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Central Standards Bylaw

The College of Physicians and Surgeons of Manitoba

(Enacted by the Councillors of the College of Physicians and Surgeons of Manitoba
on November 22, 2018 repealing and replacing Bylaw #3 and 3D under The Medical Act)

Effective Date January 1, 2019

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Definitions

1. In this Bylaw:

"Central Standards" means the Central Standards Committee of the College established pursuant to subsection 182(1) of *The Regulated Health Professions Act*.

"Committee Member" means each member of Central Standards or of a Subcommittee, whether or not the person is a member of the College.

"Legal Proceeding" means any civil proceeding, inquiry, or arbitration, in which evidence is or may be given, and includes:

- a. an action or proceeding for the imposition of punishment by fine, penalty, or imprisonment, to enforce any Act of the Legislature,
- b. an action or proceeding for the imposition of punishment by fine, penalty or imprisonment to enforce any regulation made under an Act of the Legislature, and
- c. a proceeding before a tribunal, board or commission.

"Mandatory Reporting Obligation" means a requirement imposed by the legislation of a regulated health profession whereby members of a regulated health profession are required to disclose specified information respecting colleagues to the regulatory authority of that regulated health profession.

"Record" means a record of information in any form and includes any information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means, including by graphic, electronic or mechanical means.

"Subcommittee" means a subcommittee of Central Standards.

"WRHA Standards Committee" means the Standards Committee established by the Winnipeg Regional Health Authority pursuant to s.24 of *The Hospitals Act*, and each subcommittee of that committee.

"Witness" in addition to its ordinary meaning, includes a person who, in the course of a legal proceeding:

- a. is examined for discovery;
- b. is cross examined on an affidavit made by him or her;
- c. answers interrogatories;
- d. makes an affidavit as to documents, or
- e. is called upon to answer any question or produce any document, whether under oath or not.

Establishment of Subcommittees of Central Standards Committee

2. The Subcommittees of Central Standards are:
 - a. the College's Maternal and Perinatal Health Standards Subcommittee;
 - b. the College's Child Health Standards Subcommittee;
 - c. the College's Quality Improvement Subcommittee;
 - d. each area standards subcommittee identified on Schedule "A";
 - e. each hospital standards subcommittee identified on Schedule "B";
 - f. each non-hospital facility where members provide health care and identified on Schedule "C";
 - g. each provincial standards subcommittee identified on Schedule "D".

Committee Membership

3. The College must appoint a physician as the Chair of each WRHA Standards Committee, except:
 - a. the Oral Health Program Standards Committee;
 - b. the Clinical Health Psychology Program Standards Committee;
 - c. any other WRHA Standards Committee that Central Standards determines does not require physician membership.
4. A Committee Member must not participate in a review of the work of any individual over whom the Committee Member has direct administrative or disciplinary responsibility.

Evidence as to Proceedings of Subcommittee

5. Subcommittees must establish a clear process for:
 - a. educating Committee Members on the legal privilege that applies to witnesses in a legal proceeding respecting Standards Committees,
 - b. distinguishing those documents to which the legal privilege applies, from those documents to which the privilege does not apply, and
 - c. managing documents to which the privilege applies in a manner consistent with the protection provided in *The Evidence Act*.
6. Section 5 of this Bylaw shall apply with necessary changes in points of detail to physicians who sit as members of a WRHA Standards Committee.

Review by Central Standards Committee or its Subcommittees

7. Central Standards and each Subcommittee:

- a. must review any matter referred to it by the Registrar, and
 - b. may, of its own motion, make such inquiries or reviews that it considers appropriate to promote high practice standards amongst members.
8. A review by Central Standards may include any one or more of the powers permitted in sections 99 and 100 of the RHPA. A Subcommittee may exercise the powers in the RHPA subsections 99(1) (d) (e) (f) on its own initiative but must request authority from the Chair of the Central Standards Committee in order to exercise any other powers in sections 99 or 100 of the RHPA.
9. Where a review involves a member in an educational class, the correspondence about the review must be simultaneously sent:
 - a. where the member is a medical student or physician assistant student, to the attending staff physician responsible for the medical care provided by that student and to the Associate Dean responsible;
 - b. where the learner is a resident or resident limited, to the attending staff physician responsible for the medical care provided by that resident and to the Associate Dean responsible.

Referral to Administration

10. If, on a preliminary review of a matter, Central Standards determines that the administration of a hospital, regional health authority, or other facility where Members provide health care services is responsible for the matter, Central Standards Committee may refer all or part of the matter to the Registrar to refer the matter to the appropriate administration, and for that purpose, may disclose the facts pertaining to the matter to that administration.

Action by Central Standards

11. Central Standards may take such steps as it determines may improve the knowledge, skill or safety of one or more members in carrying on the practice of medicine, including but not limited to do one or more of the following:
 - a. make recommendations to a member, a Committee, or to the administration of a hospital, regional health authority, or other facility where members provide health care services;
 - b. refer a member to the Registrar in accordance with section 14 of this Bylaw;
 - c. advise the Executive Committee to direct a member to complete a specified course of studies or supervised practical experience pursuant to section 182(4) of the RHPA;
 - d. accept a member's undertaking in accordance with section 15 of this Bylaw;
 - e. develop guidelines or protocols for consideration by Council.

12. Where Central Standards has a concern about the practice of a member of a health care discipline other than a physician or where a Mandatory Reporting Obligation exists, Central Standards may refer that concern to one or both of the administration of a hospital, regional health authority, or other facility where Members provide health care services, and the Registrar for referral to the regulatory body responsible for the practice of that health care discipline in Manitoba in accordance with Section 18 of this Bylaw.

Action by Subcommittee

13. A Subcommittee may take such steps as it determines may improve the knowledge, skill or safety of one or more members in carrying on the practice of medicine, including but not limited to do one or more of the following:
 - a. make recommendations to a member;
 - b. advise Central Standards to:
 - i. make recommendations to the administration of a hospital, regional health authority, or other facility where members provide health care services;
 - ii. refer a member to the Registrar in accordance with section 14 of this Bylaw; or
 - iii. request and accept a member's undertaking in accordance with section 15 of this Bylaw and, where such advice is given provide complete supporting information and documentation to Central Standards;
 - c. develop guidelines or protocols for consideration by Central Standards.

Referral to the Registrar

14. Central Standards may refer a member to the Registrar in the following circumstances:
 - a. the member failed or refused to allow Central Standards to carry out an action permissible under s. 99 of the RHPA;
 - b. in the opinion of Central Standards, a remedial program is unlikely to be successful;
 - c. the member has failed or refused to follow the remedial program recommended or required by Central Standards or by a Subcommittee or comply with a direction made pursuant to ss. 182(4) of the RHPA;
 - d. Central Standards determines that there is evidence of misconduct or incompetence on the part of the member such that a remedial program would be inappropriate;
 - e. the member has failed to comply with an undertaking given to Central Standards;
 - f. in the opinion of Central Standards, the state of the member's health or competency is such that a clear danger to patient safety is perceived to exist.
 - g. In the opinion of Central Standards, the member's standard of care may pose a risk to patient safety.

Undertaking

15. Where a member gives an undertaking to Central Standards:
 - a. the undertaking shall be deemed to be an undertaking given to the College;
 - b. a copy of the undertaking must be promptly made available to the Registrar; and
 - c. Central Standards shall be responsible for monitoring of the undertaking unless there is a referral of the member to the Registrar pursuant to this Bylaw.
16. Receipt of a copy of an undertaking pursuant to this section shall not be deemed to be a referral of a matter to the Registrar.
17. The failure of a member without reasonable excuse to comply with an undertaking constitutes professional misconduct.

Referral to Another Regulatory Body

18.
 - a. If a Committee Member who is a member of a regulated health profession other than medicine certifies that the circumstances of a matter before Central Standards or a Subcommittee fall within his/her Mandatory Reporting Obligation, the concern must be referred to the Registrar for referral to the regulatory authority responsible for the practice of that regulated health profession in Manitoba.
 - b. In the absence of a Mandatory Reporting Obligation, Central Standards may refer a concern about a member of another regulated health profession to the Registrar for referral to the regulatory authority responsible for the practice of that regulated health profession in Manitoba in the following circumstances:
 - i. Central Standards has concerns of possible misconduct or incompetence on the part of the individual;
 - ii. Central Standards considers the state of an individual's health or competency may be a danger to the public; or
 - iii. Central Standards considers a matter relating to that individual may be of concern to another regulatory body.
19. Section 18 applies with necessary changes in points of detail to a WRHA Standards Committee.
20. Where a member acquires information through participation in a Critical Incident Review Committee respecting a matter that is reportable to the College pursuant to the Code of Ethics or *The Regulated Health Professions Act*, the member must take reasonable steps to ensure that the Critical Incident Review Committee Chair makes a timely report to the College.

Confidentiality

21. Except as provided in this Bylaw or in *The Evidence Act*, Central Standards, its Subcommittees and each Committee Member are prohibited from disclosing any record or information that is:
 - a. prepared solely for the use of the Committee,
 - b. collected, compiled or prepared by the Committee for the purpose of carrying out its duties or,
 - c. used solely in the course of or arising out of the Committee proceedings.

22. Disclosure is permissible in the following circumstances:
 - a. pursuant to sections 9, 11.a, or 13.b.(ii) of this Bylaw, to a member, a Committee, or the administration of a hospital, regional health authority, or other facility where Members provide health care services and, if applicable, to the Associate Dean responsible for the trainee, to the extent necessary for the member, Committee, administration or Associate Dean to understand or implement recommendations made by Central Standards or a Subcommittee.
 - b. pursuant to Section 11.b. of this Bylaw to the Registrar to the extent necessary for the Registrar to understand the concerns of Central Standards or a Subcommittee.
 - c. for the purpose of advancing medical research or medical education provided that the disclosure or publication does not identify a member or any person whose condition or treatment has been studied, evaluated or investigated.
 - d. to another Committee in circumstances the disclosing Committee considers appropriate.
 - e. pursuant to Section 11.b or Section 12 of this Bylaw to one or more of:
 - i. the administration of a hospital, regional health authority, or other facility where members provide health care services,
 - ii. the Registrar,
 - iii. where the concern involves a member of a regulated health profession other than a member, the regulatory authority responsible for the practice of that regulated health profession in Manitoba,as is necessary for the purposes of ensuring patient safety.
 - f. as Central Standards deems necessary for the implementation and administration of any program approved by Central Standards.
 - g. pursuant to Section 11.d. and Section 15 of this Bylaw, to the Registrar to provide a copy of an undertaking given by a member.
 - h. to the Executive Committee for the purpose of giving advice pursuant to Section 11.c of this Bylaw.
 - i. For the Chair of a Provincial Standards Subcommittee to participate in a WRHA Standards Committee for collaboration in standards work.

23. Sections 11 and 22 of this Bylaw shall apply with necessary changes in points of detail to College members who sit as members of a WRHA Standards Committee.

Procedure for Disclosure of Standards Information

24. Where Central Standards intends to disclose Standards records or information pursuant to this Bylaw, it must:
 - a. by majority ruling, consent to the disclosure.
 - b. specify in its minutes:
 - i. its reasons for such disclosure,
 - ii. to whom the disclosure may be made, and
 - iii. what Standards records or information may be disclosed.
 - c. direct the Chair of the Committee to sign a declaration on behalf of the Committee, indicating the Committee's consent to the release of Standards records or information.

Reporting Obligations

25. Subcommittees must make the following reports:
 - a. to Central Standards following each Subcommittee meeting, minutes of the meeting, which should include:
 - i. name of Subcommittee,
 - ii. members in attendance,
 - iii. location of meeting,
 - iv. date of meeting,
 - v. schedule of future meetings,
 - vi. summary of business arising and new business,
 - vii. particulars of standards activities including:
 - a. overview of structured audits,
 - b. overview of peer and chart reviews,
 - c. educational activities of the medical staff,
 - d. future topics and issues for re-review or re-audit, and
 - e. other quality initiatives.
 - b. to Administration in the applicable facility or facilities included in the subcommittee's work, at least once in each calendar year, without identifying any member or patient, a summary of the activities of the subcommittee.
 - c. to Central Standards:
 - i. a report of inactivity if a Subcommittee has not met for 12 consecutive months.
 - ii. any circumstances which the subcommittee believes should result in reporting by Central Standards pursuant to sections 11, 12, 14, 17, or 18 of this Bylaw.
26. Following each meeting, Central Standards must report to Council, without identifying any member or patient, a summary of the activities of Central Standards.

27. The Chair of the WRHA Standards Committee must:
- a. report to Central Standards on a semi-annual basis as to the activities of the WRHA Standards Committee and its subcommittees. The report must include, but is not limited to, a summary of each audit of clinical practice that has been completed during the reporting period, particularizing:
 - i. the audit tool used,
 - ii. the audit results,
 - iii. any recommendations made by the WRHA Standards Committee, and
 - iv. any actions taken by the WRHA Standards Committee or by the WRHA or facility management with respect to the WRHA Standards Committee's recommendation without identifying any member or patient.
 - b. submit copies of clinical audits upon the request of Central Standards.

Fees

28. Central Standards may levy a fee, payable by a member, for expenses incurred by the College in review of that member's practice pursuant to this Bylaw.

SCHEDULE A – AREA STANDARDS SUBCOMMITTEES

The Area Standards Subcommittees of the Central Standards Committee are as follows:

Prairie Mountain Health ASC
Interlake/Eastern ASC
Brandon Regional Health Centre ASC
Selkirk ASC
Northern ASC
Southern ASC
Portage ASC

SCHEDULE B – HOSPITAL STANDARDS SUBCOMMITTEES

The Hospital Standards Subcommittees of the Central Standards Committee are as follows:

Altona Community Memorial Health Centre Standards Committee
Bethesda Hospital Standards Committee, Steinbach
Boundary Trails Health Centre Standards Committee
Carmen Memorial Hospital Standards Committee
Gladstone Health Centre Standards Committee
Morris/Emerson Standards Committee
Ste. Anne Hospital Standards Committee
St. Claude/Notre-Dame-de-Lourdes/Treherne Standards Committee
Vita & District Health Centre Standards Committee

SCHEDULE C – NON-HOSPITAL STANDARDS SUBCOMMITTEES

Brandon Regional Health Centre Psychiatry Standards Committee
Eden Mental Health Centre Standards Committee

Selkirk Mental Health Centre Standards Committee
Assiniboine Surgical Centre Standards Committee
Ageless Cosmetic Clinic Standards Committee
First Glance Aesthetic Clinic Standards Committee
Heartland Fertility & Gynecology Clinic Standards Committee
Manitoba Clinic Endoscopy Suite Standards Committee
Maples Surgical Centre Standards Committee
Visage Clinic Standards Committee
Women's Health Clinic Standards Committee
Western Surgery Centre Standards Committee
Winnipeg Clinic (Endoscopy) Standards Committee

SCHEDULE D – PROVINCIAL STANDARDS SUBCOMMITTEES

The Provincial Standards Subcommittees of the Central Standards Committee are as follows:

Endoscopy Provincial Standards Committee
Orthopedic Surgery Provincial Standards Committee
CancerCare Standards Committee