



By-Law 5: Code of Ethics

The College's Code of Ethics is made pursuant to paragraph 15(1)(i) of the *Medical Act, 2011* to establish a definition of "professional misconduct", "conduct unbecoming a medical practitioner", "professional incompetence" and "incapacity or unfitness to engage in the practice of medicine" for the purposes of sections 39-56 of the *Act*, and to identify the standards governing the practice of medicine.

In addition to this Code of Ethics, physicians are expected to be familiar with the Canadian Medical Association's Code of Ethics and Professionalism (as amended) which has been adopted by the College as a compilation of guidelines providing a common ethical framework for physicians.

1. Definitions

For the purposes of this By-law:

- (1) "Act" means the *Medical Act, 2011*.
- (2) "Policy" means a statement of the College's position on the expected practice of expected conduct of a medical practitioner in relation to a particular issue.
- (3) "Practice Guideline" means a statement by the College of best practices and recommendations in relation to a particular issue, which may have variable applicability on a case-by-case basis, depending on individual patient circumstances, local resources and the professional judgment of the medical practitioner, and includes College advisories.
- (4) "Regulations" means regulations having effect under the *Act*.
- (5) "Standard of Practice" means principles of patient care and management that are generally accepted and recognized by the medical profession in Canada, or that are expressed in a College statement of Standard of Practice.
- (6) All references to "Practice Guideline", "Policy" and "Standard of Practice" include the statement of a particular Practice Guideline, Policy or Standard of Practice as may be made, updated or amended by the College from time to time.
- (7) All Practice Guidelines, Policies or Standards of Practice, as defined by this By-Law, shall be deemed to be incorporated by reference into, and to form part of, this By-Law.

2. Professional Misconduct

Professional misconduct for the purposes of s. 39 to 56 of the *Act* shall include:

Laws, regulations, by-laws, and conditions applicable to practice

- (1) Contravening the *Act*, *Regulations*, or By-Laws.
- (2) Contravening the Canadian Medical Association “Code of Ethics and Professionalism”, as it may be amended from time to time (hereinafter referred to as the “CMA Code”), provided that where a provision of the CMA Code, is or may be inconsistent with any provision of the *Act*, *Regulations* or the By-Laws of the College, then the latter shall apply in the stead of such provision of the CMA Code.
- (3) Contravening a federal, provincial or territorial law, a municipal by-law or a by-law or rule of a public hospital if the purpose of the law, by-law or rule is to protect the health of the public and the contravention is relevant to the medical practitioner's suitability to practice.
- (4) Being subjected to the withdrawal or restriction of rights or privileges under the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada), or under any successor legislation.
- (5) Contravening or failing to comply with a term, condition, restriction, or limitation on a licence or registration with the College.
- (6) Contravening or failing to comply with any term or condition of an order made by the College's Adjudication Tribunal.

Practising while impaired or when found to be incapable or unfit to practice

- (7) Practising the profession while the medical practitioner's ability is impaired by drugs or alcohol.
- (8) Practising the profession during the period after the medical practitioner is notified by the College that he or she has been found to be incapable or unfit to practice, and before the medical practitioner is notified by the College that he or she may resume practice.

Standards of Practice

- (9) Failing to apply and maintain standards of practice expected by the profession in the branches or areas of medicine in which a medical practitioner is practising, unless the departure or modification was made in accordance with the following conditions:
- (a) there was a reasonable basis for the departure or modification;
 - (b) the departure or modification is an exceptional circumstance and does not represent the norm for patient management by the medical practitioner;
 - (c) the departure or modification is limited, in extent and duration, to the minimum necessary to respond to the exceptional circumstance;
 - (d) the departure or modification, and the reasons for it, are documented in the patient's chart; and
 - (e) the medical practitioner has complied with any other conditions for departing from the standard.

Prescribing

- (10) Prescribing, dispensing or selling drugs for an improper purpose.
- (11) Prescribing, dispensing, or selling drugs contrary to the *Act, Regulations* or *By-Laws*.
- (12) Prescribing to a patient contrary to a Standard of Practice or Practice Guideline or a guideline or standard of practice generally accepted by the profession, unless the departure or modification was made in accordance with the conditions referred to in paragraph 2(9) of this By-Law.

Responsibilities to Patients

- (13) Discontinuing professional services contrary to a Standard of Practice or Practice Guideline.
- (14) Discontinuing the practice of medicine in the Province contrary to a Standard of Practice or Practice Guideline.
- (15) Performing without consent a professional service for which consent is required by law.
- (16) Giving information concerning the condition of a patient or any services rendered to a patient to a person other than the patient, except with the consent of the patient or as required or permitted by law.

Responsibilities to the Profession

- (17) Failing to reveal the exact nature of a secret remedy or treatment used by the medical practitioner following a proper request to do so.

Responsibilities to the College

- (18) Failing to respond appropriately or within a reasonable time to a written inquiry from the College.
- (19) Contravening or failing to comply with an undertaking or agreement with the College.
- (20) Failing to comply with a caution or counsel issued by the Complaints Authorization Committee of the College pursuant to s. 44(6)(a) of the *Act*.

Misrepresentations

- (21) Making a misrepresentation to the College or to a representative or agent of the College.
- (22) Using a name other than the medical practitioner's name, or variation thereof accepted by the College, as set out in the applicable register under the *Act*, in the course of providing or offering professional services.
- (23) Using a term, title or designation relating to a specialty or subspecialty of the profession in respect of his or her practice of the profession unless the medical practitioner has been:
 - (a) certified by the Royal College of Physicians and Surgeons of Canada in a specialty or subspecialty of the profession to which the term, title or designation relates;
 - (b) certified by the College of Family Physicians of Canada in a specialty or subspecialty of the profession to which the term, title or designation relates; or
 - (c) formally recognized in writing by the College as specialist in the specialty or subspecialty of the profession to which the term, title or designation relates.
- (24) Making a misrepresentation respecting a remedy, treatment or device.
- (25) Making a claim respecting the utility of a remedy, treatment, device or procedure other than a claim which can be supported as reasonable professional opinion.
- (26) Advertising professional services in a manner which is contrary to a Standard of Practice or Practice Guideline.

Records and Documents

- (27) Falsifying a record relating to the medical practitioner's practice.
- (28) Creating or altering a record relating to the medical practitioner's practice other than in the manner prescribed by these By-Laws.
- (29) Failing without reasonable cause to prepare a report or certificate relating to an examination or treatment performed by the medical practitioner to the patient or the patient's authorized representative within 90 days after the patient or the patient's authorized representative has requested such a report or certificate.
- (30) Signing or issuing, in the medical practitioner's professional capacity, a document that the medical practitioner knows or ought to know is false or misleading.
- (31) Failing to make or maintain a record in accordance with any By-Law of the College.

Fees

- (32) Sharing fees with a person who has referred a patient or receiving fees from any person to whom a medical practitioner has referred a patient, or requesting or accepting a rebate or commission for the referral of a patient.
- (33) Refusing to provide medical care, if urgently needed and to the extent clinically required to address the urgent need, for the reason that the collection of fees for the service is uncertain or not possible.
- (34) Charging a fee for services not performed.
- (35) Charging a fee that is excessive in relation to the services performed.
- (36) Charging a fee for a non-insured service contrary to a Standard or Practice of Practice Guideline.
- (37) Failing to itemize an account for service if requested to do so by the patient or the person or agency who is to pay, in whole or in part, for the services
- (38) Failing to issue a statement or receipt for fee for services to a patient or the person or agency who is to pay, in whole or in part, for the services if requested by a patient, person or agency.

Boundary Violations, Impropriety, Abuse, and Sexual Misconduct

- (39) Entering into financial or legal obligations for or on behalf of a patient other than obligations related to the professional services provided by a medical practitioner.
- (40) Accepting from, or giving to, a patient any gift or benefit of a substantial nature, whether monetary or in the form of property with significant commercial value.
- (41) Influencing a patient to make or change his or her will or other testamentary instrument, or a trust instrument, or to make another type of gift, in favour of a medical practitioner.
- (42) Inappropriate comments or questions reflecting a lack of respect for patient's dignity or privacy.
- (43) Inappropriate examination procedures reflecting a lack of respect for patient's dignity or privacy.
- (44) Examination of a patient's genital area, anal area or breasts without the patient's consent.
- (45) Examination or touching of a patient's genital area, anal area or breasts without legitimate medical reason.
- (46) Massage or other sustained touching of a patient without legitimate medical reason.
- (47) Entering into a sexual relationship with any person with whom a patient has a significant interdependent relationship (e.g. parent, guardian, child or significant other).
- (48) Terminating a physician-patient relationship for the purpose of pursuing a sexual relationship.
- (49) Sexual abuse of a patient, including but not limited to the following, whether or not with the patient's purported consent:
 - (a) engaging in sexual intercourse or other sexual activity or sexual touching with a patient, or the attempt to engage in such activity;
 - (b) engaging in sexual activity in the presence of a patient;
 - (c) the invitation to or encouragement of a patient to engage in any sexual activity in the presence of the medical practitioner, or the continuation of a treatment session with a patient where the patient engages in such activity;
or

- (d) the invitation to or encouragement of a patient to engage in any sexual activity to be recorded by or for the medical practitioner for the personal use of the medical practitioner or of others, or the acceptance of such recorded material.

For the purposes of this subsection, a person receiving medical care from a physician is not considered a “patient” if the physician was their spouse or if they were in an ongoing pre-existing sexual relationship with the physician at the time that the physician provided the medical care.

General

- (50) Permitting, counselling or assisting a person who is not a medical practitioner licensed by the College to perform acts which should only be performed by a medical practitioner.
- (51) Pledging, mortgaging or in any other way encumbering or granting security in the medical practitioner’s interest in a medical record required to be kept under the *Act*, the *Regulations* or *By-Laws*.
- (52) Selling or assigning any debt owed to the medical practitioner for professional services, but a medical practitioner may accept a credit card to pay for professional services and may make a general assignment of debts as collateral for a loan to finance his/her medical practice.
- (53) Permitting or acquiescing in any act or omission of a professional medical corporation which would be considered professional misconduct if such act or omission were committed by a medical practitioner, while a shareholder, director, officer or employee of that corporation.
- (54) An act or omission made in the course of the practice of medicine that, having regard to all the circumstances, is contrary to a standard or expectation of professional conduct generally recognized by the medical profession or generally recognized within the applicable medical specialty or branch of medicine, and which is harmful or potentially harmful to a patient, to the public interest or to the medical profession.

Conflict of Interest

- (55) Having a conflict of interest contrary to a Standard of Practice or Practice Guideline.
- (56) Providing Treatment to him/herself, a family member, or another person close to the medical practitioner contrary to a Standard of Practice or Practice Guideline.

3. Conduct Unbecoming a Medical Practitioner

Conduct unbecoming a medical practitioner for the purposes of s. 39 to 56 of the *Act* shall include:

- (1) An act or omission that, having regard to all the circumstances, would reasonably be regarded by medical practitioners as disgraceful, dishonourable or harmful to the standing or reputation of the medical profession.
- (2) Permitting or acquiescing in any act or omission of a professional medical corporation which would be considered conduct unbecoming a medical practitioner if such act or omission were committed by a medical practitioner, while a shareholder, director, officer or employee of that corporation.
- (3) Conviction of a criminal act that would reasonably be regarded by medical practitioners as disgraceful, dishonourable, or harmful to the standing or reputation of the medical profession.
- (4) Persistent or egregious unprofessional conduct towards professional colleagues.

4. Professional Incompetence

Professional incompetence for the purposes of sections 39 to 56 of the *Act* shall include:

- (1) The demonstration by a medical practitioner's care of one or more patients that he or she lacks skill or judgment, of a nature or to an extent that the medical practitioner is unfit to continue to practice, or that his or her practice should be restricted.

5. Incapacity or unfitness to engage in the practice of medicine

Incapacity or unfitness to engage in the practice of medicine for the purposes of sections 39 to 56 of the *Act* shall include:

- (1) A medical practitioner's suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the medical practitioner no longer be permitted to practice or that his or her practice should be restricted.

Document History

Reviewed & Updated	December 7, 2019 June 16, 2018 December 10, 2016 November 20, 2012
Expected Review Date	December 7, 2024
Publication Date	January 6, 2020