadian Medical Association (CMA) have been adopted and endorsed by the College.

- The primary objective of professional interactions between physicians and industry must be the advancement of the health of Canadians rather than the private good of either a physicians or industry.
- Relationships between physicians and industry must be guided by the *CMA Code of Ethics and Professionalism*.
- 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.
- Physicians must resolve any conflict of interest between themselves and their patients associated with interactions with industry in favour of their patients.

Further expectations related to the physician-industry relationship, in relation to education, are outlined below.

CONFLICT OF INTEREST IN RELATION TO EDUCATION

Conflict of interest in relation to education may exist when a physician is involved with continuing medical education or continuing professional development (CME/CPD), electronic continuing professional development (eCPD), training medical students or residents, or other educational events such as self-learning, courses, workshops, educational rounds, journal clubs, conferences, meetings, and industry-sponsored events.

Obligations

Physicians involved with educational activities must ensure scientific validity and objectivity of all educational teachings and materials. A physician must not claim authorship or contribution to the production of educational materials unless the physician has substantially contributed to the material.

A physician involved in organizing or presenting at a continuing professional development event must not conduct a seminar or similar activity directly or indirectly for industry that promotes a product for the purpose of enhancing the sale of that product, and must not accept reimbursement for expenses or honoraria at a rate that could reasonably be perceived as having undue influence. Organizers and individual presenters of educational events must disclose to the participants any financial affiliations that may pose as a conflict of interest. All industry contributions must also be declared on educational materials.

Physicians must not engage in peer selling, which occurs when a pharmaceutical or medical device manufacturer or service provider engages a physician to conduct an educational seminar or similar event that focuses on its own products to enhance sales. This also applies to third-party contracting on behalf of industry. This form of participation would reasonably be seen as being in contravention of the CMA's *Code of Ethics and Professionalism*, which prohibits endorsement of a specific product.

Medical curricula and clinical training of medical students and residents must not be influenced by physician-industry interactions. A conflict of commitment may occur when a physician takes on teaching responsibilities, which become compromised due to other obligations such as patient care or research activities. When committing to the education or training of a medical student or resident, a physician must ensure that they are able to dedicate sufficient time and resources to these efforts.

CONCLUSION

It is not always easy to identify and manage the wide-ranging circumstances where conflicts of interest might arise in the course of a physician's professional duties and activities. If questions or concerns arise about conflict of interest, physicians are encouraged to consult with colleagues, the College and/or the Canadian Medical Protective Association for further direction and advice.

RESOURCES

Government of Canada, Panel on Research Ethics. *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* (TCPS2). Found at: <http://www.pre.ethics.gc.ca/eng/policy-politique/initiatives/tcps2-eptc2/Default/>

Canadian Medical Protective Association. July 2014. *Physicians and research: Understanding the legal, ethical, and professional obligations*. Found at: <https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2014/physicians-and-research-understanding-the-legal-ethical-and-professional-obligations>

Canadian Medical Protective Association. July 2015. *Commercial interests and how physicians can avoid the pitfalls*. Found at: <https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2015/commercial-interests-and-how-physicians-can-avoid-the-pitfalls>

Canadian Medical Association. *Guidelines for Physicians in Interactions with Industry*. Found at: <http://policybase.cma.ca/dbtw-wpd/Policypdf/PD08-01.pdf>