College of Physicians and Surgeons of British Columbia

Professional Standards and Guidelines

Conflict of Interest

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 where a reasonable person could think that 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 the physician is not necessary to establish a conflict of interest. As well, the physician does not need to directly profit from the relationship. A conflict of interest may arise where the benefit is accrued by the physician's family, close friends, corporation or other businesses, and business partners.

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.

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

1. Promoting and selling products to patients for profit (this must be read in conjunction with the College's standard on Promotion and Sale of Products).
2. Accepting commissions, rebates, fees, gifts or other incentives from third parties who
    - receive patient referrals from the physician, or

- provide medically and non-medically necessary services or products to patients, including devices, appliances, supplies, pharmaceuticals, diagnostic procedures and therapeutic services.

3. 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.

4. 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 patients to a self-interested facility is acceptable in a community with demonstrated need, such as a rural setting, where there are no or very limited alternatives other than the referred facility. Second, in the interest of maintaining continuity of care, physicians may refer their own patients to a College-accredited facility, separate from the physician's own office practice, if the physician directly provides care and services to that patient at the referred facility.

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

   a. the return on the 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;

   b. prior to referral, the physician fully discloses the interest he/she has in the facility to the patient; and

   c. where applicable, the physician provides accurate information about wait times 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 should scrupulously avoid situations, real or perceived, where the patient is unduly pressured or coerced into undergoing the procedure at the referred facility.

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.

Guiding Ethical Principles

CMA *Code of Ethics*

Fundamental Responsibilities

1. Consider first the well-being of the patient.

2. Practice the profession of medicine in a manner that treats the patient with dignity and as a person worthy of respect.

7. Resist any influence or interference that could undermine your professional integrity.

Responsibilities to the Patient

11. Recognize and disclose conflicts of interest that arise in the course of your professional duties and activities, and resolve them in the best interest of the patients.

12. Inform your patient when your personal values would influence the recommendation or practice of any medical procedure that the patient needs or wants.

13. Do not exploit patients for personal advantage.

16. In determining professional fees to patients for non-insured services, consider both the nature of the service provided and the ability of the patient to pay, and be prepared to discuss the fee with the patient.

23. Recommend only those diagnostic and therapeutic services that you consider to be beneficial to your patient or to others. If a service is recommended for the benefit of others, as for example in matters of public health, inform your patient of this fact and proceed only with explicit informed consent or where required by law.

Responsibilities to the Profession

49. Be willing to participate in peer review of other physicians and to undergo review by your peers. Enter into associations, contracts and agreements only if you can maintain your professional integrity and safeguard the interests of your patients.

50. Avoid promoting, as a member of the medical profession, any service (except your own) or product for personal gain.

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See also Promotion and Sale of Products

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