College of Physicians and Surgeons of Ontario

POLICY STATEMENT #1-17

Accepting New Patients

APPROVED BY COUNCIL: November 2008

REVIEWED AND UPDATED: April 2009, May 2017

PUBLICATION DATE: *Dialogue*, Issue 2, 2017

KEY WORDS: Ontario *Human Rights Code*; Discrimination; Access to Care; First-Come, First-Served Approach; Primary Care; Speciality Care; Clinical Competence; Scope of Practice; Waiting Lists.

RELATED TOPICS: The Practice Guide; Ending the Physician-Patient Relationship; Prescribing Drugs; Professional Obligations and Human Rights.

LEGISLATIVE REFERENCES: *Human Rights Code*, R.S.O. 1990, c. H.19.

COLLEGE CONTACTS: Physician Advisory Service

Accepting New Patients

INTRODUCTION

Physicians must accept new patients in a manner that is fair, transparent, and respectful of the rights, autonomy, dignity and diversity of all prospective patients. Doing so reinforces public trust in the profession, and fosters confidence in the physician-patient relationship.

This policy sets out physicians' professional and legal obligations when accepting new patients. Physicians satisfy these obligations, in part, by accepting new patients on a first-come, first-served basis. Doing so helps to ensure compliance with the Ontario *Human Rights Code*, which entitles every Ontario resident to health services free from discrimination.

PRINCIPLES

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

1. Acting in the best interests of prospective patients by ensuring that decisions to accept new patients are equitable, transparent and non-discriminatory.
2. Communicating effectively and respectfully with prospective patients in a manner that fosters trust in the profession and supports the establishment of a trusting physician-patient relationship.
3. Respecting patient autonomy and a patient's freedom of choice of health-care provider.
4. Managing conflicts with compassion and sensitivity, especially where the physician's values differ from the values of the prospective patient.
5. Participating in self-regulation of the medical profession by complying with the expectations set out in this policy.

SCOPE

This policy applies to all physicians, and those acting on their behalf[1], regardless of practice area or speciality, any time they accept new patients into their practice. Specifically, this policy applies both where physicians, by nature of their practice, would typically establish:

- A longitudinal physician-patient relationship characterized by repeated clinical encounters;[2] or
- A physician-patient relationship that exists for a defined time period.[3]

POLICY

Physicians must employ the first-come, first-served approach when accepting new patients into their practices. This approach, which is set out below, helps to ensure that all patients receive equal treatment with respect to health services, as required under the Ontario *Human Rights Code*.

This policy begins by describing the first-come, first-served approach, and explains its rationale. The policy details how this approach applies in circumstances where physicians:

- Limit their practices due to clinical competence, scope of practice and/or a focused practice area;[4]
- Provide speciality care; and/or
- Maintain a waiting list of prospective patients.

The policy sets out physicians' obligations where their clinical competence and/or scope of practice does not align with the patient's care needs. The policy emphasizes that clinical competence and/or scope of practice must not be used as a means of discriminating against prospective patients.

The College acknowledges that there are circumstances where physicians are justified in prioritizing access to care for those most in need. These limited exceptions are set out below.

First-Come, First-Served Approach

The College expects physicians, and those acting on their behalf, to follow the first-come, first-served approach when accepting new patients. This means that physicians, who are accepting new patients, must do so on a first-come, first-served basis, when the patient's needs are within:

- The physician's clinical competence and/or scope of practice;
- The physician's focused practice area; and/or
- The terms and conditions of the physician's practice certificate and associated practice restrictions, if applicable.

[1] For instance, physicians may rely upon clinical managers and/or office staff to accept new patients on their behalf. Organizations may also act as a physician's representative in this context.
[2] For instance, the relationship typically established between a patient and their primary care provider.
[3] For instance, a relationship established between a patient and a physician providing specialty care for a specific condition over a finite time period.
[4] Physicians with a 'focused practice area' may include those with a commitment to one or more specific clinical practice areas, or who serve a defined target population.

The first-come, first-served approach does not prevent physicians from making decisions about whether their practice is accepting new patients. Such decisions must be made in good faith.

It is counter to the first-come, first-served approach, and therefore inappropriate, for physicians, or those acting on their behalf, to use introductory meetings such as 'meet-and-greet' appointments, and/or medical questionnaires to vet prospective patients and determine whether to accept those patients into the practice.[5] Doing so may be considered discrimination against prospective patients.[6]

However, once a patient has been accepted into a physician's practice, physicians may use introductory meetings and/or medical questionnaires to share information about the practice and/or obtain information about the patient. For instance, introductory meetings and/or medical questionnaires may be helpful to identify a new patient's needs and expectations, to disclose information about the physician's knowledge area, to advise of after-hours coverage, or to determine whether the terms of the physician-patient relationship are acceptable to the patient. Further, introductory meetings may involve establishing expectations regarding adherence to a prescribed therapy. This may include, for instance, establishing a treatment agreement (e.g., narcotics contract) between the physician and the patient.

Rationale for the First-Come, First-Served Approach

The first-come, first-served approach helps to ensure that physicians fulfil their legal obligations under the Ontario *Human Rights Code* (the *'Code'*).[7] The *Code* entitles every Ontario resident to equal treatment with respect to services, goods and facilities, without regard to race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

Under the *Code*, all those who provide services in Ontario, including physicians providing health services, must do so free from discrimination on any of the above-listed grounds. In keeping with this legal obligation, physicians must not refuse prospective patients based on any of the prohibited grounds of discrimination.[8]

Applying the First-Come, First-Served Approach

i. Clinical Competence, Scope of Practice and Focused Practices

Physicians may limit the health services they provide based on their own clinical competence and/or scope of practice. Further, some physicians have limited or focused practices based on specific clinical areas such as geriatrics, psychotherapy or adolescent health.

If a patient's care needs do not align with the physician's clinical competence and/or scope of practice, this would be permissible grounds for refusing a prospective patient. Similarly, if a patient's care needs do not align with the physician's focused practice area, this would also be permissible grounds to refuse to accept a patient into the practice. Such decisions, however, must be made in good faith.

Physicians, and those acting on their behalf, must not use clinical competence and/or scope of practice as a means of discriminating against patients as defined by law, or to refuse patients:

- With complex or chronic health needs;
- With a history of prescribed opioids and/or psychotropic medication;[9]
- Requiring more time than another patient with fewer medical needs; or
- With an injury, medical condition, psychiatric condition or disability[10] that may require the physician to prepare and provide additional documentation or reports.

Where a physician refuses a patient based on clinical competence, scope of practice, and/or a focused practice area, the physician must consider the impact on the patient. Such refusals can result in patients experiencing discrimination in the provision of care, even where this is not the intention of the physician. Physicians must clearly communicate the reasons for the refusal to the patient. This is to ensure that the indi-

[5] Medical questionnaires include those administered in person, by phone, or electronically by physicians or those acting on their behalf.
[6] The Human Rights Tribunal of Ontario has primary responsibility for investigating and adjudicating claims of discrimination.
[7] *Human Rights Code*, R.S.O. 1990, c. H.19.
[8] For more information see the College's Professional Obligations and Human Rights policy.
[9] Physicians are advised to consult the College's Prescribing Drugs policy for further information on the College's position on blanket 'no narcotics' prescribing policies.
[10] Physicians should be aware that under the *Code*, the term 'disability' is interpreted broadly and covers a range of conditions. 'Disability' encompasses physical, mental and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, and other conditions. The *Code* protects individuals from discrimination because of past, present and perceived disabilities.

vidual understands that the refusal is not based on discriminatory bias or prejudice.

Physicians with primary care practices are reminded that given their broad scope of practice, there are few occasions where scope of practice would be an appropriate ground to refuse a prospective patient. Once a patient is accepted into a primary care practice, should elements of the patient's health-care needs be outside of the physician's clinical competence and/or scope of practice, the patient must not be abandoned. In such circumstances, the College requires that the patient be provided with a referral to another appropriate health-care provider for those elements of care that the physician is unable to manage directly.

ii. Specialist Care

The expectations set out in this policy apply to all physicians, including those who provide specialist care. The College recognizes that the process by which a patient is accepted into a specialist's practice is distinct from that applicable to primary care. This process will typically involve a referral from another physician or health-care provider.

The College expects specialists to employ the first-come, first-served approach by accepting new patients in the order in which the referral was received. Departing from this practice is appropriate only to accommodate patients requiring priority access to care. This may mean, for instance, triaging patients with urgent health-care needs.

Where a referral is outside of the specialist's clinical competence or scope of practice, the specialist must promptly communicate this information to the referring health-care practitioner, and/or patient where appropriate, to facilitate timely access to care. Where possible, the College recommends that specialists provide the referring health-care practitioner with suggestions for alternative care provider(s) who may be able to accept the referral.

iii. Waiting Lists

Some physicians maintain a waiting list of prospective patients. Where this practice is employed, the first-come, first-served approach continues to apply in relation to all patients who have been noted on the list. Wait-listed patients are to be accepted into the physician's practice in the same order in which they were added to the list. Physicians are advised to use wait-lists cautiously, and to manage patient expectations by clearly communicating the expected waiting period.

Potential Exceptions to First-Come, First-Served Approach

i. Accepting Higher-Need and Complex Patients

There are circumstances where it may be appropriate for physicians to prioritize access to care for higher-need and/or complex patients. Patients who may be categorized as higher-need and/or complex include, but are not limited to, those requiring urgent access to care, those with chronic conditions, particularly where the chronic condition is unmanaged, an activity-limiting disability and/or mental illness.

Any decision to prioritize a patient's access to care must be made in good faith. Physicians must use their professional judgment to determine whether prioritization based on need is appropriate. In doing so, physicians must take into account the individual patient's health-care needs, and any social factors, including education, housing, food security, employment, and income, that may influence the patient's health outcomes.

ii. Caring for Patients' Family Members

In the context of primary care, there may be times where a physician is asked to accept the family members of current patients. The College acknowledges that caring for patients and their family members may assist in the provision of quality care. Caring for family members, for instance, may help the physician to have a clearer picture of family history, which may in turn contribute to better health outcomes for the patient. Accordingly, where a physician's practice is otherwise closed, physicians may choose to prioritize access to care for the family members of current patients.