

Standard for Professional Practice - Conflict of Interest

College publications contain practice parameters and standards which should be considered by all Ontario physiotherapists in the care of their patients and in the practice of the profession. College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Introduction

A conflict of interest arises when a registrant puts him or herself into a position where reasonable people, including patients, could conclude that his or her professional judgment is influenced by financial or personal benefit. In fact, even if a registrant's judgment is not actually compromised, there may be concerns over conflict of interest. If circumstances cause a reasonable person to suspect that the registrant's judgment is affected, this constitutes a potential conflict of interest.

Therefore, a conflict of interest may be either actual or potential. Conflicts of interest can arise where a registrant engages in any private or personal business, undertaking or other activity in which:

- The registrant's private or personal interest directly or indirectly conflicts, may conflict, or may reasonably be perceived as conflicting with his or her duties or responsibilities as a health care professional; or
- The registrant's private or personal interest directly or indirectly influences, may influence or may reasonably be perceived as influencing the exercise of the registrant's professional duties or responsibilities.

A conflict of interest may also arise in many other circumstances that include research; the employment of a family member; one's strongly held personal view; the receipt of benefits from suppliers of equipment and supplies; or the referral of a patient seen in one setting to another setting in which the registrant works.

Whether actual or potential, conflicts of interest give patients the impression that their care, or the costs associated with providing their care, may be adversely affected. For this reason, conflicts of interest are to be avoided. As a fundamental component of ethical and quality care, it is in the public interest for physiotherapists to place the interests of their patients ahead of their own personal and financial interests. Appropriate standards of integrity must be maintained when engaging in professional responsibilities. Given this understanding, the College's definition of professional misconduct includes practising the profession while the registrant is in a conflict of interest.

Registrants are entitled to practice in a manner that permits them to profit from their professional knowledge, education and experience. However, certain kinds of businesses and business relationships or arrangements are inherently inconsistent with registrants' professional obligations to their patients

and are therefore inappropriate. In other cases, the relationship or arrangement is only acceptable if appropriate safeguards are put in place.

This Standard for Professional Practice describes the College's expectations of registrants to assist them in avoiding circumstances that may result in a real or potential conflict of interest.

Standard Statement

In the event of any inconsistency between this standard and any legislation that governs the practice of physiotherapists, the legislation governs.

Registrants will avoid all circumstances that may result in real, potential or perceived conflicts of interest by refraining from participating in any activity or arrangement where their participation provides the potential for their professional judgment to be compromised. The conflict of interest situation is not avoided by structuring the arrangement to move any benefit arising to a related person.

Performance Expectations

A physiotherapist demonstrates the standard by ensuring the following:

Recommending products or services

1. When assessing or treating a patient the registrant:
 - a. Refrains from suggesting or advising patients to make a purchase(s) from a particular vendor of health care products if the registrant or a related person has a financial interest in that vendor unless the registrant also informs the patient in advance about the nature of the financial interest. If reasonable to do so, the registrant provides the patient with information on at least one other source of the product(s).
 - b. Refrains from suggesting or advising patients to obtain services from a practice (other than the practice in which the advice is given), if the registrant or a related person has a financial interest in the practice, unless the registrant also informs the patient in advance about the financial interest. If reasonable, the registrant provides the patient with information on at least one other source of the service(s).
 - c. Provides advice and/or suggestions about product(s) or service(s) that reflect the standards of practice of the profession.
 - d. Assures the patient that his or her selection of an alternate supplier of the product or service will not adversely affect the assessment, care or treatment that the registrant provides.
 - e. Refrains from selling any product to a patient for more than the original cost plus a reasonable dispensing or inventory fee.
 - f. Documents in the patient record any discussions with patients related to conflict of interest.

Volume-related agreements

2. Refrains from entering into any agreement¹ in which he or she or a related person receives a benefit that is related to the volume of the services provided, the number of referrals made, the profit made or the amount of the fee charged.

Referral to

3. In circumstances in which the registrant refers, or may refer a patient to another person, the registrant or a related person does not:
 - a. offer, request, or accept any benefit to or from any person for the referral; or
 - b. permit the offering, requesting, or accepting of any benefit to or from any person for the referral.

Referral from

4. In circumstances in which the registrant accepts a referral, or may accept a referral of a patient from another person, the registrant or a related person does not:
 - a. offer, request, or accept any benefit to or from any person for the referral; or
 - b. permit the offering, requesting, or accepting of any benefit to or from any person for the referral.

Services to related persons²

5. The registrant refrains from providing any professional services to related persons³ unless:
 - a. no fees are charged for the provision of this service; and
 - b. he or she discloses his or her relationship to the related person to anyone who receives a report on the services provided in circumstances where the party receiving the report may reasonably rely on the report to take any action.

Disclosure to the College

8. Upon request, the registrant provides the Registrar the details of any activity or arrangement that the registrant, or a related person, has that might, if not structured appropriately, involve a conflict of interest.

Definitions

Benefit: Any gift⁴ (financial or non-financial), advantage, or payment of any kind, whether direct or indirect, including:

- monetary payments, other than those that pay for services rendered at fair market value (e.g., paying an excessive fee for a report from a referral source);

¹ This might include agreements such as a lease or a referral agreement. This restriction would not apply to partnerships, associateships or employment agreements.

² Please note that recent case law from the Ontario Court of Appeal indicates that there is no spousal exception to the sexual abuse provisions.

³ See definition section for a definition of a related person.

⁴ This is not intended to prohibit a physiotherapist from accepting or giving items of token value as a form of appreciation.

- rebates, credits or discounts on, or reimbursement of the cost of goods or services;
- the receipt of goods or services at no charge or a cost which is less than prevailing market value;
- the distribution of goods or services at no charge or a cost which is less than prevailing market value;
- the payment or reduction of any amount of any debt or financial obligation;
- the receipt of any consultation fee or other fees for services rendered;
- loans, where the interest rates or repayment terms do not reflect prevailing market trends.

Related person: A related person is a person related by blood, marriage, partnership or adoption, or a corporation in which a registrant or a related person has an interest (unless the interest is ownership of shares of a publicly traded corporation that the registrant or the related person does not directly or indirectly control). For more specificity:

- Persons are related by blood if one person is the child or other descendent of the other or one person is the brother or sister of the other;
- Persons are related by marriage if one person is the spouse of another or is the spouse of a person who is connected by blood relationship to the other;
- Persons are spouses if they are married to each other or are living in a conjugal relationship outside marriage and have cohabited for at least one year, are together the parents of a child or have entered into a cohabitation agreement under the Family Law Act;
- Persons are partners if they are either of two persons who have lived together for at least one year and have a close personal relationship that is of primary importance in both persons' lives; and
- Persons are related by adoption when one person has been adopted, either legally or in fact, as the child of the other or as the child of a person who is connected by blood relationship (other than as a brother or sister) to the other.

References and Resources

Other

Essential Competency Profile for Physiotherapists in Canada

College Documents

Professional Misconduct Regulation, Ontario Regulation 388/08

Code of Ethics

Standard for Professional Practice: Advertising

Standard for Professional Practice: Fees & Billing

Guide to the Standards for Professional Practice: Advertising, Fees & Billing and Conflict of Interest

Standard for Professional Practice: Record Keeping

Guide to the Standard for Professional Practice: Record Keeping