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BYLAW #3D

(Under Section 40(2) of The Medical Act)

(Adopted by the Councillors of the College of Physicians and Surgeons of Manitoba
20 October 2000 with Amendments to 16 March 2007)

THE COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA

BY-LAW #3D
Under Section 40(2) of The Medical Act
NON-HOSPITAL MEDICAL/SURGICAL FACILITIES

Preamble

In accordance with Section 40 of *The Medical Act*, this by-law applies to all non-hospital medical/surgical facilities that carry out diagnostic and treatment procedures. (AM. 03/07)

ARTICLE 1 - DEFINITIONS

1 (1) General

In this By-law:

“accreditation” means the approval granted by the college to a non-hospital medical/ surgical facility to carry out certain diagnostic and/or treatment procedures.

"certificate of accreditation" means a certificate issued to a non-hospital medical/surgical facility by the committee of the college certifying that it has received accreditation. (AM. 03/07)

“conscious sedation” means an altered or depressed state of awareness or perception of pain brought about by pharmacologic agents and which is accompanied by varying degrees of depression of respiration and protective reflexes in which verbal contact with the patient can be maintained. No distinction is made between light and deep conscious sedation for credentialing or monitoring purposes. The provision of conscious sedation includes, but is not limited to, the use of any IV agent for this purpose. All of the above require the monitoring of vital signs. For the purposes of this document, the use of oral pre-medication alone or in combination with local anaesthesia is not defined as conscious sedation.

"committee" means the committee of the college responsible for the administration of this By-law.

“direct or indirect financial interest” means any interest owned by a member, by individuals connected by blood relationship, marriage or adoption to a member, by any corporation, proprietorship, partnership, society, business, association, joint venture, group or syndicate in which a member or any individual connected by blood relationship, marriage or adoption to a member have any interest.

"director" means a member who is responsible for the administration of a non-hospital medical/surgical facility. (AM. 03/07)

"facility" means a non-hospital medical/surgical facility.

“general anaesthesia” means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to maintain an airway independently, or to respond purposefully to physical stimulation or verbal command; produced by pharmacologic or non-pharmacologic methods, alone or in combination.

”hospital” means a hospital under *The Hospitals Act* and includes the Misericordia Health Centre.

"privileges" means the authority to admit and treat patients at a facility.

"procedure" means the diagnostic and treatment procedures, both medical and surgical, as approved by the committee to be carried out in a facility. (AM. 03/07)

- 1(2) Subject to subsection (3), this By-Law applies to the following procedures: (AM. 06/03)
1. Any procedure that is carried out with the concurrent use of:
 - (a) a drug to induce sedation, or
 - (b) local, regional or general anesthesia, provided that the standard of care requires monitoring of vital signs as a result of the administration of the drug to induce sedation or anesthesia; (Renumbered 06/03 and 11/03)
 2. Any procedure that the committee directs must be performed in an approved non-hospital surgical/medical facility in order to meet the minimum acceptable standard of care for that procedure. (AM.11/01) (Renumbered 06/03 and 11/03)
- 1(3) This By-Law does not apply to any facility which is wholly owned and operated by the Winnipeg Regional Health Authority. (EN. 06/03)
- 1(4) In this by-law, words and phrases defined in *The Medical Act* have the same meaning as in *The Medical Act*. (Renumbered 06/03)

ARTICLE 2 - FACILITY ACCREDITATION

- 2 (1) To perform procedures, a facility must obtain a certificate of accreditation from the committee. (AM. 03/07)
- 2 (2) Only those procedures which are approved by the committee and which are set out in schedules to the facility's certificate of accreditation may be performed in the facility. Applications for accreditation of a facility shall be made to the committee by the facility, in the form prescribed by the committee, and shall be signed by the director. (AM. 03/07)
- 2 (3) The accreditation process will include:
 - (a) completion of a pre-visit questionnaire;
 - (b) an on-site inspection by one or more members, with expertise in the appropriate area of medical practice, designated by the committee;
 - (c) a review of all applications for privileges at the facility; and
 - (d) review of the facility's compliance with the college's standards. (AM. 03/07)
- 2(5) If the committee is satisfied that a facility has met all of the requirements of this By-law and there are no identified deficiencies, the committee shall grant full accreditation to the facility and issue a certificate of accreditation.
- 2(6) Conditional accreditation may be granted to a facility with identified deficiencies, to allow for correction. A written response to each deficiency is required by the director with a follow-up inspection, if required. Full accreditation will be granted when identified deficiencies have been corrected to the satisfaction of the committee.
- 2(7) When a conditional accreditation is granted, a certificate of accreditation shall be issued indicating that it is conditional and the date it will expire if the identified deficiencies are not corrected.
- 2(8) Provisional approval may be granted for the operation of a facility, in circumstances which the committee deems appropriate, pending the completion of the accreditation process.
- 2(9) Where a facility is no longer being used, the committee may revoke the facility's certificate of accreditation.

- 2(10) Where the committee is of the opinion that a facility fails to meet the requirements of this By-law or is unsafe, the committee shall review the facility's accreditation and may take such steps with respect to the facility's accreditation as the committee deems appropriate in the circumstances. Where the committee is of the opinion that a facility does not meet the required standards, the committee may report the matter pursuant to ss. 40(3) of *The Medical Act*.
- 2(11) A certificate of accreditation will be issued by the committee for a period not to exceed five (5) years. The facility's accreditation will continue so long as it meets the requirements of this By-law and any amendments that may be in effect from time to time.
- 2(12) In order to renew a certificate of accreditation, the facility must re-apply for accreditation at least six (6) months prior to the date the certificate of accreditation is to expire. The re-accreditation process will follow the same procedure as required for accreditation.
- 2(13) The facility is responsible to the college for the payment of the cost of the facility inspection and the application fee as set by the college. (AM. 03/07)
- 2(14) In its application for accreditation the facility shall provide the committee with full and complete details of the facility's ownership, the facility's administration and a list of all members who wish to have privileges to carry out procedures at the facility, including but not limited to: (AM. 03/07)
- (a) The names of the director(s) and owner(s) of the facility, including any members who have direct or indirect financial interest in the facility, and if it is a medical corporation the names of its officers and directors;
 - (b) The name or the facility director together with a written outline of his or her duties and responsibilities; and
 - (c) An outline of the facility's administration together with an organization chart.
- 2(15) The facility shall immediately inform the committee of any changes in the information provided pursuant to the requirement of Article 2(14).

ARTICLE 3 - HOSPITAL AGREEMENT

- 3 (1) Every facility shall have a written agreement with a hospital or a Regional Health Authority which shall state that the hospital or the Regional Health Authority will provide emergency treatment if a patient has to be transferred from the facility.

ARTICLE 4 - ELIGIBLE PROCEDURES

- 4 (1) Upon granting a certificate of accreditation, the committee shall attach, as a schedule to the certificate, a list of procedures which have been approved for the facility, together with the names of the members who have been given privileges to perform such eligible procedures at the facility. (AM. 07/01) (AM. 03/01)
- 4 (2) The schedule of procedures may be amended from time to time upon the application of the facility and the approval of the committee.

ARTICLE 5 – PRIVILEGES (REPEALED & REPLACED 11/03)

- 5(1) A facility must not grant privileges:
- (a) to a member unless:
 - i. the member qualifies for privileges in accordance with this by-law, or

- ii. the member's application for privileges is expressly approved by the college. (AM. 03/07)
- 5(2) An applicant seeking privileges at a facility must:
- (a) apply in writing to the director,
 - (b) provide to the director:
 - iii. a description of any privileges currently held in a hospital or a Regional Health Authority in the city or the municipality where the facility is located; and
 - iv. a letter from the hospital or Regional Health Authority confirming the privileges held and the good standing of the applicant.
- 5(3) Provided that:
- (a) the applicant complies with the requirements of clause 2(b),
 - (b) the privileges sought by the applicant are no greater than those the applicant holds at a hospital or the Regional Health Authority in the municipality or the city where the facility is located, and
 - (c) the director is satisfied that the applicant is a suitable candidate for the privileges requested,
the Director may grant privileges to the applicant.
- 5(4) Where privileges are granted pursuant to Article 5(3), the Director must promptly provide to the College particulars of the privileges granted in the facility. Upon request by the College, the Director must provide to the College a copy of the correspondence from the hospital or the Regional Health Authority referred to in clause 2(b)(ii) of this Article.
- 5(5) A member seeking privileges who does not hold the same or similar privileges in a hospital or a Regional Health Authority in the municipality or the city where the facility is located must provide to the Director:
- (a) details of the same or similar privileges, if any, currently held in other facilities;
 - (b) numbers of procedures performed during the past year similar to those for which he/she is seeking privileges and the name(s) of the facilities in which they were performed;
 - (c) any other relevant past experience; and
 - (d) the names of two (2) referees who can be consulted as to the skill and judgment of the member to perform such procedures.
- 5(6) For any application made pursuant to Article 5(5), the Director must forward to the College:
- (a) a copy of the application,
 - (b) the Director's assessment of the suitability of the applicant for the privileges requested,
 - (c) a letter from the Regional Health Authority or an appropriate hospital located in the municipality or city in which the facility is located confirming that patients treated by the applicant at the facility shall be treated and admitted to a hospital, as necessary, under the care of members who have appropriate credentials and privileges.
- 5(7) In considering an application made pursuant to Article 5(5), the committee may request such further or other information as it deems necessary to assess the application.
- 5(8) The committee may grant privileges to a member who is unable to obtain the same or similar privileges at a hospital or a Regional Health Authority in the municipality or the city in which the facility is located only on the following conditions:
- (a) the member shall be subject to a periodic review of the procedures he or she performs, to ensure maintenance of competence. The review process shall be conducted by the director and/or any other person(s) deemed appropriate by the committee;
 - (b) where applicable, a process for reviewing pathology reports shall be established and followed by the facility; and

- 5(9) Only those members who obtain privileges in accordance with this by-law can perform eligible procedures in a facility. Any member, including the director, may be found guilty of professional misconduct by the college for a breach of this requirement. (AM. 03/07)

ARTICLE 6 - PATIENT CARE

- 6 (1) All patients undergoing anaesthesia in the facility shall be assigned an American Society of Anaesthesia risk score. Only patients with ASA I, II and III may have a procedure performed.
- 6 (2) General anaesthesia shall not be given to infants under the age of twenty-four (24) months.
- 6 (3) A member shall be responsible for the post-operative care of the patient within the facility.
- 6 (4) Except where otherwise permitted, medical procedures within the cranium, the thorax, the abdomen and major joint surgery shall not be performed, assisted or provided in the facility.
- 6 (5) A procedure referred to in section 6(4) may be performed in a facility where the committee has given its written authorization to the facility, which authorization may include conditions or restrictions specified by the committee.
- 6 (6) Qualified support staff must be on duty during and after a procedure.
- 6 (7) When general anaesthesia or sedation is used, the patient should only leave the facility in the care of an adult.
- 6 (8) All personnel who administer anaesthesia, major regional block or conscious sedation or who monitor the recovery of such patients shall maintain a current certificate of proficiency in basic cardiopulmonary resuscitation. There must be no less than two (2) personnel who are so certified within the facility while patients are receiving care.
- 6 (9) Conscious sedation shall only be administered by or under the direct supervision of a member approved by the college to provide conscious sedation. The patient shall also be attended by a registered nurse or a member who is not assisting in the surgical procedure and who is trained to monitor patients under conscious sedation. (AM. 03/07)

ARTICLE 7 - FACILITY DIRECTOR

- 7(1) The facility shall appoint a director, who is a member acceptable to the committee, to be responsible for the administration of the facility. (AM. 03/07)
- 7(2) The director shall be responsible for the standards of care in the facility, which include:
- (a) the safe and effective care of patients in the facility;
 - (b) the development of appropriate and up-to-date policy and procedure manuals, including acceptable staff health policies;
 - (c) ensuring that the duties and responsibilities of all personnel are written and understood;
 - (d) ensuring that the requirements for granting privileges are met and the necessary approvals are obtained;
 - (e) ensuring that sufficient numbers of appropriately trained personnel are present during procedures;
 - (f) ensuring that procedures and equipment are appropriate and safe;

- (g) ensuring that agreements are in place for the emergency transfer and admission of patients as required by articles 3(1) and 5(9) herein; (AM. 04/02)
 - (h) ensuring that complete and accurate confidential patient records and documentation relating to the operation of the facility and procedures performed are kept;
 - (i) ensuring that adequate quality assurance and improvement programs, including the monitoring of infection and medical complication rates, are in place;
 - (j) ensuring that only those eligible procedures which are approved by the committee as set out in the certificate of accreditation are performed at the facility by members and (AM. 03/07)
 - (k) ensuring that complete records are kept of all members who obtain privileges at the facility, including their applications and to make such records available to the committee or its designates on request. (AM. 03/07)
- 7(3) The director shall be responsible to the college to ensure: (AM. 03/07)
- (a) That documentation and fees required by the college are submitted as required; and (AM. 03/07)
 - (b) That there is full and complete reporting to the college of all required information. (AM. 03/07)

ARTICLE 8 - RECORDS

- 8(1) Members shall maintain accurate information concerning the medical condition of patients in a clinical record which meets the expected standards of medical record-keeping. (AM. 03/01)
- 8(2) Clinical records shall include documentation related to the informed consent of the patient for the procedure(s) performed in a facility.
- 8(3) Clinical records shall contain the medical history, complete record of current medications, weight, allergies, and pertinent laboratory results, an anaesthetic record, if applicable, post-anaesthetic record and the operative report generated on the date of the procedure(s). Where required with certain procedures, the clinical record shall also include follow-up information.

ARTICLE 9 - AUDIT AND QUALITY CONTROL

- 9 (1) Eligible procedures and clinical records as set out herein shall comply with the requirements of this By-law.
- 9 (2) Facility accreditation by the committee requires that quality assurance and improvement programs shall be in place so that standards of patient care set by the college can be demonstrated. (AM. 03/07)
- 9 (3) At least annually the director shall review the facility's quality assurance and improvement programs.
- 9 (4) The facility shall forward an annual report to the college regarding quality assurance and improvement programs in the facility. (AM. 03/07)

ARTICLE 10 - SAFETY STANDARDS

- 10(1) A member must be in the room at all material times during the performance of all eligible procedures in the facility.
- 10(2) A member shall ensure that patients receive an adequate recovery period under supervision following any procedure before leaving the facility.

ARTICLE 11 - EQUIPMENT AND SUPPLIES

- 11(1) All procedures and standards of care set by the college for the protection of the public shall be carried out in the facility. (AM. 03/07)
- 11(2) All equipment for the administration of anaesthetics shall be readily available, clean and properly maintained.
- 11(3) Adequately equipped and maintained operating and post-operative rooms shall be provided in the facility.
- 11(4) All equipment shall be safe and well maintained and comply with applicable federal, provincial, and municipal legislation.
- 11(5) Sterilization techniques and the storage of medical and dental supplies shall be consistent with the requirements of infection control practices in a hospital.
- 11(6) The facility shall comply with all guidelines the college may issue on the subject of infection control practices in an office setting. (AM. 03/07)
- 11(7) Waste handling and disposal procedures shall comply with all legislated and/or recommended waste handling and disposal practices in a hospital.

ARTICLE 12 - APPEAL

- 12(1) The facility or a member may appeal any decision of the committee to the Executive Committee by filing a Notice of Appeal with the registrar within thirty (30) days of being informed of the decision.

ARTICLE 13 - INSPECTIONS AND AUDITS

- 13(1) The facility shall be subject to on-site inspection by members, designated by the committee to conduct inspections, at any time.
- 13(2) Access to the facility for any inspection be refused, the committee may take such appropriate action it deems necessary including, suspending, revoking or amending the facility's certificate of accreditation.
- 13(3) The costs of all inspections shall be paid by the facility.

ARTICLE 14 - FEES

- 14 (1) The facility shall pay all expenses, charges and fees including any licence fees imposed by the committee, in respect of the administration of this By-law.