

AT RISK COLLEAGUES

BACKGROUND

The College of Physicians and Surgeons of Manitoba believes that, as a member of a self-governing profession, every physician has a responsibility to:

- a) provide safe, competent care to his/her own patients, and
- b) assist in ensuring that all other physicians provide safe, competent care to their patients.

To meet this responsibility, physicians must recognize, in themselves and in colleagues, precursors that suggest impairment of the ability to provide safe, competent care to patients.

Impairment, the diminished ability to provide safe competent medical care, may be short lived (as part of an acute process) or persistent. Examples of impairment include but are not limited to:

- substance abuse
- bloodborne pathogens while engaging in high risk medical/surgical procedures¹
- reduced clinical judgment
- behavioral irregularities which may adversely affect patient care or patient safety
- psychological illness which may adversely affect patient care or patient safety
- failure to recognize the limitations of one's own competence
- physical limitations where relevant motor skills are necessary

SCOPE:

This Statement applies to all circumstances where a physician is impaired, or has reason to believe that a colleague is impaired.

¹ See Statement 1580: Communicable Diseases (Bloodborne) in Physicians (Including Hepatitis B Virus (HBV), Hepatitis C Virus (HCV), and Human Immunodeficiency Virus (HIV))



REQUIREMENTS:

Physician's Own Impairment

The guiding ethical principle is “Consider first the well-being of the patient.”² Physicians who have a diminished ability to provide safe, competent medical care have an ethical responsibility to appropriately restrict practice, or withdraw from practice.

Colleague's Impairment

If a physician has reason to believe that a colleague has a diminished capacity to provide safe, competent medical care, the physician must promptly confront the issue. Delay in confronting impairment issues often accentuates the problem and makes it more difficult to arrive at a satisfactory solution.

Physicians should consider the following recommended stages:

1. **Confrontation**

- (a) Where feasible, it is most desirable to discuss the issue directly with the physician involved. Direct discussion may be done individually or through a group process. The method of confrontation is a crucial step in reaching out to a physician. Physicians are encouraged to consult informally with the Physicians at Risk Committee³ with regard to technique and timing of the discussion.
- (b) Where personal approach is not feasible, the physician may express the concern to the colleague's personal attending physician. That attending physician clearly has the responsibility to address the issue with the colleague and to assist the colleague in resolving the issue in an appropriate fashion.
- (c) Where personal approach is not feasible, depending on the nature of the issue, the Physicians at Risk Committee may be approached. Other colleagues who may be aware of the problem should also be encouraged to cooperate with the Physicians at Risk Committee.

2 Article 1 of the Code of Conduct

3 Physicians At Risk Committee- The Physicians At Risk Committee is a committee funded by the Manitoba Medical Association which, in a strictly confidential way, will handle self referrals or referrals from any other source about problems which may affect a physician's life. These problems include chemical addictions, behavioral, sexual, financial or other difficulties. The resources of the Committee are best accessed through the PAR Hotline at 237-8320. The caller will be contacted within 24 hours and a plan of action discussed. The Committee does not treat identified problems, but refers the physician to appropriate treatment individuals or agencies. It does assist with long term follow up which is a very important aspect in preventing recurrence of the identified problem.



2. Follow-Up

Once an impairment has been identified, the primary objective is rehabilitation and maintenance of medical practice providing that can be done while protecting patients' well-being. If it appears likely that the individual can be safely maintained in practice, a follow up program will be developed. The full cooperation of peers, especially those in an immediate practice group, is very important to the success of rehabilitation.

Often appropriate intervention can result in successful resolution of the impairment and return to safe competent practice.

Unfortunately, some individuals have little insight and can be very non-compliant. Legal action may be necessary to limit or revoke the individual's right to practice medicine.

Mandatory Reporting

The Code of Conduct states:

“41. Recognize that the self-regulation of the profession is a privilege and that each physician has a continuing responsibility to merit this privilege.

43. Avoid impugning the reputation of colleagues for personal motives; however, report to the appropriate authority any unprofessional conduct by colleagues.”

Subsection 39(1) of *The Medical Act* states:

Every member who reasonably believes that another member

(a) is unfit to practise, incompetent or unethical; or

(b) suffers from a mental or physical disorder or illness that may affect his or her fitness to practice, and continues to practice despite having been counseled not to;

must disclose that belief to the registrar, along with the name of the other member and particulars of the suspected disorder, illness, lack of fitness to practice, incompetency or unethical behaviour.

When the issue of a colleague's impairment appears restricted to a hospital, the physician may refer the matter to the Chief Medical Officer of the hospital or such other physician who has the power to investigate and to take disciplinary action through appropriate channels within the hospital.



In all cases, physicians must consider whether reporting to the Registrar of the College is required. Physicians must consider whether the public is at risk due to incompetence, unethical behavior or dishonesty. In any circumstance where the public is at risk by the actions of a colleague, it is the ethical responsibility of each physician to report the colleague to the College. Without restricting the generality of the foregoing, reporting is mandatory where:

- (i) The colleague is non-compliant with intervention attempts;
- (ii) Intervention cannot be implemented in a timely manner;
- (iii) The behavior involves sexual misconduct with a patient.⁴

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A statement is a formal position of the College with which members shall comply.

⁴ Physicians are expected to be familiar with issues relative to physician sexual exploitation or abuse of patients (see Guideline 119, Sexual Misconduct in the Physician/Patient Relationship). If a patient advises a physician that the patient was previously subject to sexual impropriety by a colleague, the physician should:

- a. evaluate whether the patient needs treatment in relation to the incident,
- b. advise the patient to contact the College, and
- c. report the incident to the College.