

CONFLICT OF INTEREST

Physicians must make professional decisions based upon the best interests of the patient, and must ensure that their own personal interests do not conflict or appear to conflict with the interests of the patient. A conflict of interest refers to a clash between the physician's duty to act in the patient's best interests and the private pecuniary gain of the physician in:

- (a) referring a patient to any laboratory, pharmacy, dispensing optician or any other vendor of goods or services (herein "Facility") in which the physician has a financial interest; or
- (b) prescribing for a patient any goods or services, including but not limited to drugs, medical appliances, diagnostic procedures, or other forms of therapy or treatment, from a Facility in which the physician has a financial interest; or
- (c) selling directly to a patient at a profit any drug, medical appliance, medical product or preparation.

In conflict of interest situations, the College will have regard to the substance, not the form of the transaction. Accordingly:

1. conflict of interest may arise in a transaction that involves:
 - a physician,
 - a member of the physician's family, or
 - a corporation owned or controlled by the physician or by a member of the physician's family.
2. conflict of interest may arise in a circumstance of:
 - direct ownership interest in a Facility,
 - indirect ownership interest in a Facility, or
 - any method of sharing the profit of a Facility.
3. benefit to a physician may be direct or indirect and may include:
 - any financial advantage,
 - any good or service sought or received by the physician, or
 - credit, except where the interest and terms of payment are reasonable and are not in any way related to the referral of patients.

An ethical physician will avoid conflict of interest or the appearance of conflict of interest. The following are examples of situations that give rise to a conflict of interest:

- a physician seeking or accepting a benefit from a third party who renders a service to the physician's patient;

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- a physician renting space to or from any third party who supplies medical goods, appliances, services or equipment to the physician's patients or to whom the physician refers patients on an arrangement whereby:
 - (a) the rent is in any way related to the volume of services generated by the physician, or
 - (b) the rent differs significantly from normal rents in the area;
- a physician profiting directly or indirectly as a result of work referred by the physician to any Facility;
- a physician supplying any drug, medical appliance, product or biological preparation to a patient at a profit unless required for the immediate treatment of the patient in an emergency or where an alternate source of supply is not reasonably available.

Where a physician is entering an agreement respecting an ownership or proprietary interest in a Facility, the College's requirements are as follows:

1. The terms of any agreement whereby a physician gains an ownership or proprietary interest in a Facility must not:
 - (a) be related to the past or expected volume of referrals of patients or other business from the member to the Facility,
 - (b) include any requirement that the physician make referrals to the Facility or otherwise generate professional business for the Facility as a condition for entering or continuing the agreement, or
 - (c) provide the physician with a return on investment directly attributable to the physician's volume of referrals to the Facility.
2. The terms of the agreement must not differ significantly from terms which fully informed parties negotiating at arm's length would regard as fair for the ownership or proprietary interest which is the subject of the agreement.

Where a physician has an ownership or proprietary interest in a Facility, the College's requirements are as follows:

1. Signage clearly visible within the Facility must include the physician's name and must state the physician's interest in the Facility.
2. Where a physician rents space from or to a Facility, the physician's office premises must be a self-contained office or suite of offices, exclusively used for the physician's practice, with a separate and distinct entrance from the entrance to the Facility. The physician's office premises must not be located within or form part of the Facility.
3. Where a patient requires a prescription or a referral for services, the physician must provide a written non-directive prescription or referral, which can be used at the Facility of the patient's choice.

4. The physician must refrain from making disparaging comments to patients about Facilities that compete with the Facility in which the physician has an interest.
5. The physician must not accept capital equipment from a Facility, but nothing in this guideline is intended to restrict physicians from receiving from laboratories disposable supplies required for the collection of specimens.

In this Statement, “practice in association” means a relationship between a physician and a non-physician health care provider who is not an employee of the physician in which any of the following apply:

- Joint advertising
- Joint office phone number
- Joint billing for professional services
- Joint office reception area.

Where a physician practices in association with one or more non-physician health care providers, the physician has the following responsibilities:

1. Before entering the association and during the continuation of the association, be certain that the non-physician health care provider is qualified to practice in his/her profession and is registered with the regulatory authority for his/her profession, where one exists.
2. Clearly designate to the public the qualifications or professional designation of each individual practicing in association.
3. Only make referrals to the non-physician health care provider in written form, with appropriate documentation on the patient’s medical record.
4. Make referrals to the non-physician health care provider only when the physician reasonably expects a health benefit to the patient arising from the referral.
5. Establish a financial relationship with the non-physician health care provider which is free from either real or perceived conflict of interest.
6. Where the patients are billed directly for services, clearly indicate in writing the services for which the bill is rendered and who provided those services.
7. Establish a health record keeping system that properly protects patient confidentiality.
8. Respect the patient’s right to attend a non-physician health care provider of the patient’s choice.

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