

PROFESSIONAL OBLIGATIONS AND HUMAN RIGHTS

Approved by Council: September 2008

Reviewed and Updated: March 2015

Companion Resource: [Advice to the Profession](#)

Policies of the College of Physicians and Surgeons of Ontario (the “College”) set out expectations for the professional conduct of physicians practising in Ontario. Together with the *Practice Guide* and relevant legislation and case law, they will be used by the College and its Committees when considering physician practice or conduct.

Within policies, the terms ‘must’ and ‘advised’ are used to articulate the College’s expectations. When ‘advised’ is used, it indicates that physicians can use reasonable discretion when applying this expectation to practice.

Definitions

Discrimination: an act, decision, or communication that results in the unfair treatment of a person or group by either imposing a burden on them, or denying them a right, privilege, benefit or opportunity enjoyed by others. Discrimination may be direct and intentional; it may also be entirely unintentional, where rules, practices or procedures appear neutral but have the effect of disadvantaging certain groups of people.

Effective referral: taking positive action to ensure the patient is connected¹ to a non-objecting, available, and accessible² physician, other health-care professional, or agency.³ For more information about an effective referral, see the companion *Advice to the Profession* document.

Policy

General Expectations

1. Physicians **must** act in their patients’ best interests.⁴
 - a. In doing so, physicians **must** strive to create and foster an environment in which the rights, autonomy, dignity and diversity of all patients, or those seeking to become patients, are respected.

Human Rights, Discrimination, and Access to Care

2. Physicians **must** comply with the Ontario *Human Rights Code* (the “Code”),⁵ and the expectations of the College, when making any decision relating to the provision of health services. This means that physicians **must not** discriminate, either directly or indirectly, based on a protected ground under the *Code* when, for example:
 - a. accepting or refusing individuals as patients;
 - b. providing existing patients with health care or services;
 - c. providing information or referrals to existing patients or those seeking to become patients; and/or
 - d. ending the physician-patient relationship.

The Duty to Accommodate

3. Physicians **must** take reasonable steps to accommodate the needs of existing patients, or those seeking to become patients, where a disability⁶ or other personal circumstance may impede or limit their access to care.⁷ The purpose in doing so is to eliminate or reduce any barriers or obstacles that patients may experience.
4. Physicians **must** comply with their duty to accommodate as set out in the *Code*, and to make accommodations⁸ in a manner that is

respectful of the dignity, autonomy and privacy of the person, unless the accommodation would

- a. subject the physician to undue hardship, i.e. where excessive cost, health or safety concerns would result; or
- b. significantly interfere with the legal rights of others.⁹

Limiting Health Services for Legitimate Reasons

The duty to refrain from discrimination does not prevent physicians from limiting the health services they provide for legitimate reasons (for instance, because the care is outside their clinical competence or contrary to their conscience or religious beliefs).¹⁰

5. While physicians may limit the health services they provide for legitimate reasons, they **must** do so in a manner that respects patient dignity and autonomy, upholds their fiduciary duty to the patient, and does not impede equitable access to care for existing patients, or those seeking to become patients.

Clinical Competence

The duty to refrain from discrimination does not prevent physicians from making decisions in the course of practicing medicine that are related to their own clinical competence.¹¹

6. Physicians **must** provide patients with quality health care in a safe manner. If physicians feel they cannot appropriately meet the health-care needs of an existing patient, or those who wish to become patients, they are not required to provide that specific health service or to accept that person as a patient. However, physicians **must**:
 - a. comply with the *Code*, and College expectations, in so doing; and
 - b. make any decision to limit the provision of health services on the basis of clinical competence in good faith.¹²
7. Where clinical competence may restrict the type of services or treatments provided, or the type of patients a physician is able to accept, physicians **must** inform patients of this as soon as is reasonable.
 - a. Physicians **must** communicate this information in a clear and straightforward manner to ensure that individuals or patients understand that their decision is based on an actual lack of clinical competence rather than discriminatory bias or prejudice, which will lessen the likelihood of misunderstandings.
8. In order to protect patients' best interests and to ensure that existing patients (or those seeking to become patients) are not abandoned, physicians **must** provide a referral to another appropriate health-care provider for the elements of care the physician is unable to manage directly.

Conscience or Religious Beliefs

The College recognizes that physicians have the right to limit the health services they provide for reasons of conscience or religion.

However, physicians' freedom of conscience and religion must be balanced against the right of existing and potential patients to access care. The Court of Appeal for Ontario has confirmed that where an irreconcilable conflict arises between a physician's interest and a patient's interest, physicians' professional obligations and fiduciary duty require that the interest of the patient prevails.¹³

The College has outlined expectations, set out below, for physicians who have a conscientious or religious objection to the provision of certain health services. These expectations accommodate the rights of objecting physicians to the greatest extent possible, while ensuring that patients' access to healthcare is not impeded.

9. Where they choose to limit the health services they provide for reasons of conscience or religion, physicians **must** to do so in a manner that respects patient dignity, ensures access to care, and protects patient safety.

Respecting Patient Dignity

10. Where physicians object to providing certain elements of care for reasons of conscience or religion, they **must** communicate their objection directly and with sensitivity to existing patients, or those seeking to become patients, and inform them that the objection is due to personal and not clinical reasons.
11. In the course of communicating their objection, physicians **must not** express personal moral judgments about the beliefs, lifestyle, identity, or characteristics of existing patients, or those seeking to become patients. This includes not refusing or delaying treatment

because the physician believes the patient's own actions have contributed to their condition.

- a. Furthermore, physicians **must not** promote¹⁴ their own religious beliefs when interacting with patients, or those seeking to become patients, nor attempt to convert them.

Ensuring Access to Care

12. Physicians **must** provide information about all clinical options that may be available or appropriate to meet patients' clinical needs or concerns.
13. Physicians **must not** withhold information about the existence of any procedure or treatment because it conflicts with their conscience or religious beliefs.
14. Where physicians are unwilling to provide certain elements of care for reasons of conscience or religion, they **must** provide the patient with an effective referral.
 - a. Physicians **must** provide the effective referral in a timely manner to allow patients to access care.
 - b. Physicians **must not** expose patients to adverse clinical outcomes due to a delayed effective referral.
15. Physicians **must not** impede access to care for existing patients, or those seeking to become patients.
16. Physicians **must** proactively maintain an effective referral plan for the frequently requested services they are unwilling to provide.

Protecting Patient Safety

17. Physicians **must** provide care in an emergency, where it is necessary to prevent imminent harm, even where that care conflicts with their conscience or religious beliefs.¹⁵

Endnotes

1. An effective referral does not necessarily, but may in certain circumstances, involve a 'referral' in the formal clinical sense, nor does it necessarily require that the physician conduct an assessment of the patient to determine whether they are a suitable candidate for the treatment to which they object.
2. 'Available and accessible' means that the health-care provider must be in a location the patient can access, and operating and/or accepting patients at the time the effective referral is made.
3. In the hospital setting, practices may vary in accordance with hospital policies and procedures.
4. Please see the College's [Practice Guide](#) for further details.
5. *Human Rights Code*, R.S.O. 1990, c. H.19 (the "Code"). The *Code* articulates the right of every Ontario resident to receive equal treatment with respect to services, goods and facilities – including health services – without discrimination on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. The *Code* requires that all those who provide services in Ontario, including physicians providing health services, do so free from discrimination, whether intentional or unintentional.
6. "Disability" is defined in s. 10 of the *Code* and includes any degree of physical disability, infirmity, malformation, or disfigurement; a condition of mental impairment or a developmental disability; a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language; a mental disorder; or an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act*, 1997.
7. The *Code*, R.S.O. 1990, c. H.19.
8. Please see the *Advice to the Profession* document for guidance about the duty to accommodate.
9. Further explanation of "undue hardship" is provided in the Ontario Human Rights Commission's *Policy and Guidelines on Disability and the Duty to Accommodate*.
10. For more information see the College's [Accepting New Patients](#) and [Ending the Physician-Patient Relationship](#) policies.

11. This section of the policy reflects the College's general expectation that physicians will always practice within the limits of their own knowledge, skill, and judgment.
12. As stated in the College's [Accepting New Patients](#) policy, "Physicians **must not** use clinical competence and/or scope of practice as a means of discriminating against prospective patients or to refuse patients:
- a. with complex or chronic health needs;
 - b. with a history of prescribed opioids and/or psychotropic medication;
 - c. requiring more time than another patient with fewer medical needs; or
 - d. with an injury, medical condition, psychiatric condition or disability that may require the physician to prepare and provide additional documentation or reports [footnotes omitted]."
13. See para. 187 *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario*, 2019 ONCA 393.
14. This includes implying that the physician's religion is superior to the patient's beliefs (spiritual, secular or religious).
15. This expectation is consistent with the College's [Providing Physician Services During Job Actions](#) policy. For further information specific to providing care in health emergencies, please see the College's [Public Health Emergencies](#) policy.