



POLICY

DRAFT

Conscientious Objection

STATUS:	DRAFT
Approved in principle:	June 19, 2015
Period of consultation:	June 24-Aug 7, 2015
Approved by Council:	n/a
Amended:	n/a
To be reviewed:	n/a

This document is a policy of the College of Physicians and Surgeons of Saskatchewan and reflects the position of the College.

1. Purpose

This policy seeks to provide clear guidance to physicians and the public about the obligations which physicians have to provide care to patients and how to balance those obligations with physicians' right to act in accordance with their conscience if they conflict.

This policy is based upon the following principles relating to the physician-patient relationship

- The fiduciary relationship between a physician and a patient;
- Patient autonomy;
- A patient's right to continuity of care, especially as recognized in the *Canadian Medical Association Code of Ethics*, which states "Having accepted professional responsibility for a patient, continue to provide services until they are no longer required or wanted, until another suitable physician has assumed responsibility for the patient, or until the patient has been given adequate notice that you intend to terminate the relationship."
- A patient's right to information about their care, especially as recognized in the *CMA Code of Ethics* which states "Provide your patients with the information they need to make informed decisions about their medical care, and answer their questions to the best of your ability" and "Make every reasonable effort to communicate with your patients in such a way that information exchanged is understood."

- Patients should not be disadvantaged or left without appropriate care due to the personal beliefs of their physicians;
- Physicians should not intentionally or unintentionally create barriers to patient care;
- The College has a responsibility to impose reasonable limits on a physician's ability to refuse to provide care where those limits are appropriate. There are some circumstances in which there is a legitimate clinical reason or other good legal reason that the patient's interests should not be accommodated;
- Medical care should be equitably available to patients whatever the patient's situation, to the extent that can be achieved.

2. Scope

This policy does not apply to physician-assisted death or physicians' conscientious objection related to a potential physician-assisted death. The College recognizes that this is currently an issue which is in a state of development and may be revisited by the College at a later time.

This policy applies to all other situations in which physicians are providing, or holding themselves out to be providing, health services.

3. Definitions

Freedom of conscience: for purposes of this policy, is actions or thoughts that reflect one's deeply held and considered moral or religious beliefs.

4. Principles

The College of Physicians and Surgeons has an obligation to serve and protect the public interest. The Canadian medical profession as a whole has an obligation to ensure that people have access to the provision of legally permissible and publicly-funded health services.

Physicians have an obligation not to interfere with or obstruct a patient's right to access legally permissible and publicly-funded health services.

Physicians have an obligation to provide full and balanced health information, referrals, and health services to their patients in a non-discriminatory fashion.

Physicians have an obligation not to abandon their patients.

In certain circumstances a physician will have a legitimate clinical reason to refuse to provide a service requested by a patient.

Physicians' freedom of conscience should be respected.

Physicians' exercise of freedom of conscience to limit the health services that they provide should not impede, either directly or indirectly, access to legally permissible and publicly-funded health services.

Physicians' exercise of freedom of conscience to limit the services that they provide to patients should be done in a manner that respects patient dignity, facilitates access to care and protects patient safety.

It is recognized that these obligations and freedoms can come into conflict. This policy establishes what the College expects physicians to do in the face of such conflict.

5. Obligations

5.1 Taking on new patients

It is important to provide medical care in a way that is consistent with *The Saskatchewan Human Rights Code* and the *CMA Code of Ethics*. The College document *Patient-Physician Relationships* addresses the expectations of physicians who are considering taking on a new patient.

The Canadian Medical Association *Code of Ethics* says:

17. In providing medical service, do not discriminate against any patient on such grounds as age, gender, married status, medical condition, national or ethnic origin, physical or mental disability, political affiliation, race, religion, sexual orientation, or socioeconomic status. This does not abrogate the physician's right to refuse to accept patients for legitimate reasons.

The above obligation does not prevent physicians from making *bona fide* decisions, or exercising professional judgment, in relation to their own clinical competence. Physicians are always expected to practice medicine in keeping with their level of clinical competence to ensure that they safely deliver quality health care. If physicians genuinely feel on grounds of lack of clinical competence that they cannot accept someone as a patient because they cannot appropriately meet that person's health care needs, then they should not do so and should explain to the person why they cannot do so.

The duty of a physician not to refuse to accept a patient based on the identified characteristics does not prevent physicians from making *bona fide* decisions to develop a non-discriminatory focused practice.

Where physicians know in advance that they will not provide specific services, but will comply with paragraphs 5.2 or 5.3, they must communicate this fact as early as possible and preferably in advance of the first appointment with an individual who wants to become their patient.

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The College expects physicians to proactively maintain an effective plan to meet the requirements of paragraphs 5.2 and 5.3 for the frequently requested services they are unwilling to provide.

5.2 Providing information to patients

Physicians must ensure their patients receive the full and balanced health information required to make legally valid, informed choices about medical treatment (e.g., diagnosis, prognosis, and clinically appropriate treatment options, including the option of no treatment or treatment other than that recommended by the physician), even if the provision of such information conflicts with the physician's deeply held and considered moral or religious beliefs.

Physicians who are able and willing to do so may provide and discuss this information with patients, even if the physician would not subsequently refer for one or more of the options under consideration.

The obligation to inform patients may be met by providing the patient with information to allow the patient to arrange timely access to the full and balanced health information required to make a legally valid, informed choice about medical treatment from another source, provided that arrangement can be made in a timely fashion and the patient is able to obtain the information without undue delay. The physician has the obligation to ensure that an arrangement which does not involve the patient meeting and discussing choices of medical treatment with another physician or health care provider is effective in providing the information required by this paragraph.

Physicians must not provide false, misleading, intentionally confusing, coercive, or materially incomplete information to their patients.

All information must be communicated by the physician in a way that is likely to be understood by the patient.

While informing a patient, physicians must not communicate or otherwise behave in a manner that is demeaning to the patient or to the patient's beliefs, lifestyle, choices, or values.

Physicians must not promote their own moral or religious beliefs when interacting with a patient.

5.3 Providing or ensuring access to health services

Physicians can decline to provide legally permissible and publicly-funded health services if providing those services violates their freedom of conscience. However, in such situations, they must:

- a) ensure their patients obtain the full and balanced health information required to make a legally valid, informed choice about medical treatment as outlined in paragraph 5.2; and,
- b) provide the patient with information to allow the patient to arrange timely and effective access to medical services if the patient chooses.

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Those obligations may generally be met by having the patient meet with another physician or other health care provider who is available and accessible and who can either provide the health service or refer that patient to another physician or health care provider who can provide the health service.

If it is not possible to meet the obligations of paragraphs a) or b), the physician must demonstrate why that is not possible and what alternative methods to attempt to meet those obligations will be provided.

This obligation does not prevent physicians from refusing to arrange for the patient to obtain access to the health service based upon the physician's clinical judgment that the health service would not be clinically appropriate for the patient. If the physician refuses to arrange for the patient to obtain access to a health service based upon the physician's clinical judgment, the physician should provide the patient with a full explanation for the reason not to do so.

While discussing a referral with a patient, physicians must not communicate, or otherwise behave in a manner that is demeaning to the patient or to the patient's beliefs, lifestyle, choices, or values.

When physicians decline to provide a health service for reasons having to do with their moral or religious beliefs, they must continue to care for the patient until the new health care provider assumes care of that patient.

5.4 Necessary treatments to prevent harm to patients

Physicians must provide medical treatment for a patient if treatment is necessary to avoid harming the patient's health or well-being. Accordingly:

- a) Physicians must provide care in an emergency, where it is necessary to prevent imminent harm, even if providing that treatment conflicts with their conscience or religious beliefs.

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