

# Practice Standard- Conflict of Interest

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Revised: N/A

## Definition

A conflict of interest occurs where a person has a duty to one person or group that could reasonably be compromised by a conflicting obligation or interest.

## Intent

To facilitate appropriate care and assessment/examination or treatment of a patient/client, or professional duties to other persons, by ensuring that members comply with their obligations relating to conflicts of interest.

## Objectives

- To ensure members are aware of their existing obligations relating to conflicts of interest.
- To clarify the conflict of interest requirements outlined in legislation, case law, shared professional values and various existing College practice standards, policies and guidelines.
- To assist members identify and resolve potential conflicts of interest.

## Description of Standard

1. It is a conflict of interest for the purpose of section 16 of the Professional Misconduct Regulation for a member to engage in a relationship or arrangement as a result of which the member's personal interests could improperly influence his/her professional judgment or conflict with his/her duty to act in the best interest of patients.

2. A conflict of interest can occur even where the interest or benefit goes to a "related person", such as a close relative of (or a corporation affiliated with) the member.

3. Some examples of a conflict of interest, depending on the circumstances, might include where a member:

- receives a benefit from a supplier of health care products or services or from a health practitioner to whom the member refers patients;
- accepts credit from a supplier of health care products or services or from a health professional or practitioner to whom the member refers patients unless the terms of credit provide a reasonable time for repayment and a reasonable rate of interest;
- refers a patient to a supplier of health care products or services in which the member has a financial interest unless the member discloses the interest to the patient and offers to refer the patient to suppliers with whom the member has no financial interest (see the expanded discussion of self-referral below);

- sells a product to a patient for more than the cost to the member plus a reasonable dispensing fee without disclosing the profit and the right of the patient/client to buy the product elsewhere;
- receives a benefit (e.g., free or cheap space) from a person who could reasonably hope to supply health related products or services to the member's patient/client (e.g., a health food store);
- is employed in one work setting and transfers the client to another work setting in order to earn a higher income or receive another sort of benefit without the consent of his or her employer and the patient/client;
- treats a family member (or has another dual relationship) on an ongoing basis, particularly where the other relationship can interfere with the member's objectivity or the effectiveness of treatment or where the services are paid by a third party payer; (the definition of who may constitute a family member is interpreted broadly and may include, in-laws, step-relatives, same-sex partners, and even close friends)
- supervises a relative or friend in a clinical placement;
- permits an employer or a third party payer to interfere with clinical or professional decisions (e.g., the nature or length of treatment required);
- becomes an employee or partner or shares revenue or profits with an unregistered person unless there is a written agreement ensuring that the member has authority over the clinical and professional aspects of the practice;
- conferring a benefit to a patient (other than a token, health related product such as a thera-band) whose services are paid for by a third party (e.g., it would be a conflict to give a free pair of shoes to a patient who was receiving an orthotic device paid for by the patient's employer's insurance); and
- endorses a product using the member's professional status.

The above list of examples is not exhaustive. They simply illustrate some of the more common areas where conflicts of interest arise. In addition, not every example applies all of the time. Conflicts of interest vary with the circumstances. For example, treating a family member may not always be a conflict of interest, particularly in circumstances where the family member is not a close relative, the condition is short term and the billing for the service is transparent.

Some conflicts of interest are almost never acceptable (e.g., paying someone for referring a client). However, other potential conflicts of interest can be addressed by disclosure and other safeguards. An example of this is self-referral.

Self-referral is a term used to describe a member's referral of patients to facilities, services or suppliers in which the member has any interest or gains any benefit. A member may undertake self-referral provided that:

- the member has assured his/her patient that his/her choice of facilities, services or suppliers will in no way affect the quality or availability of the health care services provided by the member;
- the member has disclosed his/her interest to his/her patient when making a referral;
- access to comparable services or necessary products or devices is not reasonably possible for the patient or cannot be arranged for the patient;
- the member has explored other sources as reasonably as possible and informs his/her patients that he/she has an option of using any of the alternative facilities, services or suppliers; and
- information about the referral will be disclosed to the College upon request.

When in doubt about a potential conflict of interest, members are urged to contact the College or consult with their legal counsel for assistance.

**Notation**

In the event of any inconsistency between this standard and any legislation that governs the practice of members, the legislation governs.