THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

POLICY STATEMENT

Physician Treatment of Self, Family Members, or Others Close to Them

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RELATED TOPICS: Practice Guide; Confidentiality of Personal Health Information; Maintaining Appropriate Boundaries and Preventing Sexual Abuse; Marijuana for Medical Purposes; Public Health Emergencies; Prescribing Drugs.

LEGISLATIVE REFERENCES:

Controlled Drugs and Substances Act, S.C. 1996, c. 19.
- *Benzodiazepines and Other Targeted Substances Regulations*, SOR/2000-217.
- *Marihuana for Medical Purposes Regulations*, SOR/2013-119.
- *Narcotic Control Regulations*, C.R.C., c. 1041.

Health Care Consent Act, 1996, S.O. 1996, c. 2, Schedule A.

Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991 c. 18.

Medicine Act, 1991, S.O. 1991 c. 30.
- *Registration*, O Reg 865/93.

Narcotics Safety and Awareness Act, 2010, S.O. 2010, c. 22.

Personal Health Information Protection Act, *2004*, S.O. 2004, c. 3, Schedule A.

REFERENCE MATERIALS: See Page 7

OTHER REFERENCES: Frequently Asked Questions

COLLEGE CONTACT: Physician Advisory Services

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INTRODUCTION

Physicians may find themselves in circumstances where they must decide whether it would be appropriate to provide treatment for themselves, family members, or others close to them.[1] While physicians may have the best intentions in providing treatment in this context, a growing body of literature[2] indicates that personal or close relationships can compromise the physician's emotional and clinical objectivity. This may make it difficult for the physician to meet the standard of care and potentially affect the quality of the treatment provided.

This policy sets out the circumstances in which it may be acceptable for physicians to provide treatment for themselves, family members, or others close to them.

The College's expectations, as set out in this policy, are grounded in the values and principles of medical professionalism as articulated in the Practice Guide and are based on the best available evidence pertaining to the risks involved with such treatment.

PURPOSE AND SCOPE

This policy applies to all physicians who are considering providing treatment for themselves, family members, or others close to them, and describes the circumstances in which physicians may provide such treatment. The policy sets out the College's expectations for physicians in meeting their professional obligations to practise medicine safely and effectively in this context.

TERMINOLOGY

Family member – an individual with whom the physician has a familial connection **and** with whom the physician has a personal or close relationship, where the relationship is of such a nature that it could r*easonably affect* the physician's professional judgment. This includes, but is not limited to: the physician's spouse or partner, parent, child, sibling, members of the physician's extended family, or those of the physician's spouse or partner (for example: in-laws).

Others close to them – *any other* individuals who have a personal or close relationship with the physician, whether familial or not, where the relationship is of such a nature that it could *reasonably affect* the physician's professional judgment. This may include, but is not limited to, friends, colleagues, and staff.[3]

Treatment – anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose. This includes: the performance of any controlled act;[4] ordering and performing tests (including blood tests and diagnostic imaging); and providing a course of treatment, plan of treatment, or community treatment plan.[5]

1. The term "others close to them" is defined later in this policy; please see the Terminology section.
2. In this policy, the term "literature" includes empirical evidence as well as articles on professionalism and medical ethics.
3. Physicians are encouraged to contact the College's Physician Advisory Services or the Canadian Medical Protective Association (CMPA) for further guidance as to which individuals may be included in this term.
4. Controlled acts for physicians, as set out in Section 4 of the *Medicine Act, 1991*, S.O. 1991, c. 30. (hereinafter *Medicine Act*).
5. The definition of "treatment" in this policy has been adapted, and modified, from the definition of "treatment" as set out in the *Health Care Consent Act, 1996*, S.O. 1996, c. 2, Schedule A, at Section 2(1) (hereinafter *HCCA*). Physicians should note that the exceptions to "treatment" under the *HCCA* do not apply to this policy.

Minor condition – a non-urgent, non-serious condition that requires only short-term, episodic, routine care and is not likely to be an indication of, or lead to, a more serious, complex or chronic condition, or a condition which requires ongoing clinical care or monitoring.[6] Some examples of minor conditions may include, but are not limited to: otitis externa; acute conjunctivitis; uncomplicated cystitis in an adult female; mild impetigo; and contact dermatitis. Complex or chronic conditions are not considered minor conditions, even where their management may be episodic in nature.

Emergency – an "emergency" exists where an individual is apparently experiencing severe suffering or is at risk of sustaining serious bodily harm if medical intervention is not promptly provided.

PRINCIPLES

The key values of professionalism articulated in the College's Practice Guide – compassion, service, altruism and trustworthiness – form the basis for the expectations set out in this policy. Physicians embody these values and uphold the reputation of the profession by, among other things:

1. Always acting in the best interests of the individual requesting or receiving treatment and putting those interests before those of the physician;
2. Practising medicine with the objectivity and professional judgment required to meet the standard of care;
3. Establishing and maintaining appropriate professional boundaries; and
4. Participating in self-regulation of the medical profession by complying with the expectations set out in this policy.

POLICY

While physicians may have a genuine desire to deliver the best possible care when providing treatment for themselves, family members, or others close to them, the literature indicates that a physician's ability to maintain the necessary amount of emotional and clinical objectivity may be compromised.[7] Physicians may then have difficulty meeting the standard of care. Consequently, the individual may not receive the best quality treatment, despite the physician's best intentions.

6. Physicians are advised that minor conditions do not include providing sick notes or completing insurance claims for themselves, family members, or others close to them.
7. Please see the following articles:
- American Academy of Pediatrics Committee on Bioethics. (2009). Policy statement -- Pediatrician-family-patient-relationships: managing the boundaries. *Pediatrics*, 124(6), 1685-1688.
- Chambers, R. & Belcher, J. (1992). Self-reported health care over the past 10 years: a survey of general practitioners. *British Journal of General Practice*, 42(357), 153-156.
- Chen, F.M., Feudtner, C., Rhodes, L.A., Green, L.A. (2001). Role conflicts of physicians and their family members: rules but no rulebook. *Western Journal of Medicine*, 175(4), 236-239.
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The CMPA also advises against physicians providing treatment for "family and friends, as well as self-treatment". See the CMPA's "Know the rules, avoid the risks: Treating family and friends." (April 2014).

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In order to meet their professional obligations to practise medicine safely and effectively, physicians must only provide treatment for themselves and family members in limited circumstances, as set out below. These are circumstances where the risks associated with treatment in this context are either minimal or are outweighed by the benefits of providing the treatment.

Physicians must not provide treatment for themselves or family members except:

- For a minor condition or in an emergency situation,
  and
- When another qualified health-care professional is not readily available.[8]

Physicians must not provide recurring episodic treatment for the same disease or condition, or provide ongoing management of a disease or condition, even where the disease or condition is minor. Another physician must be responsible for ongoing management.

Physicians are advised that, depending on the nature of the relationship, physicians who provide treatment for *others close to them* may also attract the same risks of compromised objectivity and difficulty meeting the standard of care. Therefore, the College recommends that physicians carefully consider whether it is appropriate to provide treatment to *others close to them*.

Where a relationship could reasonably affect the physician's professional judgment, the physician must not provide treatment to that individual, except in accordance with the circumstances set out above.[9]

As relationships may change over time, physicians may need to re-evaluate the nature of the relationship they have with either family members or others close to them to determine whether the physician can still be objective. If the physician's professional judgment has been reasonably affected by changes in the relationship, the physician must transfer care of the individual to another qualified health-care professional as soon as is practical.

1. Providing Treatment

When physicians provide treatment for minor conditions or emergencies, where no other qualified health-care professional is readily available, they must comply with the following expectations:[10]

a) Scope of Treatment and Transfer of Care

Physicians must always act within the limits of their knowledge, skill and judgment.[11] However, the College recognizes that in emergency situations, or public health crises, it may be necessary for a physician to provide treatment outside of his or her area of expertise.[12]

8. The Canadian Medical Association (CMA) advises physicians to "limit treatment of yourself or members of your immediate family to minor or emergency services, and only when another physician is not readily available; there should be no fee for such treatment." (CMA Code of Ethics, Section 20). http://policybase.cma.ca/dbtw-wpd/PolicyPDF/PD04-06.pdf.
9. For further guidance on evaluating whether it is appropriate to treat a particular individual, please see the Frequently Asked Questions (FAQ) document attached to this policy.
10. The Ontario Health Insurance Plan (OHIP) does not permit billing for treatment of immediate family; see Ministry of Health's *Resource Manual for Physicians*, Section 4.11 Explanatory Codes, p. 24-30, (Feb 2014).
11. Sections 2(1)(c) and 2(5) of *Registration*, O Reg. 865/93, enacted under the *Medicine Act*.
12. For more information, please the College's policy entitled *Public Health Emergencies*.

Providing treatment in accordance with this policy is limited to addressing the immediate medical needs associated with treating a minor condition or emergency. Where additional or ongoing care is necessary, physicians must transfer care of the individual to another qualified health-care professional as soon as is practical.

b) Expectations about Documenting Care and Maintaining Confidentiality

Documentation of medical treatment is essential to safe, quality health care.[13] When physicians provide treatment for themselves, family members, or others close to them, there is a risk that the individual receiving the care will not have a complete and accurate medical record unless that individual's primary health-care professional is made aware of the treatment. Physicians must therefore advise the individual to notify his/her primary health-care professional of the treatment that the physician has provided.

Where it is impractical for the individual receiving treatment to inform their own primary health-care professional of the treatment the individual received (e.g., children), the physician is advised to inform the individual's primary health-care professional, with the individual's consent,[14] of the treatment he or she provided. Where the individual does not have a primary health-care professional, the physician is advised to explain to the individual the importance of informing their next health-care professional, where practical, of the treatment received from the physician.

Physicians must maintain the confidentiality of the personal health information of any individual they treat.[15]

c) Spouses or Sexual/Romantic Partners

Physicians must not provide treatment to a spouse, partner, or anyone else with whom they are sexually or romantically involved, beyond the circumstances of a minor condition or emergency, and where no other qualified health-care professional is readily available. As prescribed in regulation[16], an individual is not a physician's patient if all of the following conditions are met:

- There is a sexual relationship between the individual and the physician at the time the health care service is provided to the individual;
- The health care service provided by the physician to the individual was done so due to an emergency or was minor in nature; and,
- The physician has taken reasonable steps to transfer the individual's care, or there is no reasonable opportunity to transfer care.

Physicians must be mindful that providing treatment that exceeds the circumstances set

13. Complete and accurate medical records are also essential to continuity of care, facilitating and enhancing communication in collaborative health-care models, and identifying problems or patterns that may help determine the course of health care.
14. The individual's consent is required where the individual has the capacity to consent to disclosure of his/her personal health information. Otherwise, consent is required from the individual's substitute decision maker. For more information, please see the College's *Confidentiality of Personal Health Information* policy.
15. Physicians must abide by their legal obligations under the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, Schedule A, as well as the expectations set out in the College's *Confidentiality of Personal Health Information* policy.
16. *Patient criteria*, O. Reg. 260/18, under subsection 1(6) of the HPPC under *RHPA*, 1991, S.O. 1991, c. 18.

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out in this policy may give rise to a physician-patient relationship[17] and, as a result, the sexual abuse provisions of the *Regulated Health Professions Act*, 1991 would apply[18].

For further guidance, physicians are advised to contact the Canadian Medical Protective Association (or other professional liability provider) or obtain independent legal advice.

2. Prescribing or Administering Drugs

Minor conditions or emergencies may, in some instances, require the prescription of drugs. When prescribing drugs, physicians must comply with the expectations and guidelines for prescribing that are set out in the College's Prescribing Drugs policy.

In addition, the literature indicates that some physicians may feel obligated or pressured to prescribe narcotics[19] or controlled drugs or substances[20] for family members or others close to them.[21] While these drugs or substances may be a legitimate treatment, regulations under the *Controlled Drugs and Substances Act* (*CDSA*)[22] prohibit physicians from prescribing or administering such drugs or substances for anyone other than a *patient* whom the physician is treating in a *professional capacity*.[23] There are no exceptions under the *CDSA* for prescribing or administering these drugs or substances to non-patients, even in emergencies.

Accordingly, this means that physicians must never prescribe or administer, for themselves, family members, or others close to them, any of the following: narcotics;[24] controlled drugs or substances;[25] monitored drugs;[26] marijuana for medical purposes;[27] or any drugs or substances that have the potential to be addicting or habituating. Physicians must not prescribe or administer these drugs or substances even when another health-care professional is in charge of managing the treatment of the disease or condition.

17. For information on the nature of the physician-patient relationship, please see the College's *Maintaining Appropriate Boundaries and Preventing Sexual Abuse* policy section "Determining Whether a Physician-Patient Relationship Exists".
18. Legislative provisions relating to sexual abuse are set out in Sections 1(3) to (6) and Sections 51(1) to (3) and (4.1) to (9) of the Health Professions Procedural Code, Schedule 2 of the *Regulated Health Professions Act*, 1991, S.O. 1991, c.18 (hereinafter HPPC). This includes the amendments to the HPPC contained in Bill 87 (*Protecting Patients Act*, 2017) in force as of May 1, 2018. It does not include any other requirements that may be developed in regulation. Physicians are advised that the passing of Bill 70, the *Regulated Health Professions Amendment Act* (Spousal Exception), 2013, has not changed the law with respect to physicians, as the College has not opted to exempt physicians who treat their spouses from the sexual abuse provisions.
19. Narcotics are defined in Section 2 of the *Narcotic Control Regulations*, C.R.C., c. 1041, enacted under the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 (hereinafter *CDSA*): the term "narcotics" includes opioids.
20. Controlled drugs and substances are defined in Section 2(1) of the *CDSA* and mean a drug or substance included in Schedule I, II, III, IV or V of the Act.
21. Please see note 7.
22. *CDSA*.
23. See Section 53(2) of the *Narcotic Control Regulations*, C.R.C., c. 1041, and Section 58 of the *Benzodiazepines and Other Targeted Substances Regulations*, SOR/2000-217, enacted under the *CDSA*.
24. Please see note 19.
25. Please see note 20.
26. The Ontario Ministry of Health and Long-Term Care (Ministry) monitors a number of prescription narcotics and other controlled substance medications as part of its Narcotics Strategy. A list of monitored drugs is available on the Ministry's website: http://health.gov.on.ca/en/pro/programs/drugs/monitored_productlist.aspx. See also Section 2 of the *Narcotics Safety and Awareness Act, 2010*, S.O. 2010, c. 22 for a definition of "monitored drug".
27. The Government of Canada's *Marihuana for Medical Purposes Regulations*, SOR/2013-119, enacted under the *CDSA*, establish the legal framework that enables patients to obtain authorization to possess dried marijuana for medical purposes. Please see the College's *Marijuana for Medical Purposes* policy.

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