



Confidentiality and Representation Undertaking

I, _____, am or will be performing duties for the College of Physicians and
Full Name

Surgeons of Ontario (the “College”) as an assessor (“my College duties”).

I confirm that I have read the statutory provisions attached to this undertaking, namely subsections 36(1) and 40(2) of the *Regulated Health Professions Act, 1991* (the “RHPA”), and subsections 83(1), 83.1(4) and excerpts to 83.1(1) of the *Health Professions Procedural Code* (the “Code”), which is Schedule 2 to the RHPA, and that I understand their contents.

Specifically, I understand that all information that I become aware of in the course of or through my College duties (the “Information”) is confidential information and that I am prohibited, both during and after my College duties, from communicating the Information in any form and by any means except in the limited circumstances set out in subsections 36(1)(a) through 36(1)(j) of the RHPA. I understand that the College may take legal or other action against me if I contravene subsection 36(1) of the RHPA.

I understand that under subsection 40(2) of the RHPA it is an offence, carrying fines on conviction as set out below, to contravene subsection 36(1) of the RHPA. I understand that this means that in addition to any action the College may take against me, parties outside the College may take action against me if I communicate the Information in contravention of subsection 36(1) of the RHPA, and that I may be required to pay, if convicted, a fine of up to \$25,000.00 for a first offence and up to \$50,000.00 for a subsequent offence.

I further understand that certain Information relating to the Quality Assurance Committee is subject to further disclosure limitations under subsections 83(1) and 83.1(4) of the Code.

I undertake to the College that:

- a) I will not, at any time, communicate any or all of the Information except as permitted under subsection 36(1) of the RHPA, and, if applicable, subsection 83.1(4) of the Code;
- b) I will notify the College in advance wherever possible of, but in any case immediately following, any communication of any or all of the Information;
- c) I will confine my requests for information from personnel engaged or employed by the College to information solely related to my College duties;
- d) I will not use any or all of the Information for my own personal use or benefit or for any reason other than for the purpose of my College duties;
- e) I will conduct my College duties, and represent the College in my dealings with the public and the membership, at all times with honesty, integrity and in good faith; and
- f) I will permanently and securely destroy all of the Information in my possession or control, and all copies of it, promptly upon completion of my College duties or promptly upon request by the College, whichever occurs first.

Date

Signature

Subsections 36(1) and 40(2) of the *Regulated Health Professions Act, 1991*

Confidentiality

36. (1) Every person employed, retained or appointed for the purposes of the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* and every member of a Council or committee of a College shall keep confidential all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person except,

- (a) to the extent that the information is available to the public under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*;
- (b) in connection with the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, including, without limiting the generality of this, in connection with anything relating to the registration of members, complaints about members, allegations of members' incapacity, incompetence or acts of professional misconduct or the governing of the profession;
- (c) to a body that governs a profession inside or outside of Ontario;
- (d) as may be required for the administration of the *Drug Interchangeability and Dispensing Fee Act*, the *Healing Arts Radiation Protection Act*, the *Health Insurance Act*, the *Health Protection and Promotion Act*, the *Independent Health Facilities Act*, the *Laboratory and Specimen Collection Centre Licensing Act*, the *Long-Term Care Homes Act, 2007*, the *Retirement Homes Act, 2010*, the *Ontario Drug Benefit Act*, the *Coroners Act*, the *Controlled Drugs and Substances Act (Canada)* and the *Food and Drugs Act (Canada)*;
- (d.1) for a prescribed purpose, to a public hospital that employs or provides privileges to a member of a College, where the College is investigating a complaint about that member or where the information was obtained by an investigator appointed pursuant to subsection 75 (1) or (2) of the Code, subject to the limitations, if any, provided for in regulations made under section 43;
- (d.2) for a prescribed purpose, to a person other than a public hospital who belongs to a class provided for in regulations made under section 43, where a College is investigating a complaint about a member of the College or where the information was obtained by an investigator appointed pursuant to subsection 75 (1) or (2) of the Code, subject to the limitations, if any, provided for in the regulations;
- (e) to a police officer to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (f) to the counsel of the person who is required to keep the information confidential under this section;
- (g) to confirm whether the College is investigating a member, if there is a compelling public interest in the disclosure of that information;
- (h) where disclosure of the information is required by an Act of the Legislature or an Act of Parliament;
- (i) if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons;
- (j) with the written consent of the person to whom the information relates. 2007, c. 10, Sched. M, s. 7 (1); 2014, c. 14, Sched. 2, s. 10; or
- (k) to the Minister in order to allow the Minister to determine,
 - i) whether the College is fulfilling its duties and carrying out its objects under this Act, a health profession Act, the *Drug and Pharmacies Regulation Act*, or the *Drug Interchangeability and Dispensing Fee Act*, or
 - ii) whether the Minister should exercise any power of the Minister under this Act, or any Act mentioned in subclause (i).

Offences

40. (2) Every individual who contravenes section 31, 32 or 33 or subsection 34 (2), 34.1 (2) or 36 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence.

Subsections 83(1), 83.1(1) (excerpts) and 83.1(4) of the *Health Professions Procedural Code*

Confidentiality of information

83. (1) Except as provided in section 80.2 and in this section, the Quality Assurance Committee and any assessor appointed by it shall not disclose, to any other committee, information that,

- (a) was given by the member; or
- (b) relates to the member and was obtained under section 82 [Re Quality Assurance Committee assessments].

Quality assurance and other information

83.1 (1) [excerpts] In this section,

“disclose” means, with respect to quality assurance information, to provide or make the information available to a person who is not,

- (a) a member of the Quality Assurance Committee,
 - (b) an assessor appointed by the Committee, a person engaged on its behalf such as a mentor or a person conducting an assessment program on its behalf, or
 - (c) a person providing administrative support to the Committee or the Registrar or the Committee’s legal counsel,
- and “disclosure” has a corresponding meaning;

“quality assurance information” means information that,

- (a) is collected by or prepared for the Quality Assurance Committee for the sole or primary purpose of assisting the Committee in carrying out its functions,
- (b) relates solely or primarily to any activity that the Quality Assurance Committee carries on as part of its functions,
- (c) is prepared by a member or on behalf of a member solely or primarily for the purpose of complying with the requirements of the prescribed quality assurance program, or
- (d) is provided to the Quality Assurance Committee under subsection (3),

but does not include,

- (e) the name of a member and allegations that the member may have committed an act of professional misconduct, or may be incompetent or incapacitated,
- (f) information that was referred to the Quality Assurance Committee from another committee of the College or the Board, or
- (g) information that a regulation made under this Code specifies is not quality assurance information and that the Quality Assurance Committee receives after the day on which that regulation is made;

Quality assurance information

(4) Despite the *Personal Health Information Protection Act, 2004*, no person shall disclose quality assurance information except as permitted by the *Regulated Health Professions Act, 1991*, including this Code or an Act named in Schedule 1 to that Act or regulations or by-laws made under the *Regulated Health Professions Act, 1991* or under an Act named in Schedule 1 to that Act.