

Practice Standard- Conflict of Interest

Approved: June 2012

Revised: March 2022

Intent

To facilitate appropriate care and assessment/examination or treatment of a patient/client, or professional duties to other persons by ensuring that registrants (“kinesiologists”) comply with their obligations relating to conflicts of interest.

Objectives

- To ensure kinesiologists are aware of their existing obligations relating to conflicts of interest.
- To clarify the conflict of interest requirements outlined in legislation, case law, shared professional values and various existing College practice standards, policies and guidelines.
- To help kinesiologists identify and resolve potential conflicts of interest.

Description of Standard

It is a conflict of interest for the purpose of section 16 of the Professional Misconduct Regulation for a kinesiologist to engage in a relationship or arrangement as a result of which the kinesiologist’s personal interests could improperly influence their professional judgment or conflict with their duty to act in the best interest of patients.

A conflict of interest can occur even where the interest or benefit goes to a “related person”, such as a close relative of (or a corporation affiliated with) the registrant.

Some examples of a conflict of interest, depending on the circumstances, might include where a registrant:

- receives a benefit from a supplier of health care products or services or from a health practitioner to whom the registrant refers patients;
- accepts credit from a supplier of health care products or services or from a health professional or practitioner to whom the registrant refers patients unless the terms of credit provide a reasonable time for repayment and a reasonable rate of interest;
- refers a patient to a supplier of health care products or services in which the registrant has a financial interest unless the registrant discloses the interest to the patient and offers to refer the patient to suppliers with whom the registrant has no financial interest (see the expanded discussion of self-referral below);
- sells a product to a patient for more than the cost to the registrant plus a reasonable dispensing fee without disclosing the profit and the right of the patient/client to buy the product elsewhere;

- receives a benefit (e.g., free or cheap space) from a person who could reasonably hope to supply health related products or services to the registrant's patient/client (e.g., a health food store);
- is employed in one work setting and transfers the patient/client to another work setting in order to earn a higher income or receive another sort of benefit without the consent of their employer and the patient/client;
- treats a close personal relation (or has another dual relationship) on an ongoing basis, particularly where the relationship could interfere with the registrant's objectivity or the effectiveness of treatment or where the services are paid by a third-party payor; (the definition of close personal relation is interpreted broadly and may include the registrant's spouse or common-law partner (as defined, for treatment purposes, in relevant legislation), in-laws, step-relatives, and close friends);
- supervises a relative or friend in a clinical placement;
- permits an employer or a third-party payor to interfere with clinical or professional decisions (e.g., the nature or length of treatment required);
- becomes an employee or partner or shares revenue or profits with an unregistered person unless there is a written agreement ensuring that the registrant has authority over the clinical and professional aspects of the practice;
- conferring a benefit to a patient (other than a token, health related product such as a therapy band) whose services are paid for by a third party (e.g., it would be a conflict to give a free pair of shoes to a patient who was receiving an orthotic device paid for by the patient's employer's insurance); and
- endorses a product using the registrant's professional status.

The above list of examples is not exhaustive. They simply illustrate some of the more common situations where conflicts of interest may exist. In addition, conflicts of interest may vary with the circumstances. For example, treating a family member or close personal relation may not always involve a conflict of interest, particularly in circumstances where the patient/client is not a close relative, the condition is short term, the treatment is provided in an emergency, and the billing for the service is transparent.

Performance Expectations

A kinesiologist demonstrates this Standard by:

- Being aware of real, potential or perceived conflicts of interest that may arise.
- Awareness of conflicts of interest that may never be acceptable, and those that may be permissible under certain circumstances.
- Refraining from practice in situations where unacceptable conflicts of interest have arisen or may arise, including refraining from treating close personal relations except in exceptional circumstances.
- Awareness and correct application of strategies to mitigate or otherwise address conflicts of interest where they are permissible and unavoidable. Strategies may include:
 - Proactive disclosure, including documentation
 - Timely discharge planning, including appropriate referral to alternative care provider(s).
 - Clear separation of personal and professional roles
 - Establishing and following an appropriate conflict of interest policy and code of conduct in one's practice

- Ensuring that informed consent is obtained from the patient, including ensuring that patients/clients are aware of alternative treatment or care options and have the freedom to choose for themselves
- Contacting the College or consulting legal counsel regarding the real, possible or perceived conflict of interest

Definitions

Conflict of Interest: A conflict of interest occurs where a person has a duty to one person or group that could reasonably be compromised by a conflicting obligation or interest.

Legislative References

Regulated Health Professions Act, 1991

Health Care Consent Act, 1996

Notation

In the event of any inconsistency between this standard and the legislation that governs the practice of kinesiology, the legislation governs.