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BY-LAW #6

(Adopted by the Councillors of The College of Physicians & Surgeons of Manitoba on June 12, 2008, with amendments to June 11, 2010)

Preamble

The purpose of this By-Law is to establish the requirements for the Central Standards Committee of the College and the subcommittees thereof.

Definitions

1 In this By-Law:

“Administration” means the administration of a hospital or other facility where Physicians provide health care services.

"Central Standards" means the Central Standards Committee of the College established pursuant to subsection 38(1) of The Medical Act.

"Commitment" means a written undertaking given by a Physician to Central Standards to do or refrain from doing anything and, without limiting the generality of the foregoing, may include a Physician agreeing to one or more of the following:

- obtain psychiatric, psychological or medical assessment,
- obtain treatment or counselling or both,
- participate in a learning program,
- participate in a body fluid monitoring program,
- place conditions on his or her practice of medicine,
- restrict his or her practice of medicine,
- obtain such other report, assessment or assistance as Central Standards deems appropriate.

“Committee” means Central Standards and its Subcommittees.

"Committee Member" means each member of Central Standards or of a Subcommittee, whether or not the person is a Physician.

"Legal Proceeding" means any civil proceeding, inquiry, or arbitration, in which evidence is or may be given, and includes:

- an action or proceeding for the imposition of punishment by fine, penalty, or imprisonment, to enforce any Act of the Legislature,
- an action or proceeding for the imposition of punishment by fine, penalty or imprisonment to enforce any regulation made under an Act of the Legislature, and
- a proceeding before a tribunal, board or commission.

“Mandatory Reporting Obligation” means a requirement imposed by the legislation applicable to a self-regulated profession whereby members of that profession are required to disclose specified information respecting colleagues to the regulatory body of that profession.

"Physician" means an individual who is registered on the Manitoba Medical Register, the Educational Register, the Physician Assistant Registrar or the Clinical Assistant Register of the College. (AM. 08/09)

“Record” means a record of information in any form and includes any information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means, including by graphic, electronic or mechanical means.

“Subcommittee” means a subcommittee of Central Standards,

“WRHA Standards Committee” means the Standards Committee established by the Winnipeg Regional Health Authority pursuant to s.24 of *The Hospitals Act*, and each subcommittee of that committee.

"Witness" in addition to its ordinary meaning, includes a person who, in the course of a legal proceeding:

- (a) is examined for discovery;
- (b) is cross examined on an affidavit made by him or her;
- (c) answers interrogatories;
- (d) makes an affidavit as to documents, or
- (e) is called upon to answer any question or produce any document, whether under oath or not.

1(2) In this By-Law, words and phrases defined in *The Medical Act* have the same meaning as in *The Medical Act*.

Establishment of Subcommittees

2(1) The following committees are continued as Subcommittees of Central Standards Committee:

- (a) the College's Maternal and Perinatal Health Standards Committee;
- (b) the College's Child Health Standards Committee;
- (c) the College's Bloodborne Pathogens Subcommittee;
- (d) the College's Non-Hospital Medical/Surgical Facility Review Subcommittee;
- (e) each area standards committee identified on Schedule "A" hereto;
- (f) each hospital standards committee identified on Schedule "B" hereto;
- (g) each standards committee at a facility other than a hospital where Members provide health care services identified on Schedule "C" hereto. (AM. 12/08)

2(2) Standards Committee may request that Council establish such additional Subcommittees as Central Standards deems appropriate.

Committee Membership

3(1) The College must appoint a Physician as the Chair of each WRHA Standards Committee, except:

- (a) the Oral Health Program Standards Committee
- (b) the Clinical Health Psychology Program Standards Committee
- (c) any other WRHA Standards Committee which Central Standards determines does not require physician membership. (AM 09/08)

3(2) No Committee Member shall participate in a review of the work of any individual over whom the Committee Member has direct administrative or disciplinary responsibility.

Committee Objectives

4 The objectives of Central Standards and each Subcommittee are as set forth in the Terms of Reference approved by Council.

Review by a Committee

- 5(1) Central Standards and each Subcommittee:
- (a) must review any matter referred to it by the Registrar, and
 - (b) may of its own motion make such inquiries or reviews that it considers appropriate to promote high practice standards amongst Physicians.
- 5(2) A review may include, but is not limited to, one or more of the following:
- (i) a review of one or more aspects of the physician's practice of medicine including but not limited to:
 - A. a review of some or all of the charts of the Physician,
 - B. a review of any facility in which the physician practices,
 - C. a review of the physician's record keeping practices;
 - (ii) a requirement that a Physician meet with Central Standards or the Subcommittee, or a representative thereof, to determine if the Physician is practising medicine competently.
- 5(3) Where Central Standards or a Subcommittee is reviewing a standard of practice issue involving a medical learner, the correspondence must be simultaneously sent: where the learner is an undergraduate medical student, to the attending staff physician responsible for the medical care provided by that undergraduate medical student and to the Associate Dean for Students, the Office of Medical Education. Where the learner is a postgraduate medical student, to the attending staff physician responsible for the medical care provided by that postgraduate medical student.

Referral to Administration

6 If, on a preliminary review of a matter, Central Standards or a Subcommittee determines that Administration is responsible for the matter, it may refer all or part of the matter to Administration, and for that purpose, may disclose the facts pertaining to the matter to Administration.

Action by Central Standards or a Subcommittee

- 7(1) Central Standards or a Subcommittee may take such steps as it determines may improve the knowledge, skill or safety of one or more Physicians in carrying on the practice of medicine, including but not limited to do one or more of the following:
- (a) make recommendations to a Physician, a Committee, or Administration;
 - (b) refer a Physician to the Registrar in accordance with Article 8 of this By-Law;
 - (c) accept a Physician's Commitment in accordance with Article 9 of this By-Law;
 - (d) develop guidelines or protocols for consideration by Council;
- 7(2) Where Central Standards or a Subcommittee has a concern about the practice of a member of a health care discipline other than a physician or where a Mandatory Reporting Obligation exists, Central Standards or the Subcommittee may refer that concern to one or both of

Administration, and the Registrar for referral to the regulatory body responsible for the practice of that health care discipline in Manitoba in accordance with Article 10 of this By-Law.

Referral to the Registrar

8 Central Standards or a Subcommittee may refer a Physician to the Registrar in the following circumstances:

- (a) the Physician failed or refused to allow Central Standards or the referring Subcommittee to inspect books, records or other documents that relate to the Physician's practice, at the Physician's place of practice or elsewhere;
- (b) in the opinion of Central Standards or of the referring Subcommittee, a remedial program is unlikely to be successful;
- (c) the Physician has failed or refused to follow the remedial program recommended or required by Central Standards or the referring Subcommittee;
- (d) Central Standards or the referring Subcommittee determines that there is evidence of misconduct or incompetence on the part of the Physician such that a remedial program would be inappropriate;
- (e) the Physician has failed to comply with a Commitment given to Central Standards or the referring Subcommittee;
- (f) in the opinion of Central Standards or of the referring Subcommittee, the state of the Physician's health or competency is such that a clear danger to the public is perceived to exist.

Commitment

9(1) Where a Physician gives a Commitment to Central Standards:

- (a) the Commitment shall be deemed to be a Commitment given to the College;
- (b) a copy of the Commitment must be promptly made available to the Registrar; and
- (c) Central Standards shall be responsible for monitoring of the Commitment unless there is a referral of the Physician to the Registrar pursuant to this By-Law.

9(2) Receipt of a copy of a Commitment pursuant to this section shall not be deemed to be a referral of a matter to the Registrar.

9(3) The failure of a Physician without reasonable excuse to comply with a Commitment constitutes professional misconduct.

Referral to Another Regulatory Body

- 10(1) (a) If a Committee Member who is a member of a health care discipline other than medicine certifies that the circumstances of a matter before Central Standards or the Subcommittee fall within his/her Mandatory Reporting Obligation, the concern must be referred to Registrar for referral to the regulatory body responsible for the practice of that health care discipline in Manitoba.
- (b) In the absence of a mandatory reporting obligation, Central Standards may refer a concern about a member of a health care discipline other than a physician to the Registrar for referral to regulatory body responsible for the practice of that health care discipline in Manitoba in the following circumstances:
 - (i) Central Standards or a Subcommittee determines that there is evidence of misconduct or incompetence on the part of the individual under review; or

- (ii) in the opinion of Central Standards or a Subcommittee, the state of the individual's health or competency is such that a clear danger to the public is perceived to exist.

10(2) Subsection (1) applies with necessary changes in points of detail to a WRHA Standards Committee.

10(3) Where a Physician acquires information through participation in a Critical Incident Review Committee respecting a matter that is reportable to the College pursuant to the Code of Conduct or *The Medical Act*, the Physician must take reasonable steps to ensure that the Critical Incident Review Committee Chair makes a timely report to the College.

Confidentiality

11(1) Except as provided in this By-Law or in *The Evidence Act*, Central Standards, its Subcommittees and each Committee Member are prohibited from disclosing any record or information that is:

- i. prepared solely for the use of the Committee,
- ii. collected, compiled or prepared by the Committee for the purpose of carrying out its duties or,
- iii. used solely in the course of or arising out of the Committee proceedings.

11(2) Disclosure is permissible in the following circumstances:

- (a) pursuant to Article 7(1)(a), to a Physician, a Committee, or Administration, to the extent necessary for the Physician, Committee, or Administration to understand or implement recommendations made by Central Standards or a Subcommittee.
- (b) pursuant to Article 7(1)(b), to the Registrar or to Administration, to the extent necessary for the Registrar or Administration to understand the concerns of Central Standards or a Subcommittee.
- (c) for the purpose of advancing medical research or medical education provided that the disclosure or publication does not identify a Physician or any person whose condition or treatment has been studied, evaluated or investigated.
- (d) to another Committee in circumstances the disclosing Committee considers appropriate.
- (e) pursuant to Article 7(1)(b) or Article 7(2), to one or more of:
 - (i) Administration,
 - (ii) the Registrar,
 - (iii) where the concern involves a member of a health care discipline other than a physician, the regulatory body responsible for the practice of that health care discipline in Manitoba,
 as is necessary for the purposes of ensuring patient safety.
- (f) as Central Standards deems necessary for the implementation and administration of any program approved by Central Standards.
- (g) pursuant to Article 7(1)(c) and Article 9, to the Registrar to provide a copy of a Commitment given by a Physician.

11(2) Subsections (1) and (2) shall apply with necessary changes in points of detail to Physicians who sit as members of a WRHA Standards Committee.

Procedure for Disclosure of Standards Information

- 12(1) Where Central Standards or a Subcommittee intends to disclose Standards records or information pursuant to this By-Law, it must:
- (a) by majority ruling, consent to the disclosure.
 - (b) specify in its minutes:
 - (i) its reasons for such disclosure,
 - (ii) to whom the disclosure may be made, and
 - (iii) what Standards records or information may be disclosed.
 - (c) direct the Chair of the Committee to sign a declaration on behalf of the Committee, indicating the Committee's consent to the release of Standards records or information.

Evidence as to Proceedings of Committee

- 13(1) Subcommittees must establish a clear process for:
- (a) educating Committee Members on the legal privilege that applies to witnesses in a legal proceeding respecting Standards Committees,
 - (b) distinguishing those documents to which the legal privilege applies from those documents to which the privilege does not apply, and
 - (c) managing documents to which the privilege applies in a manner consistent with the protection provided in *The Evidence Act*.
- 13(2) Subsection (1) shall apply with necessary changes in points of detail to Physicians who sit as members of a WRHA Standards Committee.

Reporting Obligations

- 14(1) Subcommittees must make the following reports:
- a. to Central Standards following each Subcommittee meeting, including:
 - (a) name of Subcommittee,
 - (b) members in attendance,
 - (c) location of meeting,
 - (d) date of meeting,
 - (e) schedule of future meetings,
 - (f) summary of business arising and new business,
 - (g) particulars of standards activities including:
 - (i) overview of structured audits,
 - (ii) overview of peer and chart reviews,
 - (iii) educational activities of the medical staff,
 - (iv) future topics and issues for re-review or re-audit, and
 - (v) other quality initiatives.
 - b. to Administration, at least once in each calendar year, without identifying any Physician or patient, a summary of the activities of the Committee.
 - c. to Central Standards, a report of inactivity if a Subcommittee has not met for 12 consecutive months.
- 14(2) Following each meeting, Central Standards must report to Council, without identifying any Physician or patient, a summary of the activities of Central Standards.

- 14(3) The Chair of the WRHA Standards Committee must:
- (a) report to Central Standards on a semi-annual basis as to the activities of the WRHA Standards Committee and its subcommittees. The report must include, but is not limited to, a summary of each audit of clinical practice that has been completed during the reporting period, particularizing:
 - (i) the audit tool used,
 - (ii) the audit results,
 - (iii) any recommendations made by the WRHA Standards Committee, and
 - (iv) any actions taken by the WRHA Standards Committee or by the WRHA management.
 - (b) submit copies of clinical audits upon the request of Central Standards.

Physician Health Program

- 15(1) For the purpose of administering a Physician Health Program approved by Council, Central Standards has the authority to:
- (a) determine whether a Physician is a suitable candidate for participation in the Program;
 - (b) accept Commitments from Physicians;
 - (c) establish processes for effective monitoring of Commitments pertaining to Physician health;
 - (d) refer any Physician in the Physician Health Program to Investigation Committee where Standards Committee deems it appropriate to do so.

15(2) When Central Standards refers a Physician from the Physician Health Program to Investigation Committee, Standards Committee shall provide Investigation Committee with all material respecting the Physician's participation in the Physician Health Program.

Fees

16 Central Standards may levy a fee, payable by a Physician for expenses incurred by the College in review of that Physician's practice pursuant to this By-Law.

THIS IS SCHEDULE "A" TO BY-LAW NO. 6 OF THE COLLEGE OF PHYSICIANS & SURGEONS OF MANITOBA

Assiniboine ASC	North Eastman / Interlake ASC
Burntwood / Churchill ASC	Parkland ASC
Central ASC	South Eastman ASC
NOR-MAN ASC	

THIS IS SCHEDULE "B" TO BY-LAW NO. 6 OF THE COLLEGE OF PHYSICIANS & SURGEONS OF MANITOBA (AM. 06/10)

Arborg & Districts Health Centre Standards Committee
 Bethesda Hospital, Steinbach, Standards Committee
 Boundary Trails Health Centre Standards Committee
 Brandon Regional Health Centre Standards Committee
 E.M. Crowe Memorial Hospital, Eriksdale, Standards Committee
 Gimli Community Health Centre Standards Committee
 Lakeshore District Hospital, Ashern, Standards Committee

Portage District General Hospital Standards Committee
Selkirk & District General Hospital Standards Committee
Stonewall & District Health Centre Standards Committee
Teulon-Hunter Memorial Hospital Standards Committee

THIS IS SCHEDULE “C” TO BY-LAW NO. 6 OF THE COLLEGE OF PHYSICIANS & SURGEONS OF MANITOBA

Brandon Regional Health Centre Psychiatry Standards Committee
Eden Mental Health Centre Standards Committee
Selkirk Mental Health Centre Standards Committee
Clearvue Laser Centre Standards Committee
Eyeteck LASIK Clinic Standards Committee
Heartland Fertility & Gynecology Clinic Standards Committee
Image Plus Eye Laser Centre Standards Committee
Lockwood Aesthetic Surgery Centre Standards Committee
Manitoba Clinic Endoscopy Suite Standards Committee
Maples Surgical Centre Standards Committee
Micflikier Endoscopy Clinic Standards Committee
Sheps Hair Transplant Clinic Standards Committee
Varsity Medical Clinic Standards Committee
WHC Portage Standards Committee
Western Surgery Centre Standards Committee
Winnipeg Clinic (Endoscopy) Standards Committee
Winnipeg Hair Transplant Clinic Standards Committee